

Contractual liability for all inclusive treatment: Bartolomucci v Circle Health Group Limited [2025]

03 April 2025  Lydia French

The decision in *Bartolomucci v Circle Health Group Limited* [2025] serves as an important reminder to the providers of private healthcare to ensure that they have clear contractual terms when arranging surgery for private patients.

The case relates to whether private hospitals are contractually liable to their patients for the actions of clinicians who work on their premises but who are independent contractors and not employees.

Case background and summary

The Claimant underwent hip resurfacing surgery that led to complications resulting in catastrophic brain injury, leaving the Claimant with significant continuing care needs. The surgery was performed by a consultant orthopaedic surgeon, with a consultant anaesthetist, neither of whom were employees of the hospital.

Through his litigation friend, the Claimant sought a declaration as to the scope of the contractual obligations owed by the Defendant (a private hospital group). The Claimant alleged that the Defendant was responsible for all inpatient medical and surgical treatment associated with the surgery as part of the fixed price package contract that the parties entered into.

The Defendant's position was that the consultants were self-employed and provided their services directly to the Claimant and independently of the Defendant. Therefore, the provision of surgical services was not included in the contract.

The court's decision

The Court analysed the contractual documents, including the terms and conditions, the quotation for the surgery, and pre-contractual correspondence. It considered the natural and ordinary meaning of the contractual language, the overall purpose of the contract, and the commercial context at the time of the contract's formation.

The court concluded that the contract stipulated that the consultants were to provide their services direct to the patient, and the Defendant's role was limited to including the consultants' fees in the fixed price and acting as an agent in collecting these fees. The contract did not encompass the provision of surgical services by the Defendant, and the Claimant's request for declaratory relief was denied.

In reaching his decision the Judge focused on the common Cambridge English Dictionary definition of the word 'direct' as *"going in a straight line towards somewhere or someone without stopping or changing direction"* with a further meaning being *"without anyone or anything else being involved or between"*. The wording was consistent with the Defendant's interpretation that such services were provided by the consultants without the Defendant being an intermediary or the contractual provider of the services of the consultants.

Implications for private healthcare providers

The judgment emphasises that providers of healthcare need to carefully consider how they structure their contracts and manage relationships with consultants and patients. It is important that clear and precise language is used regarding the scope of services covered

and there is transparent communication with patients about who is providing each aspect of care, who is responsible for it and how payments will be handled.

The judgment did not leave the Claimant without a remedy but that remedy lay against the consultants and not against the Defendant Hospital Group.

Contact



Lydia French

Professional Development Lawyer

lydia.french@brownejacobson.com

+44 (0)121 296 0670



Jonathan Fuggle

Partner

jonathan.fuggle@brownejacobson.com

+44 (0)121 296 0680

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