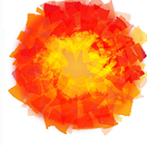


PRACTICAL & LEGAL INFORMATION



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WORK & EMPLOYMENT

Whether you're someone recovering from sepsis, have suffered bereavement or are caring for someone who's been affected by sepsis, it may be difficult to cope with work commitments or you might be unable to return to work at all. Many employers will be very supportive when an employee is recovering from a critical illness or suffers a bereavement. However, some might not have heard of sepsis or understand the impact it can have, including the long-term effects and your ability to work. Sepsis can affect you in a variety of different ways, including fatigue; physical limitations; difficulty concentrating; memory; anxiety; headaches; sensitivity to noise, light and temperature. It's advisable to have a frank and open discussion with your employer about your illness, or the illness of the person you're supporting, and how this affects your daily life and work so that they can identify how best to support you. You might want to share information from The UK Sepsis Trust website or your doctor to help your employer understand more about sepsis. Your employer might also want Occupational Health to be involved.

Your work and employment rights and benefits are generally determined by the law, your contract of employment and your employer's policies. You might find it useful to ask your employer for a copy of their absence and sick pay policies early on.

Statements of Fitness for Work (previously known as Sick Notes), are doctor's notes which are provided when their patient's health condition affects their ability to work. You're usually required to submit Statements of Fitness for Work to your employer if you are off work due to ill health. Once a Statement of Fitness for Work expires you don't need a further note to say you're well enough to return to work.

...WORK & EMPLOYMENT

Statements of Fitness for Work will usually recommend whether a phased return to work would be beneficial. Even if it doesn't, you can request a phased return, although your employer does not have to agree. For people recovering from sepsis a phased return might involve working part time, flexible hours, regular rest breaks, part home-working, reduced or modified duties, workplace adaptations (e.g. moving to a quieter or cooler area if you are sensitive to noise or temperature) and providing a quiet place to rest.

Employers are under a duty to make reasonable adjustments to make sure workers with disabilities are not substantially disadvantaged when doing their jobs. An employer must consider making reasonable adjustments, involving a disabled employee or job applicant in the decision, if:

- They become aware of the employee's disability
- A disabled employee (or job applicant) asks for adjustments to be made
- A disabled employee is having difficulty with any part of their job
- Either an employee's sickness record, or delay in returning to work, is linked to their disability

Whether an adjustment is reasonable depends on the circumstances but reasonable adjustments may include moving the employee's workspace to a more convenient location, providing equipment (e.g. a special chair, or desk), allowing time off work to attend medical appointments, providing a parking space closer to the office, or modifying the employee's duties.

...WORK & EMPLOYMENT

It might be necessary to seek legal help with any work issues you may face after sepsis, including:

- Complaints and grievances
- Flexible working requests
- Health and safety at work
- Absence management
- Time off for dependants
- Disability discrimination
- Bullying and harassment
- Unfair dismissal and constructive dismissal

For general advice on the law the Gov.uk and Advisory, Conciliation and Arbitration Service (ACAS) websites can be helpful starting points. You may also want to speak to a solicitor.



SICK PAY & INCOME PROTECTION INSURANCE

If you're eligible and qualify you can get Statutory Sick Pay (SSP) if you're too ill to work. The current rate of SSP is £95.85 per week. It's paid by your employer for up to 28 weeks. If you're eligible and qualify you cannot receive less than the statutory amount. You can receive more if your employer has a sick pay scheme (or 'occupational scheme'). Your employer should provide you with a copy of their policy for sick pay at your request.

There are different rules for SSP that affect some employment types, including agency workers, directors and educational workers. The Gov.uk website has more information about this.

Self-employed people are not entitled to SSP but could be entitled to state benefits or you, as an individual, might have an income protection policy to help alleviate the financial burden when recovering from sepsis (see the benefits section on page 7).

You or a close relative might have taken out income protection insurance (sometimes known as permanent health insurance) before you became ill or might have a group policy through work. Income protection insurance is designed to provide a regular income if you can't work because you're ill or injured. There are long term policies which continue to pay until you're able to return to work or retire or short term policies which only pay for a specific period. Some people might have critical illness insurance, which pays out a one-off lump sum if you have a specific serious illness. Or you might have payment protection insurance to cover specific payments, such as your mortgage. With all of these insurance policies it is essential to check whether sepsis is covered. You might want to contact the insurer as soon as possible and ask to see the policy terms, in particular which conditions are covered, how 'incapacity' is defined and your obligations.

