

Name: [REDACTED]

Membership no: [REDACTED]

1. Competency: 2

Learning Outcome: 2.2

Use suitable language in communication

2. Evidence provided:

Letter to client explaining expert's report.

3. Outline how the evidence demonstrates you meet the outcome

**Use clear language:** The letter is to a young client explaining an expert's liability and causation report. I explained clearly to the client what consequences the report had on her claim. In particular, relating to the prospects of success, value of the case and the next steps.

**Suitable professional practice, politeness and respect:** The letter shows my ability to communicate complex legal and medical issues to my client in a clear and respectful manner. The letter sets out simply what the next steps in the case would be for both of us.

**Tailor language:** The client was young so the letter is set out with clear subheadings and in simple language, so it was easy to understand. I tried to avoid complex legal or medical language wherever possible.

**Why suitable:** As my client was only 18 years old, I made sure she fully understood the consequences of the expert's opinion and what it meant to the next steps and value of her claim.

4. Reflection and evaluation

Bringing a claim is a daunting experience for anyone, but if particular someone who has just turned 18. At the beginning of the case, as she was 17, her father dealt with the case. However, after her birthday, she was expected to take over. Therefore, it was important that the client found me approachable and understood all my advice.

5. Completion date: 5.11.13

6. Signed (applicant) [REDACTED]

7. Signed (supervisor) [REDACTED]

Date: 5.11.13

Date: 5.11.2013.

**STRICTLY PRIVATE & CONFIDENTIAL**

Contact

[REDACTED]

Direct line

[REDACTED]

Your ref

Our ref

[REDACTED]

18 December 2012

Dear

**Your Dental Negligence Claim**

I write by way of an update and confirm that I have now received two reports from [REDACTED] and enclose copies of his reports for your consideration.

I will discuss the content of [REDACTED] reports in more detail below but I thought it would be of assistance if I remind you of the test which must be established in order to succeed in a case in dental negligence.

**Test to establish dental negligence**

A difficult test must be satisfied before a successful claim in dental negligence can be brought. In order to bring a successful claim, liability and causation must be established.

1. Liability

To establish liability it must be shown that the investigation or treatment in question fell below the standard of a reasonably competent practitioner (dentist) in the relevant field practicing at the relevant time.

It is a defence to an allegation of dental negligence to show that a reasonable body of reputable practitioners in the relevant field at the relevant time would have carried out the investigation/treatment in the same way that the Defendant did.

2. Causation

In addition to satisfying the test for liability, causation must also be established. This means that there must be a link between the substandard treatment and the injury that has been suffered. Hence, it is not sufficient to show that the treatment that was received was

negligent: it must also be shown that negligent treatment caused damage.

The burden of proving the case rests with us. Liability and causation must be established on "the balance of probability" (i.e. more likely than not).

**Treatment provided by [REDACTED]**

[REDACTED] has reviewed your records in detail and advises that your treatment from [REDACTED] was of an acceptable standard.

[REDACTED] advises that you only saw [REDACTED] for one appointment on 20 July 2008. During this appointment, you were examined and [REDACTED] diagnosed decay. [REDACTED] considers that at that time, there was no evidence of additional, undiagnosed decay present.

[REDACTED] notes that [REDACTED] should have made a referral to [REDACTED] and could be criticised if she did not. I note from previous correspondence that this referral was made, however, we have not been able to obtain the records as the practice is now closed.

Therefore, we are unable to pursue a claim against [REDACTED] in this instance.

**Treatment provided by [REDACTED]**

You attended an appointment with [REDACTED] on 18 January 2011. During this appointment, [REDACTED] noted that there were no caries present. This was clearly a misdiagnosis as subsequent records from [REDACTED] and [REDACTED] show that decay was present on a number of teeth.

[REDACTED] also criticises [REDACTED] in that she did not carry out a radiograph during this appointment.

Therefore, your treatment from [REDACTED] fell below an acceptable standard of care.

**Condition and Prognosis**

[REDACTED] failed to diagnose the decay in January 2011. [REDACTED] advises that [REDACTED] at [REDACTED] diagnosed the decay in May 2011.

[REDACTED] has advised that you require fillings to your UR4 (upper right 1<sup>st</sup> premolar) UL5 (upper left 2<sup>nd</sup> premolar), LL6 (lower left 1<sup>st</sup> molar), UR2 (upper right lateral incisor), UL1 (upper left central incisor), UR1 (upper right central incisor), LL7 (lower left 2<sup>nd</sup> molar), UL2 (upper left lateral incisor), UL6 (upper left 1<sup>st</sup> molar) and LR6 (lower right 1<sup>st</sup> molar). These will cost £100-£150 each.



In addition you require root canal treatment to your UR1 and UL2 which will cost £500 per tooth.

Unfortunately, we are unable to claim for the cost of this treatment. [REDACTED] has advised that you required the same treatment in January and the delay in receiving the treatment has not caused any deterioration to your dentition. I do not believe that we would be able to prove the outcome has been any different for you. Therefore, whilst I agree that the standard of care provided to you in this instance was disappointing, I believe that a claim for your future treatment is likely to fail on causation.

### Value of your claim

We will therefore only be able to claim for the additional pain and suffering you experienced between January and May 2011. This will significantly lower the value of the claim.

Please be aware that the Court does not award high levels of compensation for pain and suffering. The compensation your claim is likely to attract is in the region of £1000- £2,000.

### Next Steps

1. I will be grateful if you would please read through [REDACTED]'s report carefully and let me know if there is anything you wish to discuss with me further, or any additional questions you would like me to raise with the expert. However, I confirm that it is unlikely that the expert will change his opinion in any material way.
2. In the meantime, I will send a detailed letter to [REDACTED] defence organisation setting out our allegations regarding negligence and causation. The opposition will then have four months to respond. In their response they should either agree to pay compensation or if they do not agree, they should set out the reasons why they think the case will fail on the issues of negligence and causation.
3. Following the receipt of the opposition's response, prospects of success for the case will be reviewed.
4. If the opposition do not agree to pay compensation at that point I will advise you as to whether or not I recommend that Court Proceedings should be started in your case.

Yours sincerely

K [REDACTED]  
Trainee Legal Executive