

12.10.18

**Reception staff liable for providing misleading information to patients
Darnley –v- Croydon Health Services NHS Trust¹**

The facts: Mr Darnley was struck on the head, following which his friend drove him to the Accident and Emergency ('A&E') department at Mayday Hospital (part of Croydon Health Services NHS Trust). On arrival, Mr Darnley informed the reception staff that he had sustained a head injury, the injury was painful and he was feeling unwell. Mr Darnley's friend also gave the reception staff this information and explained that Mr Darnley required urgent attention. The receptionist told Mr Darnley that he would have to wait up to 4-5 hours to be seen. In fact, the standard practice for patients presenting to A&E with head injuries was for them to be triaged by a nurse within 30 minutes. Mr Darnley was not informed of this likely waiting time.

Mr Darnley left the A&E Department 19 minutes later, as he felt too unwell to wait. Later that day, Mr Darnley became distressed and was brought, by ambulance, to Mayday Hospital, where a CT scan identified a large extradural haematoma. Mr Darnley suffered permanent brain damage.

Procedural background: Mr Darnley alleged a breach of duty of care by the A&E reception staff in relation to the waiting time information provided. Both the High Court and, on appeal, the Court of Appeal dismissed Mr Darnley's claim on the grounds that (i) the Trust (to include the reception staff employed by the Trust) did not owe Mr Darnley any duty to advise about waiting times, (ii) the damage suffered by Mr Darnley was outside the scope of any duty owed and (iii) there was no causal link between any breach of duty and the injury suffered by Mr Darnley. Mr Darnley appealed to the Supreme Court.

Supreme Court decision: The Supreme Court unanimously allowed the appeal. The Court held that, as soon as Mr Darnley was 'booked in' at the A&E reception, he entered into a 'patient and health care provider' relationship with the Trust. A duty of care arose at that point and the scope of that duty included a duty to take reasonable care not to provide misleading information which may foreseeably cause physical injury.

The Court held that the duty of care was breached when the Trust reception staff failed to accord with standard practice and inform Mr Darnley that he would be triaged by a nurse within 30 minutes. The waiting time information relayed to Mr Darnley was incomplete and misleading and, therefore, negligent. The Court also determined that Mr Darnley's decision to leave was reasonably foreseeable, given the misleading information provided. There was, therefore, no break in the chain of causation.

The implications of the Supreme Court decision: The Court held that it was not appropriate to distinguish between medically qualified professionals and administrative staff, in determining whether there was a duty of care. Although the facts of this case relate to Trust staff in an A&E

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environment, the duty of care also applies to staff in GP Surgeries, Dental Practices and other Healthcare providers. All staff, whether medical or non-medical, are expected to take reasonable care to provide accurate, materially relevant and not misleading information to patients. **Healthcare providers should review their standard practice, operating procedures and policies to ensure that staff who interact with patients are aware of the information that ought to be provided.**



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