

# Case Studies

The case studies illustrate the work undertaken for patients and have been selected from a variety of legal services.

The case studies illustrate the substantial work we undertake on a pro bono basis. All work is undertaken by a Partner with the assistance of the pro bono lawyer. In a small number of complex matters, we have referred patients to specialist solicitors who can provide advice.

The case studies have been selected to demonstrate the wide range of legal issues we assist patients with and to demonstrate our responsiveness and our commitment to providing a high quality service.

## Case Study 1 - Responsiveness

The patient attempted to take her own life and was critically ill following this incident. During the initial meeting, the patient's sister expressed concerns about the care that the patient had received from social services. We agreed to assist with a complaint to social services. The week following the initial meeting, we received a telephone call from the patient's sister requesting a further meeting. The patient's sister wanted us to obtain a witness statement from the patient in case her condition deteriorated over the course of the week. We met with the patient the following day on HDU but she was extremely unwell and was mostly incoherent and therefore we were unable to take a formal statement. We arranged to visit the patient again the following week. However, over the following few days the patient's condition deteriorated and we were asked by the Trust and by the patient's sister to attend at very short notice. We drove from Leeds to Middlesbrough in order to obtain a witness statement at the patient's request and although her condition had worsened, she was sufficiently coherent and she was able to provide a statement. We video recorded the statement and provided a copy to the patient's sister to attach to the letter of complaint which we drafted on the patient's sister's behalf.

(James Cook Hospital)

## Case Study 2 – Conflict of Interest

The patient was a three year old child who sustained a severe brain injury as a result of choking. Stewarts Law were contacted by the Clinical Director of the unit who requested that we help the family. The hospital was unable to provide any further medical treatment to the patient and had made the decision that they wanted to extubate the patient and not re-intubate. The Clinical Director was aware that the family were opposed to the Trust's proposed course of action and wanted to ensure that the family obtained independent legal advice. The Clinical Director was aware that we would not be able to assist the patient and his family with this issue as it would have put us in a position of conflict but asked whether we could assist the family to locate a suitable lawyer who was able to assist. We immediately contacted specialist lawyers in the patient's local area and located a solicitor who was able to visit the family very shortly afterwards to advise them on this issue.

In addition, there were other legal issues that we were able to assist the family with. In particular, the family wanted to be re-housed as they could not face the thought of returning to live in the family home and therefore we liaised with the local authority and the housing association on the patient's behalf.

(Paediatric Intensive Care Unit, Southampton General Hospital)

### **Case study 3 – Insurance Issues**

The patient sustained a spinal cord injury after falling from her horse. The patient had the benefit of two personal accident insurance policies.

The patient did not believe that she could make a claim on the first critical illness insurance policy as she did not meet the definition of 'Permanent Total Disablement' (PTD). Stewarts Law reviewed the policy and considered that the definition of PTD was ambiguous and therefore wrote to the insurance company on the patient's behalf setting out why this was the case. The patient subsequently received £92,000 which constituted full payment under this policy.

The patient was unable to make a claim under the second insurance policy until two years post accident. We followed up with the patient on the second anniversary of the accident and filed the claim.

(Royal National Orthopaedic Hospital)

### **Case Study 4 - Powers of Attorney/Deputyship**

The patient suffered neurological impairment as a result of developing Guillain-Barré Syndrome. Prior to meeting us through the legal service, the patient's husband had been informed that the patient lacked mental capacity to deal with her financial affairs and given their pressing financial issues, the patient's husband had made an application to the Court of Protection to appoint himself as Deputy.

The patient's treating Consultant later confirmed that the patient had regained capacity and at that stage, we met with both the patient and her husband through the legal service. We assisted the patient to complete the forms to revoke the Deputyship Order.

The patient wanted her husband to deal with her finances so that she could focus on her rehabilitation. We therefore assisted the patient to complete the forms required for a Lasting Power of Attorney and as an interim measure, we executed an Ordinary Power of Attorney at the patient's request.

In addition, the patient and her husband were experiencing financial difficulties and we assisted by requesting that various organisations freeze and write off the outstanding debts.

(Glenside Hospital)

### **Case Study 5 – Care and Funding for Treatment**

The patient sustained a spinal cord injury many years ago and was re-admitted to hospital for further rehabilitation after she fell from her wheelchair causing injury. Following further rehabilitation, she was advised by her physiotherapist to go to a care home when she was discharged from hospital rather than straight home so that she could work further on her independent living skills.

The patient therefore spent six weeks in a care home. The patient believed that this placement in the care home was to be funded by the local authority and she had not expected to receive invoices from the care home demanding payment. Stewarts Law undertook some research and identified that the period of stay should be considered 'intermediate care' and that under Government guidelines the local authority were required to fund the care. Stewarts Law communicated this to the local authority on the patient's behalf and subsequently assisted with a complaint to the Local Government Ombudsman. This secured an acceptance from the local authority that they were responsible for funding the patient's care.

(Royal National Orthopaedic Hospital)

### **Case Study 6 - Funding for care in the community**

The patient was an inpatient in a spinal rehabilitation centre for a period of top up rehabilitation following a spinal injury many years ago. The patient had been receiving money from the Independent Living Fund (ILF) to contribute towards his care. In 2006 the patient's care package was re-assessed and it was decided that the package would be provided and paid for by the local authority. However, the ILF continued to send money to the patient and the patient used those moneys to reimburse the local authority or to assist him to live independently. After a number of years, the patient did not receive any further funds from the ILF. The patient tried to make enquiries as to why these payments stopped but was unable to resolve the issue. No further contact was made until the patient was informed that he had been overpaid by £156,655.80 from the ILF and was asked to repay this amount in full.

