Neil Smart

Year of Call: **1998**

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Neil is an experienced civil law practitioner. His practice includes Clinical Negligence, Regulatory and Professional Discipline and Taxation.

Clinical Negligence

Neil is an experienced clinical negligence practitioner handling high value claims on behalf of clients. He acts for both Claimants and Defendants in a wide variety of claims involving negligent medical and dental treatment. He is experienced in dealing with negligent treatment and diagnosis in claims involving:

- -Anaesthesia
- -Catastrophic injuries
- -Cardiology
- -Consent
- -Cosmetic surgery
- -Dental treatment
- -Gastroenterology
- -General practice
- -Obstetrics and gynaecology
- -Oncology and other life-threatening conditions
- -Orthopaedic and spinal injuries
- -Neurology
- -Psychiatry
- -Surgical treatment

Regulation and Professional discipline

Neil has extensive experience acting for health professionals, healthcare organisations across the independent and public sector, medical defence organisations and Insurance bodies. The areas of work he coves includes:

- -Fitness to Practice Panel Hearings
- -Interim Orders Panel Hearings
- -Registration Appeal Panel Hearings
- -Review Hearings
- -Investigative Hearings
- -Enforcement Action

He has significant experience of acting for professionals before the following regulatory bodies:

- -The General Medical Council
- -General Dental Council
- -The Health and Care Professionals Council
- -The Nursing and Midwifery Council
- -General Chiropractic Council
- -General Optical Council
- -General Pharmaceutical Council
- -Care Quality Commission

Inquests

Neil has extensive experience acting for NHS Trusts, police, corporate bodies, insurance companies, emergence services, healthcare professionals and families in coronial proceedings. Neil worked for a leading National law firm in the healthcare sector between 2015-2019 acting for NHS Trusts, General practitioners, dentists, Care Homes, Independent healthcare providers and ambulance Trusts at Inquests, regulatory and disciplinary hearings. He recently acted for the Yorkshire Ambulance Service at the Hillsborough Inquest.

Neil provides guidance, advice and representation throughout the whole inquest process and has a particular interest in Article 2 inquests and inquests which involve complex issues of medical causation.

He was an Assistant Deputy Coroner for the City of Manchester for 9 years.

Taxation

Neil has experience of advising clients involved in tax disputes on a wide range of tax issues. He acts for solicitors, accountants, financial advisers and tax advisers and can provide advice and support at all stages of a tax dispute. He has a particular interest in the following:

- -Value added tax
- -Tax penalties
- -Inheritance tax
- -Capital gains tax
- -Tax-related professional negligence

He accepts direct instructions from accountants, solicitors and other professional bodies under the Bar's direct professional access scheme.

Education

UNIVERSITY of SHEFFIELD BSc (Hons)
NEWCASTLE UNIVERSITY MSc

Professional Memberships

Financial Services Law Association
Association of Regulatory and Disciplinary Lawyers
Chartered Institute for Securities and Investment

Notable Cases

Inquests

The Hillsborough Inquests – represented Yorkshire Ambulance Service following the death of 96 football

fans in 1996.

Poppi Worthington Inquest – Sudden death of a 13-month-old child who was assaulted by her father shortly before she died from asphyxia.

Karanbir Cheema Inquest – schoolchild threw a piece of cheese at the deceased causing him to suffer a severe anaphylactic reaction. Delayed administration of an EpiPen which had expired 11 months prior, failure to administer a second EpiPen and a failure by the school to adopt training for students educating them not only on the dangers of food allergies, but how identify and respond to the symptoms of anaphylaxis.

James Maughan Inquest — standard of proof applicable in inquest proceedings in cases of alleged suicide.

Brown, Hutchinson and the MOD – Article 2 inquest in relation to the death of two soldiers who died in a tent fire whilst on active service in Afghanistan at Camp Bastion. Systemic failures by the MOD which included the failure to carry out proper risk assessments, unauthorised extension of a service tent, failure to provide proper exits, overloading of a multi-plug socket, allowing soldiers to sleep whilst on duty in working accommodation and a failure to install hard wired fire alarm.

