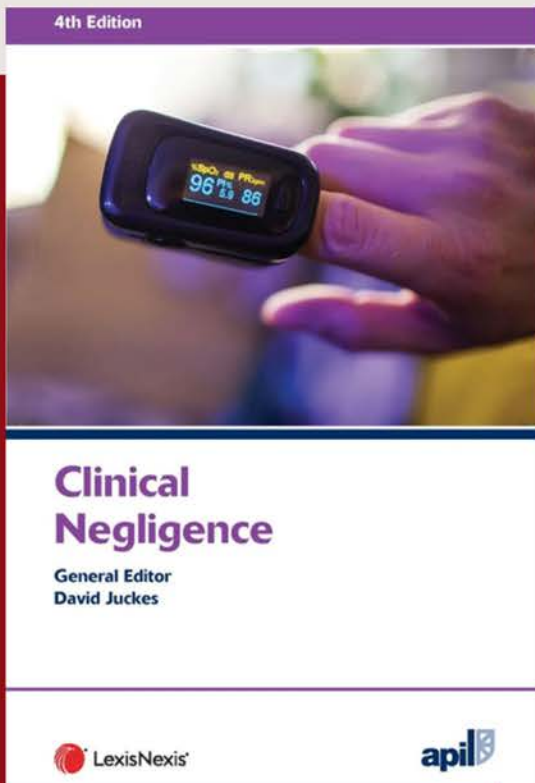


APIL Clinical Negligence Guide



A Comprehensive Guide to Clinical Negligence Claims

Hailsham Chambers is proud to present the fourth edition of the APIL Guide to Clinical Negligence, produced in collaboration with Hugh James, with further contributions from other professionals. The volume focuses on the key areas of clinical negligence, and includes chapters on medical product claims, human rights claims and inquests. It combines practical know-how on conducting these claims with the latest thinking on new and developing areas of practice.

From the Clinical Negligence Set of the Year 2025

11 members of Chambers have contributed 18 core chapters of this edition, which is edited by our David Jukes. Recently awarded Clinical Negligence Set of the Year by The Legal 500, the book showcases Hailsham Chambers' expertise in this ever evolving area of law.

"A great set for clinical negligence" (Legal 500)

Legal500

Winner:
"Clinical Negligence
Set of the Year"

Contributors



General Editor, plus chapters on Limitation and Medical Products

I am very pleased to introduce the fourth edition of the APIL Clinical Negligence Guide. This edition builds on the excellent work done by previous contributors and has been significantly expanded to encompass all aspects of running a clinical negligence case, from the first meeting with the client to the management of settlement funds in complex injury cases. The teams at Hailsham Chambers and Hugh James have brought their unique and considerable expertise to this publication. I'm sure it will serve as an invaluable guide for junior lawyers and a useful tool for seasoned professionals.

David Juckes, Barrister and Editor

"very calm, considered and measured" Legal 500, 2025

Pre-Action Protocol, Case Management and Witness Statements

My chapters ensure you will litigate your cases effectively and efficiently. The Pre-Action Protocol chapter provides a detailed commentary on each section of the protocol. The Case Management chapter covers some common problems with issue and service (and more importantly how to avoid them!), allocation including the recently introduced intermediate track, and the detail of the standard directions. Poorly drafted witness statements are a main cause of cases losing or failure to recover maximum damages - the Witness Statement chapter explains how to avoid such outcome and judicial criticism, and the dangers of a finding of fundamental dishonesty.

Eva Ferguson, Head of Medical Law Group, Barrister and Contributor

"forensic attention to detail" Legal 500, 2025





Expert Evidence, ADR and Clinical Records

I wrote the chapters on expert evidence, mediation and ADR, and clinical records. As a former doctor, the interface between medicine and law has particular interest for me. It is 26 years since the duties of an expert witness, as formulated in the 1993 case of 'the Ikarian Reefer', were codified in Part 35 and PD 35 of the CPR. This was followed by the first edition of the CJC's 'Guidance for the Instruction of Experts in Civil Claims' in 2005. I hope this chapter will assist with navigating through the large body of case law which has emerged since 1999.

Dr. Peter Ellis, Barrister and Contributor

"a deep understanding of medical matters" Legal 500, 2025

The Duty of Care, Standard of Care and Establishing Breach of Duty and Causation

Since Bolam in 1957, the intricacies of the common law have continued to develop to clarify the precise natures of the fundamental building blocks of any claim for damages for clinical negligence, namely: the existence and nature of a duty, how a breach of this duty can be established, and how the same – factually, medically and legally can be shown to have caused injury or loss.

These legal principles are always going to apply with nuance to an area concerning frequently highly disparate underlying factual matrixes. I find their determination to be legally, scientifically and intellectually fascinating.

