

The effects of pain can run deeper than its physical presence

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⇒ **SOLICITORS AND BARRISTERS** who are involved in personal injury and clinical negligence claims are increasingly finding that their clients need to be examined and assessed for on-going, long-term pain problems. That may require a consultant in pain medicine as an expert witness: someone who has had extensive training and experience in the treatment of patients with long-term pain conditions, including musculoskeletal and neuropathic (nerve) pain.

Pain is a complex area of medicine, with more than 90 different types of pain conditions identified, and is a very common problem. Chronic pain is associated with approximately one in seven of the population of the western world and accounts for a significant proportion of healthcare budgets.

When considering pain in the medicolegal arena, it can often be a barrier to rehabilitation; but with the early intervention of a pain clinician, providing the correct diagnosis and treatment, it is often possible to significantly improve the overall outcome for clients.

What is pain?

Pain is defined by the International Association for the Study of Pain as an unpleasant sensory and emotional experience, which is primarily associated with tissue damage or described in terms of tissue damage, or both. A more useful definition for solicitors to use with their clients is to acknowledge that 'pain is whatever they say it is'.

Pain comes in two time courses – acute pain and chronic pain. By definition acute pain lasts for less than three months and chronic pain lasts for three months or more. Examples of acute pain include post-operative pain, pain following trauma such as road traffic accidents and a number of painful medical and surgical conditions including appendicitis, peritonitis

and other acute inflammatory conditions.

Chronic pain includes more common long-term pain complaints such as neck pain, lower back pain and joint pain.

Types of pain

Pain is divided into two major types: nociceptive (normal) pain and neuropathic (nerve) pain.

Nociceptive pain occurs where the pain signalling pathways are intact and functioning properly. This is found particularly in spinal pain and other musculoskeletal pains. Examples include lower back, neck, hip and other joint pain.

Neuropathic pain is a form of pain where there is damage and/or dysfunction to part of the sensory nervous system, causing hypersensitivity of the nervous system. Clients often use very florid language to describe this pain, including sharp, stabbing, burning or electrical shock-like pain. The client may also experience significant sensory dysfunction, with hypersensitivity of the skin, weakness and muscle wasting.

Examples of neuropathic pain in medicolegal practice include fibromyalgia, myofascial pain, post-amputation pain and post-operative neuropathic pain.

In extreme cases, where limb movement has been adversely affected by pain, it can lead to disuse of the limb, causing muscle wasting and in some cases fibrosis and contractures.

Biopsychosocial approach to pain

Pain is considered to be a multi-faceted problem which includes:

- Biological – patients have physical pain
- Psychological – increased incidence of anxiety and depression
- Social – the societal impact of pain can be profound, with patients having difficulties with personal relationships, their home-life and the workplace.

In some cases clients may face losing or have lost their employment and this can be a significant factor in the assessment of a medicolegal claim where long-term pain is involved.

In summary, the issue of pain is an increasingly complex area in the medicolegal arena. Obtaining early input from an experienced consultant in pain medicine, who is able to review a claimant's medical records and contextualise what is said – and, indeed, what is unsaid – can be particularly helpful in terms of assessing the maximum opportunity for their recovery, as well as the severity and potential duration of a claimant's symptoms.

The appointed expert consultant in pain medicine should be able to assess and clearly explain the complexities of a diagnosis and the causation, and provide a prognosis independently or as part of an appointed medical expert witness team, to assist the court in making an appropriate award for general damages for pain, suffering and loss of amenity. □

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