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Dataset for paper [minimal dataset]:

The lived experiences of UK physiotherapists involved in Cauda Equina Syndrome litigation. A qualitative study

Audio File Name: P001 Interview

Comments: Physiotherapist with experience of litigation

KEY:

Cannot decipher = (unclear + time code)

Sounds like = [s.l + time code]

I: = Interviewer (Interviewer in bold)

R: = Respondent

I: So can you just talk us through the impact that that had on your professional practice? Did it change the way you carried things out on a day to day basis?

Yes, definitely. I became very aware how reliant my situation was on other people. So I was in that particular pickle because the radiologist had said, "You can't scan her until the morning." So I became very aware how fragile it was within the litigation situation and how it wasn't just about me triaging, seeing, dealing with the patient correctly, all the documentation, all of that being right, getting her scanned and to the surgeon on the same day, it was what happened between as well, what happened before. I realised what a fragile situation we were in because you're relying on admin, secretarial staff, people who are clinical, to know.

The consultant who triaged to me the next day, he is not one sided for going to court. The surgeon said, "You can see her the next morning." I spent a lot of time with her. She was a lovely lady. She'd had a terrible time. I bet I was with her maybe two hours. Afterwards she rang me up, she sent me a card. She possibly sent me some flowers, I can't remember but she actually said to me, "You made what would have been a terrible day so much more bearable. I can't thank you enough." Then the letter came.

I thought, "Well this doesn't make sense anymore. This isn't personal, she's harmed me," it just didn't make sense. Then looking at it, I became more aware that it's a legal process where the whole pathway is looked at and everybody is swept into it.

Really what the surgeon said about, "You never do it quickly enough," you can always do it quicker.

I: What level of support did you receive from the legal team because it sounded like they were quite good during that case, informing you what was happening and telling you what to do?

R: Yes, it was. At the first instance, they were really lovely, "Don't worry. We'll settle out of court." They sent a solicitor over to speak to me and I went through everything. I felt like he was almost going to get hold of my hand. I wasn't crying or anything but he said, "Stop worrying about it. Don't worry." I thought, "How can he say, "Don't worry about this"?" Spending my career trying to improve situations and yet these people, that I've harmed. The XX case was ticking along and that case, well I'd given her a piggy back to the surgeons on that day. I could not have done much more. Now I'd begun to think, "This isn't a personal thing. This is surely out with what her real desires might have been." But then I followed up where it was and she'd dropped the case against the Trust.

I was feeling scared. I certainly know that one of my colleagues thought he was going to be struck off. He did seek help professionally. They said, "When you are struck off come back to us." I do think that it took something out of me that I never got back. I didn't ever get the same professional energy back.

I: I think that was going to be something I was going to ask you. When you reflect back, what do you think the lasting impact on you has been? Can you explain what you mean by that, how it's affected you?

With me, I felt that I didn't ever get my energy back. I think within eighteen months I retired and returned and went to three days because I just became exhausted. I didn't ever get the full energy back I don't think. I feel much better after I retired and returned. I think physically it did have an effect. I had high blood pressure for some time. That has now come down. I live a very healthy lifestyle. I exercise, I eat well. I think it was all related to stress.

One GP, who was very distressed, who I spoke to recently said to me, "What seems to me to be the case is it's people who care that get involved in this litigation. Those who don't care as much, who just fob it off to A&E or somebody else, they don't get involved in it. It's the people who really care." I thought that's an interesting point that he said because it's these people who care who whip themselves and who need time off work or turning to alcohol. That didn't happen to me but I know it happens to some where they were drinking lots every night.

I: So if you think about that letter when it arrived and you think, "Oh my gosh," shock first thing, I suppose it's those different stages that you go through, isn't it? What might have helped or what do you think we need to do going forward at that point? You've mentioned about some sort of flow diagram or some pathway or something. Do you want to expand on that?

R: Yes. So I didn't know what to do. Can I talk about it? Can I not talk about it? Is this confidential? Well yes, it is confidential so does that mean I can't say anything to

anybody but I feel terrible. You do go shaky. Your heart starts beating faster. So I rang X colleagues who are in different parts of the country. I think they just said, "Leave it to your legal team and your Trust." The legal team were great. They spent ages with me. But at that point you get the letter, you don't know what to do and you don't know what the case entails. You think if you'd made a complete muck up of it you'd remember but then you have to look in detail at what they've cited. So I know I didn't know what my potential outcome could be. I was reassured when I saw that I hadn't done anything wrong but I still didn't know what the potential outcome could be because I was shocked. I was in a legal situation when I'd done everything right. It's like being arrested when you've not done anything wrong. It doesn't feel very dissimilar to that.

In fact, that's one of the things that I went through for a few seconds, and I know others have done, is is this a criminal injury? Could I be disciplined? Could I have to leave the profession? What are the possibilities from this letter that's in front of me at 9:30 in the morning? What does the future hold? I went through some of those thoughts. I know that others who, as I rang a colleague, others ring me. Some of them get on to the solicitor straight away. I didn't actually have one so I didn't but is that what you do? I felt sick, I couldn't sleep, I couldn't settle with the second case. But actually after that I had to go on high blood pressure tablets for some time. I got gastric reflux which was really bad, affected my appetite.

