



CLIENTS AND THEIR PERSPECTIVE

25/1/18 AVMA LAW PRACTICE & PROCEDURE COURSE

INTRODUCTION TO BABY LOSS CASES

1. 15 babies are stillborn or die in the neonatal period every day in UK.
2. 60% of those stillbirths and neonatal deaths could have been avoided.

COMMON TRENDS IN BABY LOSS CASES

1. Reduced fetal movements not being acted on;
2. lack of fetal heart rate monitoring overnight or at the weekend;
3. failure to interpret monitoring correctly;
4. failure to identify growth restricted babies; and
5. failure to refer for obstetric review.

EMOTIONAL & FINANCIAL IMPACT OF BEREAVEMENT

1. Bereavement may cause families to break up.
2. One parent may not be able to return to work/will return to work only in a reduced capacity. This leads to a reliance on state benefits.
3. Parents may sustain a psychiatric injury for which they will need treatment – GP visits, counselling, medication, CBT (Cognitive Behavioural Therapy), EMDR (Eye Movement Desensitisation and Reprocessing) etc – a cost to the NHS.

MANAGING CLIENTS' EXPECTATIONS IN A CLAIM

Taking instructions

When clients instruct a clinical negligence solicitor, it is because they have been let down by the medical profession. As clinical negligence solicitors we almost start from a position where clients don't trust us either – **we have to earn that trust.**



Remember:

1. Every family is different
2. Every individual family member is different

This will impact on the way the clients' instructions are taken.

Some clients will be relieved to tell their story. However, others may not yet be ready to speak about what happened. Think about what is the best way to take a particular client's details. This could be:

1. face to face;
2. by email;
3. by letter;
4. by telephone or lots of short telephone calls; or
5. from another member of the family.

Consider whether any information can be obtained from:

1. the Serious Untoward Incident report; and
2. the response to a complaint.

Throughout the Claim

1. Gauge from the outset what your client wants.
1. Give them the time that they need.
2. Set out the parameters with them at the start – how do they want to tell you their story?
3. Be upfront with clients at the outset about timescales for their case.
4. Update clients on timescales at key stages of the process.
5. Advise them that there will be detailed statements to take which will require them to recall in detail what happened.

6. Warn them that once they get to the end of the case that will probably be extremely upsetting as that will be the last thing they can do for their child.

Valuing the Claim

1. Be clear about the value of the claim whilst appreciating that the claim for them isn't about the money.
2. Advise at the beginning that you can only work within the legal parameters available.
3. Advise them that the total set out in the Schedule of Loss **will never be recovered** – this is their best case scenario. Also set out their worst case scenario and what would be a reasonable settlement on the particular facts. Agree parameters for settlement with them.

OTHER REMEDIES:

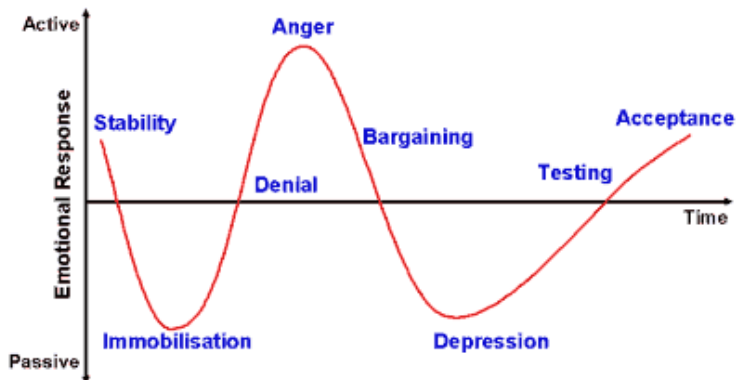
It was stated earlier that it is important to gauge from the outset what your clients want from their claim. As you heard during the presentation, for some the financial impact on the family means that the claim is ultimately about money. However, for other clients they may want something more from the Trust. For example, ensuring that the Trust:

1. Apologises;
2. learns lessons;
3. changes protocols;
4. introduces guidelines; and/or
5. introduces staff training.

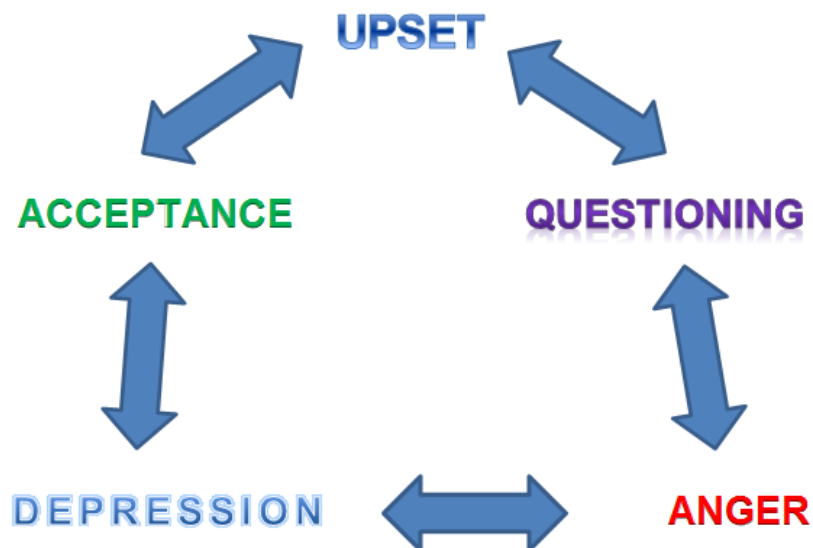
MANAGING BEREAVEMENT

1. **Stability:** Before the cycle starts the position is stable
2. **Shock stage:** Initial paralysis at hearing the bad news.
3. **Denial stage:** Trying to avoid the

The Kubler – Ross Grief Cycle



IT IS NOT A PERFECT CIRCLE. It is quite common to get stuck in one phase. It is also common to end up going around in circles or jumping from one stage to another.



Remember, litigation has a **huge impact** on the grief cycle and clients are unlikely to make it to the acceptance stage until after the litigation is over. In dealing with these cases, we end up being quasi counsellors, social workers as well as legal advisors.

MANGAGING YOURSELF

You can't pour from an empty cup. Take care of yourself first

As much as we want to help others in our capacity as clinical negligence solicitors, it is important to also look after yourself. You will hear traumatic and upsetting stories from your clients and you must take time to care for yourself.

1. Make sure that you have someone you can turn to at work and at home.
2. Share your thoughts and feelings.

CLAIRE STONEMAN

PARTNER

ENABLE LAW

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