If you have problems with your insurer you might want to contact the Financial Ombudsman Service.

BENEFITS

There are many different types of benefits. Some are means-tested and others are non-means tested. Depending on the benefit it might be available from the Department of Work and Pensions, Job Centre Plus, Pension Services, Local Authorities or the Department of Health. To qualify for any benefit the claimant must meet the 'Eligibility Criteria', whether the benefit is means-tested or not. You might be entitled to benefits after suffering sepsis because of the impact on your health, finances or other personal circumstances.

Personal Independence Payment (PIP) is a benefit for people aged between 16 and 64 years who have extra care or mobility needs because of their disability, illness or impairment. PIP is a non-means-tested benefit: the claimant's income, savings, capital and financial circumstances are ignored.

Employment and Support Allowance (ESA) is a benefit for people who are unable to work, are under the state pension age, do not receive statutory sick pay or have not made sufficient National Insurance contributions. There are two types of ESA: Contributory ESA and Income-Related ESA, which is means-tested. A person can apply for ESA if they are an employer, self-employed, unemployed or a student.

Universal Credit (UC) is a benefit to help with living costs. It's a means-tested benefit and both the claimant and their partner's financial circumstances can be taken into account. UC is a relatively new benefit and will replace Child Tax Credit, Housing Benefit, Income Support, Income-Based Jobseeker's Allowance (USA), Income-related Employment and Support Allowance (ESA) and Working Tax Credit. If a person is getting any of these benefits they cannot claim UC at the same time. To claim UC the claimant must be on a low income or out of work, 18 or over (there are some exceptions for 16 and 17 year olds), under the state pension age (or their partner is), have £16,000 or less in savings (between the claimant and their partner) and live in the UK.

...BENEFITS

Local authorities have a discretion to offer financial assistance to a child or young person and their family where a social work assessment identifies the child as a 'Child in Need'.

Your benefit entitlement may change if you go into hospital, respite care or other accommodation funded by the NHS. Disability Living Allowance and PIP are not payable after 28 days of admission and some means-tested benefits can decrease. It's always best to let the benefits agency know when you go into or leave hospital or if you move to ensure you are receiving the right benefits.

The Gov.uk website has more information about benefits and the charity Disability Rights UK have information about benefits. The local authority's Children Social Service Department will have more information about financial assistance for Children in Need.



RETURN TO EDUCATION

Children and young people might find it difficult to go back to school after sepsis. Children should be provided with the support they need to progress through their education, regardless of their disability.

Children with significant special educational needs are usually issued with an Education, Health and Care Plan (EHCP). EHCPs are available for children and young people in education from the ages of 0-25 in England who meet the criteria (known as the 'legal test'). An EHCP is a legal document that states a child or young person's special educational, health and social care needs and what extra provision is needed to support the child or young person to achieve their goals, such as speech and language therapy in school, a wheelchair or support for the family at home. The EHCP should be specific and quantified e.g. the number and frequency of therapy sessions.

The education system varies across England, Wales, Scotland and Northern Ireland.

Parents and carers can request an EHC needs assessment by contacting the local education authority. The assessment process should consider the child's education, health and social care needs. The assessment process involves gathering information from parents, the child, the school and professionals involved in the child's welfare (such as doctors and therapists). Parents and carers can submit their own evidence in support of the EHC needs assessment if they wish and can ask the local authority to gather specific information which has not been obtained before e.g. information from a specialist.

The EHC needs assessment should determine if the child should be issued with an EHC plan.

...RETURN TO EDUCATION

If the local education authority decides not to issue an EHC plan after the assessment, for example because they believe the child's or young person's educational needs can be met within the school's existing resources, the parents/carers can ask the school to review the decision if they disagree. Parents/carers might also disagree with the content of an EHCP or decision to end the EHCP. There is a mediation process for reviews. If mediation fails, the next step is an application to the Special Educational Needs and Disabilities Tribunal.

Where an EHCP has been issued, the local education authority must provide the special educational needs provisions identified in the plan. The EHCP should also be kept under review to ensure it is meeting the child's needs.

The charity, Contact a Family, has further information about EHCP's on their website.

It can be challenging for young people to return to university and other further education after sepsis, especially when they are experiencing cognitive difficulties and are coping with stress. EHCPs are not available for students at university but there are other potential sources of support. Financial support is available under the Disabled Student Allowance (DSA) service to assist with extra costs associated with the student's disability. DSA support might fund a note-taker, study assistant, specialist equipment etc. A DSA needs assessment must be completed by an approved DSA assessor. Requests for a DSA needs assessment can be made to the university or Student Finance England. The university might also provide additional help, depending on the specific institution. You should contact your student services department to discuss this.

