

# Criminal Law Representation for Medical Doctors

Criminal law legal advice and representation for registered medical practitioners.

Doctors  
Defence  
Service

Our criminal law lawyers have wide-experience of providing defence services in criminal law cases. Our lawyers have represented clients at all criminal court levels, including Magistrates Courts, Crown Courts, and the Court of Appeal.

Our lawyers have represented clients in cases concerning criminal allegations of assault and battery, domestic violence, rape, theft and fraud, drug misuse and possession, indecent assault, general motoring offences, and RTA driving without due care or dangerous driving cases.

Some of our lawyers have defended clients at the Old Bailey (the Central Criminal Court) in homicide cases. Our wide experience within criminal law defence makes us an ideal choice for medical doctors who are facing criminal proceedings in England and Wales and in the Commonwealth jurisdictions, such as Canada, Australia, New Zealand. Our lawyers also advise doctors who operate within the maritime industry, such as on cruise ships. Our medico-law knowledge is of particular help to medical doctors as it is often difficult to find a criminal law solicitor who has the requisite knowledge to advise them on issues of consent, end of life decisions, the doctrine of double effect, and the application of medico-criminal law generally to their particular case. We can work with criminal law solicitors, or advise and represent doctors and medical organisations in criminal law proceedings.

Doctors Defence Service also provides **legal representation to**

**doctors who face criminal investigations** into the clinical care or treatment that they have given (or not given) to patients. Both the acts and omissions of doctors can carry **criminal liability** in certain circumstances, depending on the duties and responsibilities a doctor had in a given set of circumstances.

If there is evidence that causes a doctor to be suspected of having committed a criminal offence (such as assault, GBH, homicide (murder, [assisting a patient to commit suicide](#)), [performing an illegal abortion](#), or [causing death by gross negligence manslaughter](#)), then the General Medical Council (GMC) / Medical Practitioners Tribunal Service (MPTS) will usually convene an [interim orders hearing](#).

An interim order is likely to be imposed where a doctor has been charged with a criminal offence or where there is a strong likelihood on the evidence before them. The interim order may consist of Conditions, or, where the allegation is a serious one, the doctor is likely to be suspended.

Doctors should instruct a regulatory law lawyer as well as a criminal law lawyer in such an event, as criminal lawyers frequently do not have the knowledge and experience of regulatory cases to be able to advise a doctor of the impact any decision that they may make (or admission that they might make) on any subsequent GMC proceedings. There have been occasions where criminal lawyers have told doctors that there will be no regulatory interest in their accepting certain criminal conduct by way of a fixed penalty, police caution or reprimand, or guilty plea.

Medical doctors on occasions will face allegations that they have acted improperly when caring for a patient, for example: physical assault (battery), indecent assault, unlawful administration of noxious substances. Anything that a doctor states or writes in reply to any criminal investigation could be used against the doctor in subsequent criminal proceedings,

and so it is again important for a doctor to instruct a lawyer to represent them at an early stage – even during internal employer investigations – as anything admitted or denied with inexactitude, due to anxiety or not thinking straight or because of the pressure to provide quick answers, could be used against the doctor at a later stage, at trial, or to evidence the doctor's failings, leading the doctor in turn to plead guilty because of the way they have admitted things. Admissions during criminal investigations are not always a wise move, particularly where a doctor makes them without having first taken legal advice.

The police will often become involved when a hospital, relative or patient complains.

The police will often interview the doctor as a witness or as a suspect, depending on the evidence in their possession. The police will [interview a doctor under caution](#) if the doctor is considered to be a suspect. A doctor should not attend a police interview without the presence of a lawyer. An interview transcript can be given great weight by the criminal courts, tasked with deciding on a doctor's guilt.

In many cases the police will close their investigation early, where there is no evidence of a criminal offence having been committed, or where it is not in the public interest to prosecute the doctor for a criminal offence – even where there is strong evidence against them. There will be occasions, though, when the police will bring criminal charges, relating to clinical care, against a doctor. In such cases the doctor will have to attend court to admit or deny their alleged criminal conduct.

Unexpected deaths, where the cause of death is not easily explained, often lead to police becoming involved. On occasions errors in the delivery of care (medical accidents) do occur. By way of example, a patient might die as a result of an accidental drug overdose because a doctor or other

clinician has miscalculated a dosage or drawn up too much of a drug, which is administered to a patient.

The police have a duty to rule out foul play in all "accidental death" cases and they will seize copies of medical notes and computerised records in order to investigate the treating doctor's actions and omissions.

Some clinical cases are complicated and expert witnesses might later need to be instructed to advise the police. Her Majesty's pathologists may also be called in to advise on forensic matters and the cause of death. Where there is a repeated occurrence of tampering in a clinical setting, many clinicians might become suspects until the 'culprit' is identified. On occasions there might be misunderstandings about the cause of a death and a doctor might be falsely accused of an act of gross negligence or sinister behaviour. Police investigations can therefore be a worry even to those who are innocently caught up in investigations, and particularly if the doctor is to be interviewed.

A doctor is entitled to have a criminal law solicitor present when they are interviewed by a police officer. The interview will be formally recorded where the doctor has been interviewed under caution. Only if formally charged will a doctor be entitled to copies of the recordings of the interview and any transcript that is produced.

On occasions doctors are suspended from their job (by their employer) while a police investigation takes place. A suspension is usually considered to be a neutral act and doctors will generally be paid during the period of suspension. Doctors may be able to take employment law proceedings where they are not paid during a period of suspension.

End of life decisions made by a doctor can often be misunderstood and if a doctor has failed to make good notes

and if there is a difference of recollections among the clinical team a doctor may find themselves criticised for their conduct. End of life palliative care decisions will often be misunderstood by relatives and, on occasions, colleagues. If a doctor has failed to make a good note of their rationale, they may be put through a difficult inquiry.

**Doctors Defence Service (DDS) provides legal advice and assistance to doctors who are being investigated by the police for an alleged criminal offence, or who have been charged by the police and face a criminal trial. Our lawyers can provide doctors with clear advice about the legal issues that affect them and provide a clear summary of the criminal law and medical law, relevant to their case. In medico-legal cases, our lawyers can provide clear guidance as to the criminal law framework that applies to their act or omission, and we can guide clinical practitioners on the matters that they will need to focus on in order to defend their position. To discuss any criminal matter, doctors can call our DDS criminal defence lawyers in confidence on **0800 10 88 739****

[Return to Top](#)

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