

## Clinical negligence overview

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12 May 2022

- The clinical negligence process – pre-action and proceedings

An overview of the clinical negligence claims process, both pre and post proceedings, including the key stages of a claim and the investigations undertaken. A look at the aims and objectives of the process, the evidence considered by the courts and options for early resolution.

- Current issues and challenges

A discussion of the impact of the pandemic on the courts and the management of clinical negligence claims generally, including court backlogs, clinical expert and witness availability and how the courts and legal representatives have approached the challenges faced.

- Legal tests for clinical negligence claims

A consideration of the key legal tests applicable to cases of alleged clinical negligence including the duty of care, breach of duty of care, causation of injury, the burden of proof and the basis of the assessment of damages.

- Review of recent clinical negligence claims

Examples of two recent court decisions in clinical negligence claims including one providing an example of how the courts apply the relevant legal tests, and one which considers scope of duty in a ‘wrongful birth’ case.

- Claims and the COVID-19 pandemic – how might the courts approach cases?

A prospective look at how the courts may approach cases which are directly or indirectly affected by the Covid-19 pandemic, including the approach the courts may take to national policy decisions as opposed to individual clinical decisions. There is also an examination of the evidential difficulties faced by Claimants in possible cases concerning alleged hospital acquired Covid-19 infections, and possible ways in which the pandemic has indirectly affected patient care.

Finally, a discussion on how the courts may consider defences that raise the issue of working in “battle conditions”, the limitation of resources and the increasing importance of documentation.