Thomas Crockett, Barrister and Contributor

"his attention to detail is marvellous" Legal 500, 2025





Entitlement to Damages and the Schedule of Loss

Although some clients may want an apology or reassurance that lessons have been learnt, for the vast majority the purpose of bringing a clinical negligence claim is to recover much needed compensation for their injuries. Damages are the only remedy a court can award and are the focus of any claim. Writing a chapter on such a complex area is a challenge given that there are whole books dedicated to the subject! I hope that this chapter will act as a helpful introduction and guide, giving practitioners the necessary tools and confidence to investigate and quantify their client's claims.

Nicola Campbell-Clause, Barrister and Contributor

"She has a wonderful way with clients" Legal 500, 2025

Inquests

Some of my most meaningful and rewarding experiences at the Bar have come from providing representation at inquest hearings. Bramble Badenach-Nicolson and I have contributed a chapter about navigating the inquest process on behalf of families. We set out what to expect from the inquest experience, from post-mortem through to potential conclusions, covering the complexities of Article 2 to the circumstances in which a jury is required. The focus is on healthcare inquests, including deaths in hospital and where mental health services are involved. We deal with the important issue of funding and the new medical examiners regime.

David Story, Barrister and Contributor

"great at building rapport with clients and experts" Legal 500, 2025





NHS Complaints and Inquests

I so enjoyed working on the guide. I contributed to a chapter on NHS Complaints Procedures and Redress, as well as the Inquests chapter, with David Story. I hope the former provides a useful overview for those unfamiliar with NHS complaints. As for the latter, I was very keen to collaborate with David as inquests are such a fundamental starting point for bereaved clients in fatal cases. The inquest is not only significant in setting the course for the civil claim; it is an opportunity to earn a family's trust early on and sensitively manage expectations from the outset.

Bramble Badenach-Nicolson, Barrister and Contributor

"She is consistently well-prepared and clear in her advice." Legal 500, 2025

Claims Involving Medical Products

I was delighted to contribute the chapter on Claims Involving Medical Products; an important area of law in circumstances where technology is increasingly being used to assist with healthcare.

Building upon the work of previous contributors, particularly in view of the changes brought about by Brexit, this chapter sets out the essential legal principles of a product liability claim brought pursuant to The Consumer Protection Act 1987 with a focus on the particular issues surrounding defective medical products.

I hope that this chapter serves as useful grounding for practitioners who may be intending to bring or defend such claims.

Thomas Philips, Barrister and Contributor

"Hailsham has a very experienced clinical negligence team" Legal 500, 2022





Funding and Costs

I contributed two chapters, dealing with funding and costs. The first chapter concerns the crucial contract between solicitor and client, which governs the relationship between them and provides the legal framework for the solicitor's right to be paid and the services to be supplied to the client. I consider only the funding of new claims after 1 April 2013 when the landscape fundamentally changed due to the reduction in eligibility for legal aid and the advent of QOCS. The second chapter deals with Part 36, including making, withdrawing and accepting such offers, as well as the consequences which can follow.

Thomas Mason, Barrister and Contributor

"He is a rising star and one to watch" Legal 500, 2025

Fatal Claims

I drafted the Fatal Claims chapter, along with Clare Parkhouse. In particular, I contributed the sections on funeral expenses, statutory bereavement awards, Regan v Williamson awards, loss of services dependency, loss of financial dependency and calculating dependency with worked examples. The calculation of dependency claims can be complicated, and I hope that this practical guide will be of use to practitioners.

Amy Chapman, Barrister and Contributor

"Hailsham is an excellent set with a great choice of barristers" Legal 500, 2025





Fatal Claims

I contributed to the Fatal Claims chapter, alongside Amy Chapman. We address claims for fatal accidents under the Law Reform (Miscellaneous Provisions) Act 1934 and the Fatal Accidents Act 1976. I chose this topic as I was keen to help demystify some of the unique complexities that arise from fatal claims, where there is a paucity of case law and the statutes can sometimes feel counter-intuitive.

Clare Parkhouse, Barrister and Contributor

"The set has an outstanding reputation." Legal 500, 2025

Further Information

Hailsham is one of the top medical law sets in the country. Our team of nearly 40 specialists, including silks and medically-qualified doctors as well as a range of juniors, offers a wide range of experience in medical law.

They act for claimants and defendants in matters funded privately, by Legal Aid or CFA and strive to secure the best outcome for their clients using the most appropriate form of dispute resolution whether it be traditional litigation, early neutral evaluation or mediation. In medical law, ethical and legal considerations are often complex and the Hailsham team aim to provide pragmatic and practical advice so as to expertly guide their clients through all aspects of the legal process.

If you would like to get in touch with us, please do email at clerks@hailshamchambers.com or call on 020 7643 5000.

Acknowledgments

A special thank you to our co-contributors, Hugh James, without whom this book wouldn't have been possible. A couple of snapshots from our recent launch drinks!