Stewarts Law liaised with the patient's mother and the local authority to demonstrate that the funds had been used to reimburse the local authority or to live independently and the debt was not pursued and was written off by the ILF.

(National Spinal Cord Injury Centre)

### **Case Study 7 – Housing Issues**

The patient sustained a spinal cord injury many years previously and was an inpatient in hospital for a further period of top up rehabilitation. The patient made an application to his local authority to be rehoused on the basis that he was homeless. The patient was going through a divorce and felt that he could not return to the marital home. This was rejected under Section 184 of the Housing Act 1996 as the patient had made himself intentionally homeless. Stewarts Law appealed the decision on the patient's behalf and provided the local authority with a report from the patient's treating psychologist which outlined the reasons why the patient could not return to the marital home. Subsequently, the local authority reconsidered their decision and offered the patient suitable alternative accommodation on his discharge from hospital.

(National Spinal Cord Injury Centre)

### **Case Study 8 – Housing Issues**

The patient suffered significant mobility issues when sections of her limbs were amputated due to meningococcal septicaemia. The patient had concerns over her housing needs on discharge from hospital. She owned a second floor leasehold flat and the communal areas of the building were in a state of disrepair (including damage to the staircase and flooring). The patient had requested that the communal areas were repaired many times, and was paying her service charge, but no repairs were ever made. Following our letters and threat of legal action, the Freeholder arranged for the necessary repair works to be undertaken to the property and the patient was safely discharged home.

(Broomfield Hospital)

## Case Study 9 - Employment

The patient sustained a spinal cord injury as a result of a serious assault. The patient made a good recovery. She was able to walk unassisted and retained full power in her arms but had limited sensation below the level of the injury. At the time of her injury, she worked full time as an estate agent. Her employers conducted a risk assessment after her injury and concluded that they did not think that she could return to work and offered her a settlement of 1 years basic salary. A large proportion of the patient's income was commission based and there was nothing in the employers offer to reflect this. In any event, the patient did not want to accept the offer as she wanted to return to work. Stewarts Law therefore drafted a letter of complaint to her employer and provided evidence from her patient's treating Consultant of her ability to perform the role and work on a full time basis. The patient's employer subsequently agreed that she could return to work on a full time basis.

(Pinderfields Hospital)

## Case Study 10 – Debt and Financial issues

The patient suffered a brain injury following a stroke. The patient had experienced financial difficulty prior to his injury and had entered into three credit agreements with two different companies. Stewarts Law persuaded one of the companies to write off the outstanding balance which was in excess of £11,000. Stewarts Law also negotiated with the second company who agreed to place the debt on a permanent hold and agreed that they would only pursue the debt if the patient's circumstances changed in the future.

In addition, the patient sought advice on Powers of Attorney and requested that we assist him to execute an Ordinary Power of Attorney to enable his family to deal with his finances. After seeking confirmation of the patient's mental capacity from his treating Consultant, Stewarts Law liaised with the Occupational Therapy team and prepared cue cards to enable the patient to give instructions in regards to the content of the Power of Attorney.

(North Bristol NHS Trust)

## Case Study 11 – Debt and Financial Issues

The patient sustained a spinal cord injury following a road traffic accident. The patient was concerned about a number of financial arrangements in place which he could no longer service following his injury. Stewarts Law negotiated with the creditors and consequently repayment holidays were arranged for a number of the debts and one lender agreed to write off one of the debts as a gesture of good will (approximately £20,000).

In addition, the patient had an insurance policy which provided personal accident cover in the event of a loss of limb. Stewarts Law contacted the insurer and requested that they cover the patient under this policy stating that the patient had suffered a loss of limb as he no longer had functional use of his legs. The insurer refused the claim on the basis that he did not meet their policy definition as there had not been a severance of a limb. Having exhausted the insurer's internal complaints procedure, Stewarts Law made a complaint to the Financial Ombudsman Service on behalf of the patient. Shortly thereafter, the insurer reconsidered its position and agreed to pay out in full under the policy.

(National Spinal Injuries Centre)

## **Case Study 12 - Welfare Benefits**

The patient sustained a spinal cord injury when she was struck by debris falling from a building. The patient applied for Personal Independence Payments (PIP) in November 2013 and contacted Stewarts Law seven months later in June 2014 when she still had not heard from the DWP in relation to her medical assessment. Stewarts Law wrote a letter of complaint on the patient's behalf on 18 June 2014 and subsequently received an email on 24 June 2014 to confirm that the medical assessment had been arranged for 10 July 2014. We then received an email to confirm that the patient was entitled to PIP and they had already provided her with backdated payments.

(National Spinal Injuries Centre)

## **Case Study 13 – Family issues**

The patient sustained a spinal cord injury after a matrimonial assault. The patient had been living in the UK in excess of 10 years prior to her injury but wished to return to her native country so that she could be close to her family during her rehabilitation. The patient required urgent family law advice to enable her children of school age to leave the country. The patient required advice from a specialist lawyer who could promptly make the necessary applications to the Court and the necessary signposting was arranged. In addition, the patient required advice on repatriation. We liaised with the hospital regarding specialist facilities near the patient's parent's home.

(Neurosciences Intensive Care Unit)