



# The Norwegian System of Patient Injury Compensation is a successful scheme

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## DEBATT

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Dag Bratlid has made a number of allegations that we in the Norwegian System of Patient Injury Compensation believe are incorrect, and we wish to comment on them.

First and foremost, we would like to emphasise that we cannot comment here on individual cases as Dag Bratlid does. Bratlid has the view that the Norwegian System of Patient Injury Compensation refrains from giving patients the compensation to which they are entitled. This is incorrect. The Norwegian System of Patient Injury Compensation has no self-interest in the outcome of cases, and does not issue guidelines on what conclusions experts should draw in their statements.

Some of our decisions are reviewed through the processing of complaints, and some cases are decided by courts of law. We regard this as quality assurance of our practice, and stress the importance of learning from the outcome of these cases.

## Experts must carry out assessments in their own field

The Norwegian System of Patient Injury Compensation receives over 6 000 new cases annually. In 2016, we obtained over 8 000 expert opinions. In order to achieve the best possible medical assessment of a case, we believe that it is vital that the expert is a specialist in the clinical discipline to which the case relates. In most cases, one expert opinion is sufficient to allow us to reach a decision about whether the patient is entitled to compensation. In some cases we need several expert assessments to evaluate the various parts of the treatment pathway.

For example, a specialist in anaesthesia evaluates the anaesthetics treatment while a surgical specialist evaluates the surgical treatment. Since each discipline is specialised, it is vital that the expert is a specialist in what he/she is assessing. We disagree with Bratlid when he says that generally most doctors are able to evaluate whether good medical practice has been followed, also in specialties other than their own.

Regarding his claim that a surgeon can determine whether the GP has assessed the patient

well enough and referred him/her for further treatment at a sufficiently early stage, our view is that the specialist in general practice is better equipped to give a sound professional opinion. Moreover, the specialist in general practice best knows the norms and guidelines in general practice, and is capable of evaluating what is relevant and correct for the actions of the GP in individual cases, not the surgeon whose daily work is at a hospital. Long experience as a doctor does not make experts better qualified to assess matters outside their own discipline. In our view, Bratlid, like all other experts, must take this into account.

The fact that experts are required to evaluate questions within their own field of expertise does not mean that they cannot point out any deficiencies they note in aspects of treatment other than those they themselves have been asked to consider. We encourage the experts to draw our attention to other aspects that may be of significance for the case. If we find that these are relevant, we will ask a specialist in the appropriate field to assess them.

Nevertheless, this seldom happens because experts are generally wary of singling out aspects outside their own specialty. Very much of what takes place in medical disciplines today is so specialised that experts outside the relevant specialty often do not feel that they are qualified to give such assessments.

## Not rejected on insufficient grounds

Bratlid maintains that patients are entitled to have *all* deviations from good medical practice included in the statement. The main task of the Norwegian System of Patient Injury Compensation is to evaluate whether those applying for compensation have a right to compensation or not.

We assess *compensation claims* from patients, not 'complaints about incorrect treatment', as Bratlid puts it. We must then assess circumstances of relevance to the *compensation case*, not necessarily other deviations.

## The patient injury compensation scheme involves the application of the law

The Norwegian System of Patient Injury Compensation is mandated to administer a body of law. This requires legal qualifications. It appears that Bratlid does not quite understand that we must make a legal assessment in each individual case in order to make a decision.

The Act relating to patient injury compensation includes the following provisions: a claim must not be overdue, and a failure in connection with the providing of health services must have led to an injury and a financial loss. If a case does not meet all these conditions, the applicant has no right to compensation. The expression 'failure in connection with the providing of health services' (Section 2 (1)(a) of the Act relating to patient injury compensation) is a legal standard whereby expert opinions constitute the main premisses for the application of the law.

## Medical aspects are important

At the same time, it is clear that medical aspects are also of central importance in an organisation such as the System of Patient Injury Compensation. We do not recognise ourselves in Bratlid's description of the organisation's failure to emphasise medical competence.

A full-time doctor heads our expert services. We obtain over 8 000 expert opinions annually and have agreements with more than 90 specialists in 30 different clinical specialties. In addition, we use several hundred experts from all over Norway for individual assignments.

We have a good dialogue with those who carry out these assignments. We can therefore always be certain that we receive sound professional opinions, and can adjust procedures and practices as well as the performance of expert assessments in these cases.

The fact that Bratlid fails to win acceptance for his view of what is a good expert assessment does not mean that we do not take his criticisms seriously, but that we disagree with him.

We place great importance on the value of expert statements in our task of providing the health service and healthcare authorities with statistics on injuries as well as an overview of injuries, their extent and risk. In the last year alone, several articles (1–4) have been published that are based on this material or that refer to the importance of its use. The value of the material depends of course on the evaluation of the cases by competent and relevant experts.

In the last three years, the Norwegian System of Patient Injury Compensation has awarded compensation to 4 301 patients and their next of kin, and has disbursed NOK 3 billion in compensation. It is our opinion that we have a successful and important compensation scheme in Norway.

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