

# Guide to misdiagnosis or non-diagnosis medical negligence claims

At Co-op Legal Services, you can expect our medical negligence solicitors to follow **6 STEPS** during a misdiagnosis or non-diagnosis claim.

## STEP 01



### Ask if the other side admits liability

We support the patient or their family through the official complaints procedure of the medical provider, which is usually the NHS. This is the first opportunity to get detailed information from the medical provider of what care was provided, what decisions were made and why. The medical provider will then be asked if they admit liability (fault). If liability is admitted early, it limits potential issues during the claim and can mean it's resolved much quicker.

## STEP 02



### Gather factual evidence of what happened and the impact of this on the patient or their family

Factual evidence will be gathered to support the claim. This includes the patient's medical records and witness statements from the patient and their family. This can flag up any differences between the patient's (or family's) recollection and the medical records. The witness statements can also demonstrate how the misdiagnosis or non-diagnosis has impacted the patient or their family, in terms of pain, suffering and financial losses.

## STEP 03



### Get medical expert advice

**If the medical provider hasn't admitted full liability, the medical negligence solicitor will gather further evidence to prove the claim, including:**

- ✓ A report from an independent medical expert of the same speciality as the doctor who misdiagnosed or failed to diagnose. (For example, in a claim relating to a misdiagnosis by a General Practitioner, the expert would be a General Practitioner). The report will identify whether the care provided was negligent.
- ✓ If the expert concludes that the care was negligent, a further report will be obtained from an expert with the appropriate expertise to identify what injury the negligent care caused and the difference this made to the patient.

## STEP 04



### Gather evidence to value the claim

Once the solicitor has the evidence to prove the claim, they must obtain evidence to prove how much compensation should be paid. The witness statements from the patient or family will help the solicitor to identify all the losses (e.g. loss of earnings, pension loss, the cost of medical treatment, adaptations to the home, adaptations to a vehicle, reimbursement for care provided by friends and family, etc).

**The solicitor will then ask for evidence to prove these losses, such as:**

- payslips
- receipts and invoices
- witness statements from friends and family

The solicitor may also seek further expert evidence to identify whether any aids, equipment or care packages are likely to be needed by the patient. If so, they will also calculate the cost of these.

## STEP 05



### Present the case and the evidence to the defendant

Once the solicitor has the evidence to prove the claim and how much compensation should be paid, they will share this information with the other side. They will serve a Letter of Claim on the defendant (which is the medical provider), along with the necessary evidence.

## STEP 06



### Negotiation - the settlement amount

Once the defendant has been sent details of the claim, expert evidence and evidence of how much compensation should be paid, the solicitor will start negotiations with them. There are lots of different ways to negotiate the claim and the solicitor will provide advice on which method or combination of methods would be most appropriate. These methods can include formal offers, mediation, informal discussions and going to Court.

For more information visit [co-oplegalservices.co.uk](https://co-oplegalservices.co.uk)



It's what we do