



Clinical Negligence Accreditation Scheme

Guidance

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A. An introduction to the Accreditation Scheme

The Clinical Negligence Accreditation Scheme covers all work undertaken by solicitors and suitably qualified Fellows of the Institute of Legal Executives (FILEX) arising out of any act of negligence, breach of contract and/or statutory duty as a result of which the victim has sustained injuries in the course of medical or dental care.

The need for this scheme is for victims. Lawyers who act solely for defendants in clinical negligence will have no need to be on the scheme. If you act for both sides you will have to satisfy the Law Society that you can conduct actions properly on behalf of patients.

Practitioners who are not scheme members will remain free to undertake clinical negligence work but will not be identified as specialists.

B. Who is eligible to apply for membership?

Solicitors and FILEX may apply.

The scheme is for confirmed clinical negligence specialists only - not simply for those who wish to carry out this work. The scheme was created and is required so that the public can identify specialist practitioners in this field.

The scheme is for those who act for claimants - clinical negligence defendants have their own selection criteria and the skills of a defendant lawyer may be very different from those required to advise claimants.

C. What types of membership are available?

There is one type of membership available - Law Society Accredited Practitioner.

Memberships last for 5 years, after which members are required to apply for re-accreditation.

D. The level of experience you will be required to demonstrate

You can apply if you have personally been conducting clinical negligence cases for claimants for at least 3 years as without such experience it is unlikely that you will be able to demonstrate expertise as a clinical negligence specialist.

You will need to have completed at least 36 clinical negligence cases over the three years prior to the application, and had at least 12 cases taken as far as 'case management conference' and 3 to 'meetings of experts' in the three years prior to the application.

E. How to apply and what you should include

All applications for Law Society Accreditation Schemes are in two sections.

Section 1 - Individual's details and Organisation's details.

Section 2 - Scheme specific application from.

You will be required to fully complete each section, and forward your completed application, with the relevant fee, to the Law Society.

Case reports

We also ask for the completion of 6 case reports. These must be taken from cases you have personally conducted and concluded in the last 5 years. There is a case report form available on our website which you should use to complete these reports.

You should select cases which you believe best demonstrate your specialist skills as a clinical negligence practitioner. You are free to select those cases, but we do have some specific requirements.

There is no word limit on case reports, however applicants should provide a resume of each case setting out the details of the legal and medical issues and explain why the case illustrates your expertise.

Please provide a resume of each case setting out the details of the legal and medical issues and explain why the case illustrates your specialist clinical negligence expertise.

If you were not the conducting fee earner throughout any of these cases please specify your role and how you believe it demonstrates your expertise.

Please note:

1. If you have prepared a case for trial in the last 3 years you must include one such case.
2. Please include at least one case in which you carried out any of the following roles:
 - a) Chaired a conference with your client's expert?
 - b) Represented your client without counsel at a RTM?
 - c) Represented your client without counsel at a mediation?
 - d) Presented your client's case at trial without counsel?
 - e) Represented your client at an inquest without counsel?
 - f) Represented your client at a CMC?
 - g) Represented your client at a PTR?
 - h) Drafted a referral on behalf of your client to the GMC; NMC; CQC or similar bodyand outline what issues you had to deal with on that occasion.
3. Please include at least one case in which you:
 - Advised a client to accept a defendant's Pt 36 offer; or
 - Advised a client to reject a defendant's Pt 36 offer; or
 - Advised a client to make a Pt 36 offer;

Describing the outcome and explaining how such advice worked out and demonstrates your expertise.

4. If in the last 3 years you have drafted a Legal Aid case plan you must include that case and exhibit the plan to your case report.
5. If you have drafted your own schedule of damages choose that case for one of your reports and exhibit your schedule explaining any aspect of that schedule which demonstrates your expertise.
6. If in the last 3 years any of your cases resulted in a PPO include one such case.

Use additional A4 typed sheets for any further details or comments on the progress of the case that you feel may be necessary.

F. How you will be assessed

On receipt of your application form, we will send your application to be marked by one of our independent assessors.

Each subset of questions within Section 3 of the application form, and the case reports, will be marked **A B C D** or **F**.

