

NEUROLOGY COMPENSATION Frequently Asked Questions (FAQs)

Redress Scheme

Q. Why is there not an automatic redress scheme?

A. Taking account of the complexities of neurology cases, a neurology redress scheme or early resolution scheme is not a suitable method to address neurology recall claims. It is clear a “one size fits all” scheme would not be in the best interests of those affected. It is only fair that each case is considered on its own merits to ensure a just outcome for those affected, and to ensure that patients receive the compensation they deserve where appropriate, subject to legal and expert opinion on liability and causation.

3 Year Time Limitation – Belfast Trust Patients

Q. Will the time limitation period of 3 years be waived for those treated within the Belfast Trust, to allow recalled neurology patients to seek compensation?

A. Anyone who is considering seeking compensation should obtain independent legal advice. The relevant legislation states that a claim must be lodged within 3 years of the incident or date of knowledge of the incident. The Belfast Trust has accepted an extended period for date of knowledge given that some patients may have anticipated the introduction of a Redress Scheme and, as such, may have delayed pursuing compensation on the basis of this expectation. In these exceptional circumstances, the Trust has agreed to extend the timeframe for individuals wishing to pursue legal action. Anyone wishing to initiate a claim against the Belfast Trust has until 21 June 2025 to issue proceedings. Please note this communication relates solely to treatment provided by Belfast Health and Social Care Trust. The Trust is not in a position to comment regarding treatment which was provided on a private basis. Private patients should consider contacting the relevant independent provider through their solicitor if they wish to initiate a claim. Again patients wishing to lodge a claim are strongly encouraged to seek early independent legal advice in respect of time limits and the merits of their case.

Q. Will the 3 Year Time Limitation be extended for those deceased patients relative’s?

A. Yes. Again, as above, anyone who is considering seeking compensation on behalf of a deceased patient is encouraged to seek early independent legal advice in respect of time limits and the merits of the case.

Private Patients

Q. Will the time limitation period of 3 years be waived for those treated within the Private Sector, to allow recalled neurology patients to seek compensation?

A. Claims in respect of Dr Watt’s private patients are not within the remit of the Department or the Belfast Trust, however the Department is in the process of engaging with the Private Sector to confirm the position for private patients. The Department will provide an update on this matter through its website and revised FAQs, at the earliest opportunity. Private patients wishing to lodge a claim are strongly encouraged to seek early independent legal advice in respect of time limits and the merits of their case.

Q. How can I seek compensation if I was a private patient who attended an organisation other than the Belfast Trust and was recalled?

A. Private patients are not within the remit of the Belfast Trust. Private patients should consider contacting the relevant independent provider through their solicitor if they wish to initiate a claim.

Initiating a Claim

Q. Who do I need to contact with regards to seeking compensation?

A. The Department cannot provide legal advice to patients and families, but can advise that should patients/families wish to pursue a compensation claim they should seek appropriate independent legal advice. Patients/families may find solicitors who specialise in clinical negligence claims by using the following link to the Law Society of Northern Ireland website:

<https://www.lawsoc-ni.org/solicitors> - 'Find a Solicitor'.

Q. How can I seek compensation if I'm taking a legal case against both the Belfast Trust and Dr Watt privately?

A. Anyone who is considering seeking compensation should obtain independent legal advice. A solicitor will be able to advise on the merits and process involved in respect of a claim against both the Belfast Trust and Dr Watt privately

Legal Costs

Q. Will I have to pay upfront costs if I wish to submit a clinical negligence claim?

A. Patients/families should discuss costs and funding which may be available with their solicitor. The Ministerial Statement of 9 June 2022 confirmed that as part of the streamlining process, there is potential to instruct a "joint expert" to provide a joint medical report at no expense to eligible patients/families. This innovative approach is supported by a set of guiding principles to ensure eligible cases are progressed as quickly as possible. Therefore, should a case meet the guiding principles and the offer of joint instruction is accepted, then a medical expert report will be paid for free of cost to the patient/family. If the case does not meet the guiding principles then the patient/family may wish to consider the costs involved alongside the merits of their case in discussion with their solicitor. Again, patients may wish to explore funding with their solicitor, such as legal aid or legal expenses insurance.

Q. Will I be entitled to legal aid?

A. All applications for legal aid should be made by a solicitor. Patients/families who wish to lodge a claim should consult their solicitor who will advise if they would qualify for legal aid.

Q. Will the Department of Health cover legal costs?

A. The Department of Health is not in a position to cover legal costs for anyone pursuing a medical negligence claim. It is important that anyone wishing to initiate a claim speaks with their solicitor at the beginning of the process, to seek advice on the potential costs associated with a medical negligence claim. As in the normal course of litigation, in the event, that a patient's claim is successful, reasonable costs will be paid by the Trust.

Timeframes

Q. How long will it take?

A. It is not possible to provide a timescale for completion of a legal case. There are many variables which can impact on the timeframe, for example getting notes and records, applying for legal aid, seeking medical reports. The process is governed by the Clinical Negligence Protocol prior to issue of proceedings and timetabling by the Court after issue of proceedings. The Neurology Recall Compensation Flow Chart (available on the webpage under support materials) provides a detailed overview of each step within the claims process. Patients should keep in contact with their legal advisor on a regular basis for an update.