

## Practice found negligent for failing to implement an adequate follow-up system



### Key messages from the case

The duty of care for doctors and practices extends to following up the patient.

Practices are responsible for implementing an effective system to ensure clinically significant results, tests and referrals are followed up. Even where a patient bears some of the responsibility for not following medical advice, practices may still be found negligent if their follow-up system is inadequate.

### Details of the decision

Mr I attended a regional health clinic complaining of chest pains.

After ensuring this was not an acute problem, Dr B arranged for Mr I to see a specialist at the clinic a few weeks later to rule out underlying ischaemic heart disease, and to return to the clinic for a fasting cholesterol test. The patient did not attend the specialist, nor have the cholesterol test.

Mr I continued to attend the clinic for other complaints. He did not see Dr B again. He did not mention the original complaint or referrals and on three subsequent occasions doctors failed to notice the referral had not been followed through.

The following January the patient had a coronary event and died.

### Failure to follow-up

Mr I's widow brought a claim for damages against Dr B and the clinic, claiming the failures to follow up the cholesterol test and specialist referral were negligent.

The court found that Dr B had followed the procedures in place at the clinic and under that system he was not responsible for following up the patient's failure to attend.

### Failure to implement an appropriate follow-up system

The practice had a paper-based records system and patients would see multiple doctors at the clinic.

The system for following up failure to attend a referral relied on the next practitioner going back to the previous notes to check for any referrals or tests and noticing the non-attendance.

When a person failed to attend a specialist appointment, a new appointment would be made for the patient and they would be sent a new appointment card.

On the day of the specialist clinic, the wrong patient's file was extracted (who had the same name). The non-attendance was not recorded in the Mr I's file, so no follow up appointment was made.

The court found that in failing to have an adequate follow-up system, the clinic breached its duty of care to the patient. The court observed the clinic "had a responsibility to put administrative procedures in place for the situation that arose".

## Outcome

The court found the practice was liable for 50% of the damages (reduced by 50% for the patient's contributory negligence in failing to attend the appointment or make another one and failing to have the recommended test). Mr I's widow was awarded damages of \$236,972.

While doctors also have a duty to follow up, in this case the doctor followed the procedures set up by the practice and under that system he was not responsible for following up the patient. The doctor was not found to be negligent and damages were awarded only against the practice.

## Key lessons

Practices are responsible for putting appropriate follow-up systems in place to ensure that clinically significant tests, results, and referrals are followed up.

Where a patient fails to attend or is non-compliant, the court may find that they contributed to their own injury. However, the practice may still be found negligent and responsible for some proportion of damages.

## References and further reading

Avant factsheet – [Patient follow-up and recalls](#)

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