- **A** is acceptable
- **B** is borderline
- **C** is incomplete or confusing when compared to other answers and written clarification is required before final assessment can take place.
- **D** is defer and relates to training only
- **F** is fail

To be admitted or re-admitted an Applicant requires an A in every section.

Should a candidate score a B in any section they may be asked to explain how they can further demonstrate their expertise. They will be clearly guided by the assessor as to what further information is required.

Should a candidate score a C in any section, they may be asked for further clarification and/or information. They will be clearly guided by the assessor as to what is incomplete or confusing and what is required.

G. What other checks and assessments are made?

You must demonstrate that you are a fit and proper person to become an accreditation scheme member, and must continue to be so throughout your membership. The Law Society reserves the right during the currency of any voluntary scheme membership to investigate any matter which may call into question the fitness and propriety of any scheme member to act as such, and to take whatever action is considered appropriate at whatever stage of the investigation.

The Law Society will examine whether your past record reveals that you have committed any offences involving fraud or other dishonesty or violence.

The Law Society will also be concerned with any practice in which you may have engaged in the course of any business or employment which do not conform with the best standards of professional conduct. Evidence showing delays in dealing with cases, failure to answer correspondence and failures or delays in responding to enquiries from regulatory and revenue authorities will raise doubts as to your competence to remain a scheme member.

The assessment of fitness is not a mechanical exercise whereby compliance with a number of specific requirements ensures the grant of an authorisation. It is rather a judgement based on the review of your whole record and individual circumstances.

If the Law Society, with due regard to the rules of procedural fairness, determines that you have ceased to be a fit and proper person to continue to be a member of the scheme, or that the fitness or propriety to act as such has been compromised, it may refuse, revoke or suspend the membership or attach conditions to it. Members affected by a decision taken under this paragraph have a right to request a review in accordance with the procedures set out elsewhere in this document.

Where a complaint or other matter which may affect your suitability to remain on the scheme is considered to be of sufficient seriousness, the Law Society may suspend your membership pending the completion of the investigation and any proceedings as may arise.

H. What fees are payable for making your application?

Please see the website for the most up to date fee schedule.

I. Information on re-accreditation

The purpose of re-accreditation is to ensure that members are maintaining the standards, systems and experience necessary to satisfy the Law Society as to their competence. It is not a re-examination of a members' original submissions.

Members will be sent a reminder 3 months prior to the expiry of their membership that they are due to re-accredit.

Applications for re-accreditation have the same section 1 as all Law Society Accreditation Scheme applications, with a separate section 2 specific to re-accreditation for the scheme.

J. Our requirements for continued professional development

First time applicants must have undertaken at least 30 hours' training related to clinical negligence, with not less than 15 hours dedicated to medical issues, in the three years prior to an application.

Members of the scheme will be expected to attend at least 10 hours per year of training courses or other approved continuing professional development (CPD) events to update your knowledge of clinical negligence litigation and practice.

Your CPD training record covering the previous three years must be included when you eventually apply for re-accreditation.

You should make clear;

- All CPD training events attended;
- Any training events at which you have presented any lectures or talks relevant to clinical negligence
- Those training events containing a medical element;
- Those training events which you identify as furthering your knowledge of clinical negligence practice, law and procedure.

K. What standards of competence are expected of a member of the scheme?

Areas of law

- Common law of negligence and vicarious liability including causation and consent
- Statutes concerned with liability
- State benefits
- Limitation of actions
- Relevant European Community legislation
- Civil procedure rules
- Claims arising from death
- Coronial law

Additional knowledge

- Structure of the NHS
- Relevance of NHS (Crown) indemnity rules
- Complaints to and about hospitals, GPs, private doctors and private hospitals, the General Medical Council (GMC), CQC and the Health Service Commissioner
- Different considerations when dealing with private health care
- Role of the medical defence bodies
- Professional rules of the medical profession
- Ability to read medical records and know what should be there, to understand the implications of medical reports and assess their objectivity, and to assess the legal relevance of the medical issues of the case
- General human anatomy
- Support agencies and their rules
- Pre-Action protocol
- Inquests
- Persons under a disability
- Funding
- Case management
- Methods of receiving compensation
- Awareness of legal and ethical issues relating to: treatment; consent; end of life; confidentiality; drug trials and experimental treatment.
- Risk assessment
- Rehabilitation