Hargreaves and Sheffield Hospitals NHS Trust – Deceased had been receiving chemotherapy treatment for non-Hodgkin's lymphoma. She was admitted with suspected neutropenia and the Trust failed to provide basic medical care. The deceased's death was contributed to by neglect and a number of staff were referred to the GMC and NMC at the conclusion of the inquest.

Clinical Negligence

LH v A Hospital Trust — The Claimant was diagnosed with pancreatic cancer. He underwent a Whipple's procedure and tissue samples were obtained and sent for analysis in the hospital laboratory. Following histological analysis of biopsy tissues the Claimant was informed that he did not have pancreatic cancer. A biopsy sample taken several months later revealed that he did have pancreatic cancer. As a result of the Defendants failure to correctly diagnose the Claimant's cancer he had not received the correct treatment and subsequently died. Damages £884,553,10.

IS V A Hospital Trust – The Claimant had a right total knee replacement which left her with significant residual deformity and instability with a restriction of movement. The post-operative x-rays and documented assessments revealed a valgus deformity, soft tissue imbalance, lateral subluxation and significant abnormal rotation of the femoral component that had occurred as a result of negligent surgery. Damages £346,098,00

TS v A Hospital Trust — The Claimant attended hospital with abdominal pain and tenderness. Following blood tests there was a noticeable fall in her haemoglobin level. The Defendants failed to discuss the clinical findings with the on – call consultant and failed to carry out an ultrasound scan at that time which would have identified whether or not the Claimant was suffering as a result of an ectopic pregnancy. A subsequent ultrasound scan identified a ruptured right ectopic pregnancy. Damages £67,335,34.

CW v A Hospital Trust — The Claimant was admitted to hospital with significant abdominal pain with tenderness both in the left iliac fossa and the peri-umbilical area. The Defendants failed to diagnose an ectopic pregnancy resulting in the removal of one of the Claimant's ovaries and fallopian tube causing a likely reduction in her fertility and precipitating an early menopause. Damages £155,998,88.

SM v A Dental Practice — The Claimant was seen by her dentist, who carried out a basic periodontal/gum examination which showed moderate gum disease in the lower left area of the mouth. There had been a failure by the dentist to properly investigate and identified the tooth decay in the upper and lower molars and thereafter to carry out root canal treatment to a satisfactory standard resulting in the extraction of two teeth and the need for the Claimant to undergo subsequent restorative dental treatment. Damages £12,778,77.

EA v A GP Practice — The Claimant was 32 years old and was suffering from an increase in abdominal size, pelvic and abdominal pain. She had seen her GP on at least two occasions, who despite her symptoms failed to diagnose an ovarian cancer. Damages £122, 902,18.

CM v A Hospital Trust — The Claimant had a vaginal bleed and on examination a palpable mass was

identified. The Claimant underwent a hysteroscopy under general anaesthesia during which there was a failure by the surgeon to take proper tissue samples from endometrium during the hysteroscopic procedure. A subsequent pipelle biopsy was carried out showing a Grade 3 serous endometrial carcinoma and a LLETZ biopsy showing a Grade 3 adenocarcinoma invading this stroma of the cervix. The deceased subsequently died. Damages £226.887,91.

GR v A GP Practice — The Claimant attended her GP surgery on three occasions complaining of pain and swelling in her left ankle. A subsequent examination and x-ray revealed a fracture to the malleolus. There had been delay by the general practitioners to diagnose the claimant's fracture causing her to sustain both physical and psychological injuries. Damages of £28,955, 41.

LD v A Dental Practice — The Claimant was undergoing removal of UR6 under local anaesthetic when the dental surgeon snapped the roots of several teeth, which required surgical removal along with some of the upper jawbone. Damages £15,055,55.