The UCAS website has information about support for students with disabilities.

CARE & SUPPORT

Adult Social Care

Adult social care is not free: it is both means-tested and needs-tested.

Means-tested is where the adult's income and capital are taken into account to determine whether they will need to make a contribution towards their care and support. Needs-tested means that the adult's needs are assessed to establish whether or not they are eligible for social care.

In addition to the above tests, the local authority's eligibility criteria for adult social care must also be met. Three conditions must be satisfied:

1. The adult has social care needs arising from their physical or mental impairment
2. Because of their needs they are unable to achieve two or more of the outcomes listed below and
3. As a consequence, there is, or is likely to be, a significant impact on their wellbeing

The outcomes the assessor (for example a social worker) should look at are the person's ability to manage and maintain their nutrition; maintain their personal hygiene; manage their toileting needs; appropriately dress themselves; be safe at home; maintain their home; develop and maintain relationships; access and engage in work, training, education or volunteering; make use of local facilities, services and transport; and, if relevant, care for a child.

The findings of the needs assessment should be detailed in a support plan and shared with the person.

...CARE & SUPPORT

Child in Need

A child/young person may be entitled to financial and non-financial support from the local authority social care and support if they're assessed as a 'Child in Need'. There's a detailed definition of 'Child in Need' but essentially it's a child who is disabled or is unlikely to achieve or maintain a reasonable standard of health or development and/or their health is likely to be significantly impaired without support.

Support can include financial assistance towards, for example, child day care facilities, respite care or accommodation etc. Financial assistance can be given in the form of a loan, a cash payment, or payment in kind, for example, vouchers for an item of food, clothing or furniture.

Re-ablement

Some people who've had sepsis are left with after-effects that require ongoing specialised treatment and support. For others, after-effects can become evident at a later stage in the recovery process. Many local authorities offer short-term support and intervention of up to six weeks to help people regain their independence after a period of illness. This is called 're-ablement' and falls under Social Services. Re-ablement could offer help and support, allowing you to concentrate fully on your recovery.

Funding

Care and support might be funded by the local authority, the Clinical Commissioning Group (CCG) or both together (known as joint-funding). Adults who do not meet the criteria for funding from social care are known as self-funders. It's very important to ask from the onset what the funding arrangements are as it will give you an idea of who is legally and financially responsible for your care and support.

...CARE & SUPPORT

Challenging your assessment

If you are in disagreement with the CCG and/or local authority's assessment it might be possible to challenge it in a number of ways, namely via the CCG and/or local authority's own complaints process, the Ombudsman and via the court by way of judicial review. The Ombudsman won't investigate a complaint unless the local authority/CCG complaints process has been exhausted first. You might want to consider speaking with a specialist solicitor to get expert legal advice about these options.

QUESTIONS ABOUT CARE & COMPLAINTS

Sepsis often occurs very rapidly and it can be difficult to understand what's happening, especially when there's a lot going on in hospital, with staff using unfamiliar medical terms. Speaking to the Support Team at the the UK Sepsis Trust may help to answer some of your questions. If you or your family have queries about what's happened and why, or concerns that there might have been mistakes, you can also ask to speak to the consultant in charge (or GP if your concerns relate to GP care). You might want to consider bringing a list of questions to the meeting to ensure that you don't forget any that you want to ask.

If you've still got concerns, you could contact the Patient Advice and Liaison Service (PALS) in the hospital and ask them to investigate these. If your complaint is about a GP you should contact the complaints manager in your GP Practice. PALS will try to help you resolve issues informally before making a complaint, however if this doesn't help you might want to take the next step, which is to make a formal complaint.

You should use the NHS complaints procedure to make a formal complaint about NHS hospitals, trusts and NHS family health services provided by GPs. The GP Practice will advise you about their complaints procedure. The first stage of the procedure is local resolution, where the NHS/ GP Practice is required to investigate and respond to your complaint.

If your complaint relates to care in a private hospital or clinic, you can make a complaint to the private healthcare provider using their complaints process. You can also complain to the Care Quality Commission if you don't believe that the provider has handled your complaint appropriately.

