

Identification and Management of High Value and Multi-party Claims

Europa Medica

Utrecht 28 September 2018

David Franklin

Radiotherapy overdose: Man awarded £7m damages



Ian Paterson: Judge approves £37m breast surgeon victims' fund



Peterborough hospital blunder: Girl awarded £20m in compensation



PIP breast implants scandal



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How do claims come into the MDU?

- Advisory
 - Complaints
 - Inquests
 - Criminal
 - Disciplinary
- Claims Handling Unit

Claims allocation

- New claims allocated by Jill Harding or me
- Three teams handling medical claims
- Teams A & B
 - Doctors and non-doctors handling claims from £1,000 to £2m
- Team C – High Value Unit (HVV)
 - Team of 6 - doctors and non-doctors handling claims in excess of £2m
 - Multi-party claims
 - Complex and novel cases
 - Supervise claims handlers managing high value claims in Teams A & B



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What information do we look for and where can we find it?

- Information we look for
 - Nature of injury/claim
 - Claimant's age
 - Employment type and status
 - Their address
- Where we can find it
 - Legal correspondence/pleadings
 - Medical records
 - Information from members
 - Internet



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High value claim identified

- Case must be reserved as soon as possible
- Consider likely heads of loss
 - Care
 - Loss of earnings
 - Accommodation
 - Medical expenses and therapies
- Use legal resources and software
- High value review created and reinsurers notified

Claim management

- All new high value reserves approved by Jill or me
- HVRs and reinsurers updated every quarter
- Instruct specialist solicitors, barristers and experts
- MDU Committees

Multi-party claims

- My experience
 - Gynaecologist
 - MMR
 - 3M hips
 - Sexual assault
 - PIP
 - Vaccination storage
 - Dentist

Type of claims

- Product liability
 - Usually against manufacturer
 - MMR – some cases manufacturer couldn't be identified
 - PIP – manufacturer liquidated and no insurance cover
 - Can be pursued against manufacturer and surgeon/physician
- Claims against practitioners
 - Surgeons
 - General practitioners
 - Sexual assault



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Ian Paterson

- Breast surgeon working in NHS and private sector
- Performed unnecessary operations
- Cleavage sparing mastectomies
- NHS and private hospitals knew or should have known what he was doing
- Hundreds of claims settled by NHS and private hospital
- Criminal case “wounding with intent”
- Convicted – sentenced to 15 years in prison increased to 20 years on appeal



Current claims

- Metal on metal hip prosthesis
 - Pinnacle ULTIMET hip manufactured by DePuy
 - Over 300 claimants
 - Four month trial on preliminary issue 2017– whether product defective
 - Consumer Protection Act 1987 – if defective liability is strict
 - Court found product not defective and claims dismissed
 - Impact on other group actions?
 - Potential claims against surgeons for mixing metal prostheses with non-metal or prostheses manufactured by different manufacturers
 - But, that's been standard practice for years



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Current claims

- Vaginal mesh/transvaginal tape (TVT)
 - Evidence shows very effective for stress incontinence
 - Growing body of evidence low efficacy and high complication rate for vaginal prolapse
 - Over 100,000 lawsuits filed in USA – most v Johnson & Johnson
 - Claims against the NHS and manufacturers in UK
 - Small number of claims to date against private surgeons – informed consent
 - Will TVT be found to be a defective product?



Current claims

- Orthopaedic surgeon
- Urologist
- Possible plastic surgeon
- Vaccination storage
- Sexual assault

Value of claims and claims management

- Claims usually of low or modest value
- Cumulative value may run into hundreds of thousands or millions
- May be case managed under group litigation order if generic issues
- Claimants may be represented by several firms of lawyers
- Instruct specialist solicitors, barristers and experts
- MDU Committees

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