

The real cost of ambulance delays

A recent report on NHS ambulance services revealed some worrying findings about missed targets for waiting times. Deborah Blythe and Lucy Wilton examine some of the legal implications

Deborah Blythe
Partner
Lucy Wilton
Senior Associate,
Personal and Clinical
Negligence Team,
Russell-Cooke

On 26 January 2017, the National Audit Office (NAO) released a report on NHS ambulance services.¹ The NAO had been tasked with following up on a previous report, *Transforming NHS Ambulance Services*, published in 2011, assessing whether ambulance services in England are providing value for money.²

In its January 2017 report, the NAO recognised that 'the ambulance service has a pivotal role to play in the performance of the entire urgent and emergency care system, as a conduit to other services and helping patients access the facilities they need close to their home'. It refers to NHS England's Urgent and Emergency Care review, which aimed 'to address concerns that accident and emergency departments, the services that support and sit behind these departments and ambulance services are under intense, growing and unsustainable pressure'.¹

Meeting targets

Against this backdrop, the report lays bare some worrying findings. Perhaps the most troubling is that from 2015 to 2016, only one in 10 NHS ambulance Trusts in England met the

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national target of attending the scene of a 'red call' within eight minutes in 75% of cases. Red calls are those where a patient's condition is considered life-threatening.

The report cites various potential factors in Trusts' inability to meet this target, including the stark fact that the number of calls and NHS 111 transfers to ambulance services has increased from 7.9 million in 2009–2010, to 10.7 million in 2015–2016. However, as the report highlights, there has not been a matching increase in funding provided to the relevant services.

The report also raises concerns about the estimated 500,000 hours lost by ambulance services due to delays in transferring care to accident and emergency teams in hospital. The report states that transfer of care is expected to take no longer than 15 minutes, with a further 15 minutes for the crew to ready the ambulance for their next call. In 2015–2016, only 58% of hospital transfers were achieved within 15 minutes and in only 65% of cases were the ambulances ready for another call within the next 15 minutes.

The report refers to Trusts' worsening performances against targets as 'signs of stress' on the healthcare system. Such signs may be unsurprising, when GPs and emergency departments are also having difficulty coping with the demands being placed on them. However, against this background, one still has to question whether the resources that are being allocated to ambulance services are sufficient (and whether they are being used effectively).

Value for money?

Failing to ensure value for money in this way in relation to ambulance services will be costly

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in more ways than one. The NAO report does not choose to dwell on the legal ramifications of such failings, but these may be severe.

Breaching NHS targets will not, in and of itself, give rise to a finding of negligence. It may, however, be weighed in the balance in deciding whether a Trust has failed to provide an acceptable level of care and treatment. One can easily conceive of cases where failure to attend a red call in a timely fashion could result in the patient’s death and in a substantial claim for damages. However, it is not only delays in attending those with life-threatening injuries or conditions that may cost the NHS dear. This is well demonstrated by the case of Leigh vs London Ambulance Service NHS Trust [2015] EWHC 286 (QB).

Case study

Russell-Cooke represented the claimant, Mrs Leigh, who suffered a dislocated kneecap on a bus in London. Concerned bystanders called an ambulance, but this did not arrive for approximately 50 minutes, during which Mrs Leigh remained in severe pain and distress. The ultimate consequences of this delay were devastating for Mrs Leigh; not physically but mentally. She developed post-traumatic stress disorder and had to leave her job and her home in London.

The London Ambulance Service NHS Trust admitted that it had been in breach of its duty of care to Mrs Leigh in failing to ensure that an ambulance attended sooner than it did. However, it argued that even if the ambulance had attended within an acceptable timeframe, the psychiatric effects on Mrs Leigh would have been the same.

Following a trial at the High Court, the judge found that it was the totality of the period of time Mrs Leigh remained trapped and in pain on the bus, waiting for the ambulance to come, which caused her post-traumatic stress disorder. As it was scientifically impossible



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to say what proportion of her illness was attributable to the later, negligent part of the wait, the judge held that the negligence had made a material contribution to the condition. Under the law, Mrs Leigh could recover compensation for the pain, suffering and financial losses caused by her condition and she was awarded nearly £581,000.

Recommendations

The NAO report on ambulance services has put forward various recommendations as to how greater value for money might be achieved. These include allowing greater flexibility as to how services respond to calls, such as using new models of care (for example, ambulance crews advising patients on the phone and treating them in their homes, rather than transferring patients to hospital).

It is difficult to envisage alternative care models resolving the fundamental problems afflicting the urgent care system unless greater funding is made available to ensure the availability and skills of ambulance service staff. Unless or until this happens, there is a risk that ambulance Trusts will be unable to consistently serve and protect those who rely upon them and that expensive legal actions may follow. **PM**

References

1. National Audit Office (2017) NHS Ambulance Services. www.nao.org.uk/wp-content/uploads/2017/01/NHS-Ambulance-Services.pdf (accessed 15 February 2017)
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Deborah Blythe
Partner
+44 (0)20 8394 6576
Deborah.Blythe@russell-cooke.co.uk

Lucy Wilton
Senior associate
+44 (0)20 8394 6406
Lucy.Wilton@russell-cooke.co.uk