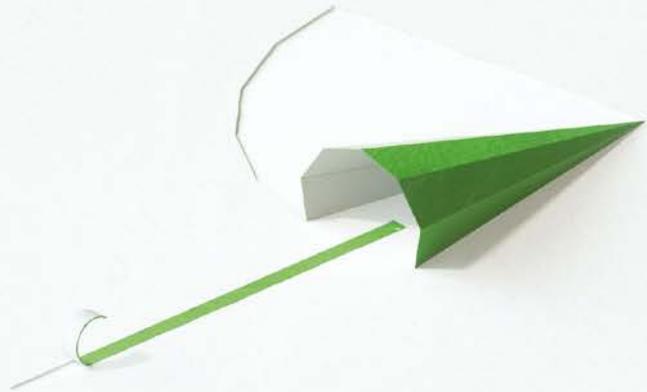


## Bevan Brittan Insurance Team

### Institutional Abuse Claims



**High-profile cases of neglect and abuse on an institutional scale in recent years have highlighted the complexities of co-ordinating cross-system efforts, to tackle the root causes of abuse in care on a national level. The Independent Inquiry into Child Sexual Abuse highlights the scale of the problem.**

In a developing area of law, the Courts have increasingly relaxed limitation periods in historic claims and found institutions vicariously liable for the actions of abusers. The volume of abuse claims continues to rise, with increasing number of cases brought directly under the Human Rights Act 1998.

In such turbulent times institutions facing abuse claims, and their insurers, need the right legal team to support them in this area.

#### What we do

Bevan Brittan has experience of acting for local authorities, healthcare providers and commissioners in cases ranging from individual episodes of abuse to large-scale group actions.

##### **Group Action Case Study – Hospital abuse claims**

We acted for the Defendant in an action by claimants in a group action for institutional abuse spanning decades, which settled after a settlement formula was agreed. It was described by the Judge as *"a paradigm of how serious multi-party actions should be litigated"*. It is believed to be the first group action which was successfully mediated, with the Judge describing himself as *"very impressed"*.

An innovative one-way costs shifting agreement avoided expensive insurance policies and conditional fee agreements.

#### Liability Claims

Recent experience includes:

- acting for a Defendant in respect of alleged sexual assaults committed by their employee on four patients. The employee was acquitted of all charges at a criminal trial but struck off the nursing register for misconduct. We advised on possible awards under the Human Rights Act and aggravated damages before settling the pre-action claims proportionately to the values involved. The pros and cons of setting up a helpline for possible further victims, and learning points for future practice based on expert evidence, were also considered.
- successfully repudiating a fatal neglect claim brought against a care home. The deceased had been admitted with a number of physical and mental health issues. A strong defence was made out as we were able to disclose care plans and records which contradicted the Claimant's case entirely.

- representing the UK's largest independent provider of health and care social in the defence of claims arising from elderly and vulnerable residents allegedly being abused, neglected and mistreated by the care provider's employees. One claim involved the death of an elderly resident. We put forward a robust defence by conducting a forensic analysis of the deceased's full medical history, obtaining comprehensive evidence addressing the scope of his risk assessments and care plans, staff competency, staff training, staffing levels and independent quality care audits, and commissioning a geriatric consultant to conduct a peer review.
- acting for a Local Authority in a case where a care home employee was alleged assaulted by an adult with severe learning disabilities. Reputational management was a critical issue for the Local Authority as the local press were regularly attending local Courts and reporting all claims where there was a negative finding against the Authority. We struck the right balance between delivering pragmatic legal advice and managing the claim sensitively to avoid the Local Authority suffering from unhelpful (and unwarranted) reputational damage.

Members of our Insurance Team have been seconded to major insurer and Local Authority clients to handle the full spectrum of insurance claims, including social services cases. These secondments have helped us to develop a deeper understanding of the pressures that institutions and their insurers face when presented with abuse claims, not only from a claims and risk management perspective, but also from a reputational standpoint.

## Risk Management

We advise on all aspects of regulatory compliance and risk affecting health and social care providers across the public, private and voluntary sectors. Our portfolio of work spans hospitals and clinics, care homes, children's homes, home care providers and nurseries. Clients include national regulators in both England and abroad, as well as a string of major providers.

## How we can help

- Our team of 52 medical and insurance claims lawyers can robustly assess the credibility of claims and handle them with sensitivity.
- Additional group action resource and collective action expertise supported by sophisticated claims handling systems.
- In depth knowledge of the regulatory background and experience in acting for regulators and supporting clients in major inquiries and inquests.
- An efficient, commercial and cost effective service.
- Advice on complex policy coverage and indemnity issues for liability claims.

## If you would like to know more then please contact:



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