...QUESTIONS ABOUT CARE & COMPLAINTS

Generally, it's best to make a complaint in writing or by email so you can be sure it covers all of your concerns and that you get answers on every point. The Action Against Medical Accidents website has a sample complaints letter for guidance. Depending on where the treatment occurred you should address your letter to the Chief Executive of the hospital trust, GP or other complaints manager. You should make sure you include your name, date of birth and contact details on the letter and your NHS or hospital number if you have it. You should explain in your own words who or what you're complaining about, where and when this happened, what you've done already about the complaint, what result you want (such as a second medical opinion or answers to specific questions) and whether you want an independent clinical review. There will then be an investigation into your complaint and you may be invited to a meeting to discuss it, which you might find helpful, but there is no obligation to go to a meeting if you would prefer not to.

You should receive a full written response to your complaint (even if you also get a verbal response at a meeting). If something went wrong in the care you received (for example an unacceptable delay before you were given antibiotics), you should be told about it.

All hospitals, GPs and other health and social care organisations registered with the Care Quality Commission (CQC in England) have a legal duty to be open and honest with patients or their families when something goes wrong that appears to have caused significant harm (and, in hospitals, if something could cause significant harm in the future). This is known as the 'duty of candour'.

...QUESTIONS ABOUT CARE & COMPLAINTS

If you're not satisfied with the final response, you have the right to request an independent review of your complaint by the Parliamentary and Health Service Ombudsman. The Ombudsman website explains how to do this.

If your complaint concerns care in Scotland then you should raise your concerns with The Scottish Public Services Ombudsman, their website has helpful information on making a complaint in Scotland.

There's also helpful information on the NHS Complaints Advocacy service, providing useful information and support when making a complaint.

In Wales, the Complaints Procedure can result in compensation of up to £25K. This is not the case in England. In England, the only way to obtain any financial redress is by pursuing a legal claim.

Complaints in Wales are dealt with through a process called 'Putting it right' all the details can be found at [england.nhs.uk/contact-us/complaint/](https://www.england.nhs.uk/contact-us/complaint/).

There's nothing to stop you speaking with a solicitor whilst also making a complaint at the same time. Legal action should not delay or prevent a complaint investigation. A solicitor will find it helpful to see the response you get to your complaint, which might support a medical negligence case.

You might also find it helpful to speak with a specialist solicitor about what happened whilst you are going through the various steps to ask for answers and raise your concerns. There is more information about what solicitors can do on the next page.

MEDICAL NEGLIGENCE

Medical treatment in the UK is generally of a high standard and errors are rare, however, sepsis is a devastating condition and early detection is extremely important. Sometimes medical professionals fail to listen to a patient's concerns or their family when they start to get ill, or there can be a long wait in A&E or an unsafe delay before starting treatment. These failures can leave the patient with lifelong disabilities or even the loss of a loved one.

If the failure amounts to negligence, the person or bereaved family might be entitled to claim financial compensation. They might also want to make a claim to get answers and the comfort that lessons have been learnt to protect other patients in the future.

Care is negligent if it is so poor that no reasonable body of clinicians would agree with the approach taken, for example, not diagnosing sepsis when all of the patient's symptoms and signs point to sepsis or not providing the treatment required under clinical guidelines and common practice. This is the "breach of duty" test. If there is a breach of duty, the next step is to prove that had it not been for the breach of duty the outcome for the patient would have been better: that the injury suffered or death would have been avoided.

Most people wouldn't know whether or not there was negligence, however, a specialist solicitor can look into this and advise you. It's often the case that people speak to a solicitor when they simply have a gut instinct that their care was not as it should have been.

Compensation is a way of providing financial support to people who've suffered injury and financial loss as a result of avoidable errors. It could give financial security for people who face an unknown future because of the long-term effects of sepsis and pay for care and rehabilitation during recovery from sepsis.

...MEDICAL NEGLIGENCE

Making a medical negligence claim should not affect your ongoing medical treatment or your relationship with the medical practitioners caring for you. The clinicians shouldn't talk to you about the claim. You don't need to wait until you're discharged from hospital or out-patient care before investigating a medical negligence claim.

There are deadlines to make clinical negligence claims, which is often 3 years after the negligence (though this can vary in some situations), so it's important to speak with a solicitor when you first have concerns rather than wait. A specialist solicitor will not charge you legal fees to discuss your concerns and will not put you under any pressure to make a claim.

If you feel you want to contact a solicitor about the care you received, it is important to speak with a specialist solicitor. There are contact details for specialist medical negligence solicitors at the back of this leaflet.



INQUESTS

If a person dies from sepsis an inquest might be held in order to establish the cause of death. An inquest is a public court hearing held by an independent coroner to establish who died, how, when and where the death occurred.

If the coroner decides that an investigation is necessary there will usually be a post-mortem and the coroner's office will explain this process. Inquests are investigations into the facts, rather than pointing blame at an individual or organisation, however, if an inquest shows that something could be done to prevent other deaths in the future the coroner will write a report to the organisation with the power to take action.

You are entitled to legal representation at inquests. This can help provide you with a voice. Representation at inquest can be provided as part of a civil case and it is very important that the family has the opportunity to have specialist representation if there are concerns over a death and should not wait until an inquest is concluded.

"Interested persons" can also include the medical practitioners who cared for the person who died. Those practitioners are very likely to have legal representation, so sometimes families feel that they, too, would benefit from having legal representation and guidance, however, the coroner is there to ensure fairness so this is not obligatory.

At the end of the inquest the coroner will reach a conclusion, including a finding as to the cause of death, which will be one of a number of terms such as "natural causes" or an "open" conclusion. Information may come out at the inquest which points towards to medical negligence and would support a legal claim. At this point to you may wish to speak with a solicitor.

The Gov.uk and Action Against Medical Accidents websites have information about inquests. There are contact details for specialist medical negligence solicitors at the back of this leaflet.

WHEN SOMEONE'S NO LONGER ABLE TO MAKE DECISIONS

Sometimes the after-effects of sepsis, such as significant memory problems, mean a person can no longer make decisions for themselves about the care or treatment they receive or manage their financial affairs. In these circumstances an appropriate person can be appointed to make these decisions on their behalf either on a temporary or permanent basis or to make one-off decisions. The appropriate person might be a family member or a professional. There are different types of appointments, depending on the person's circumstances.

If a person does not have capacity to manage their affairs and their only source of income is welfare benefits, an application can be made to the Department of Work and Pensions for an 'appointee'. Anyone can apply to be an appointee but, if there is not an appropriate family member or friend, you should speak to your local authority to confirm if they have an in-house appointee service or can signpost you to another professional. To apply to become an appointee you should call the number on the person's benefit award letter or visit their local Jobcentre. The DWP may arrange for a home interview with the person who needs an appointee and the person who made the application. The appointee's authority might be restricted: some bank accounts will not allow an appointee access to existing accounts or accounts above a certain balance and some private and occupational pension providers do not give authority to appointees. An appointee doesn't have authority to manage investments, businesses or buy or sell property.

...WHEN SOMEONE'S NO LONGER ABLE TO MAKE DECISIONS

Another option is a Lasting Power of Attorney (LPA) for health and financial matters. This is a legal document which appoints one or more Attorneys to make decisions about your health and welfare and/or your property and affairs. A person can only make an LPA and appoint an Attorney if they have the mental capacity; if they have lost mental capacity after sepsis they cannot make an LPA, so a Court of Protection Deputy should be considered instead. A health and welfare attorney can only make decisions once the person loses capacity. A property and affairs attorney can be appointed to act before the person loses capacity which is useful if the person is in hospital for example. It is recommended that legal advice is sought when preparing a Lasting Power of Attorney to ensure the person's wishes and instructions are set out clearly and to avoid any problems in the future. There are contact details for specialist solicitors at the back of this leaflet who can advise further on these matters.

HOLIDAYS & TRAVEL

Some people are anxious about going on holiday having had sepsis, and worry about getting another infection or what would happen if they were ill again.

There is some evidence to suggest that, for a period of time, people might be more prone to infections after having sepsis. It's important to do the basics for infection prevention, such as washing your hands, and also to have any necessary vaccinations, especially when you're going on holiday. You should speak to your GP about which vaccinations are right for you.

It's important to have travel insurance in case you're taken ill when on holiday. When applying for insurance you must declare all of your medical history, including sepsis, otherwise you risk not being covered or even face accusations of fraud. You may find premiums are high or the policy has limitations, so you might want to go to an insurer that specialises in covering pre-existing medical conditions. You will find useful information about travel insurance for pre-existing medical conditions on the consumer website [Money Saving Expert \[moneysavingexpert.com/insurance/pre-existing-travel-insurance/\]\(https://moneysavingexpert.com/insurance/pre-existing-travel-insurance/\)](https://moneysavingexpert.com/insurance/pre-existing-travel-insurance/) or you can talk to an insurance broker. It is sensible to obtain several quotes and compare the details of what cover is provided in each of the quotes before buying a policy.

If your illness is recent or you are experiencing problems with your health, you may wish to give consideration to your destination with respect to length of journey and ease of access to good quality healthcare.



OUR LEGAL PARTNERS

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