Eventually, with that and another issue with health, my partner and I said, "You need to go in just three days." It might have been the straw that broke the camel's back but it certainly was within that mix that I needed to look after myself more because I'd gone from no medication to regular medication and what they said would be lifelong. But as I've retired, I started to feel weird, my blood pressure was so low I was being overcompensated with the lowest dose of blood pressure tablets so that's gone now. I don't have anything for reflux. I think that the emotional touchpoint, that emotional stress, they were all close together, weren't they? But I've spoken to other colleagues, surgeons, spinal surgeons who have gone through this a lot and it seems to be water off a duck's back. They deal with far more important decisions than I was doing. I mean I think I do feel a bit frail, a bit fragile that I found it so difficult.

I: What do you think needs to happen in general for physios going through this process? How else should we be supporting physios so they can better cope with these litigation processes?

R: So it's multifactorial I think. So let's say if we work backwards, when you get the letter and your heart is in your mouth and your blood pressure is through the ceiling, what do you do then? I rang colleagues who had also gone through litigation. Loads of people won't have that. I spoke to surgeons who I work with at the XX. Loads of people won't have that. I didn't contact the CSP because from my other colleagues, I realised that there was nothing there to support you. I had looked at some of the wording of CSP litigation documents that say these physios have been negligent but my experience was, "Well have they really? Have they really been negligent?" So another colleague of mine said, "We just settle out of court. It's quicker and it's easier." Then that potentially looks like you're negligent. So in that minute of opening the letter when your hands are shaking, what do you do? Then what do you do? Can

you speak to people about it or is this confidential? Well probably it's obviously confidential so you can't speak to people about it. I know of physios who have got in touch with solicitors and incurred some cost to explore what do they do. Well is that what you do?

So what's that package that we should do? What do GPs do? What enables surgeons to go, "I'll have another sugar in that coffee." Why? Why can some just shrug it off? Is that because they know what to do? They know the situation. I think we should prepare clinicians better for avoiding Cauda Equina litigation. I thought we'd got it wrapped up until this happened and you're not prepared for your secretary putting it in your trolley. You're not prepared for somebody else saying, "XX can see it tomorrow." You're not prepared for part of the notes going missing. So that's really important, along with the basics. So the CSP has said that some physios don't recognise the red flags and I find that astonishing but maybe. So there's all that basic training. But then I think we need to... so your systems in place, are they robust? Is your knowledge good? Are your systems robust? We have to, I think, also bear in mind keeping the patient in the centre and not letting the tail begin to wag the dog. Because of our litigation experience, we've stopped seeing these patients. But with more staff and better capacity, we are actually the better people to see them. Not all of them will be in A&E.

I: Sorry, I didn't mean to cut you off. Go on. I'm sorry.

R: Just one more. I think we need to link in with students and with institutes of higher education to prepare physios for the climate. Now I know people have said, "Well will that make them anxious?" Well that's not fair to not tell them just in case they're scared. Dentists are taught it's when and not if. I suspect doctors are. Dentists definitely are. We need to be telling these physios about the reality because also it's important that they understand the experience that they need. It worries me sometimes when some go in to private practice really early or in first contact roles really early at low grade. They need to understand the risks that they're taking because I would hate a really good physiotherapist to jack it all in and go and work on the tills at Tesco because they've had this awful experience. So I think we need to look after our profession better.

I: What about training at postgraduate level? I mean even if, in the future, we embed this sort of stuff into undergraduate training, for the people who are already qualified, how do you think we best approach it for them? Are there any courses that should be mandatory that you know of? What do you think is the best way to go about it?

R: Well I think what you teach the undergraduates isn't what you're going to teach the postgraduates and the advanced practitioners and those who are working in first contact roles. I think that the vulnerability very much lies, almost those at low risk aren't the ones in secondary care in the surgical teams. These who are working are working remotely. So I think that the postgrad training needs to be there. I think it will come in the advanced practice work that's going on. I think it will come in the first contact practitioner road maps. Certainly I know that they're teaching that on the courses for them. I think these vulnerable people really need to have that underpinning to what they're doing but I think it's at different levels, different stages along the professional journey really.

Audio File Name: P002 Interview

Comments: Physiotherapist with experience of litigation

KEY:

Cannot decipher = (unclear + time code)

Sounds like = [s.l + time code]

I: = Interviewer (Interviewer in bold)

R: = Respondent

I: So take me back to that then, you've come into work, that letter is waiting for you on your desk, just talk me through that initial reaction when you first find out you're going to be involved in a litigation case.

R: I think I was, "Oh my God," I was really anxious and worried and thinking, "Have I failed this patient?" I think your reaction is, "Bloody hell. What's happened to the patient?" I could remember this patient. I could absolutely tell you exactly what happened with that patient without looking at the notes. It's interesting, isn't it, because what it felt like was, "Bloody hell. I tried to do everything I could for this patient. I bent over backwards for this patient," and then suddenly I'm faced with this litigation. It feels very, very, very personal. It feels like this is a direct, what's the word I'm looking for, direct insult on my ability, on my integrity or my ability to do what I'm designed to do in terms of examining patients and dealing with patients. So it feels incredibly personal. I think that resilience was really not as high as it could have been so I think I was fairly upset I could say.

I: So thinking about that then, so obviously you remember the case really well, so when you found out, you said before you were quite shocked. You said it felt quite personal almost. What was the impact of that on you both personally and professionally when you found out you'd be involved in that case?

R: I think as I said, I think I felt like it was personally directed at my ability and my integrity I guess. I think I'm quite a sensitive person and I do take things personally and I did take it very, very personally. I lost sleep over it, I can tell you. I was just distraught really to be honest. I think it's a really hard thing to go through. Personally, again, I have a very supportive partner but it's difficult for them. It doesn't matter

however reassuring someone can be, you're still left with this anxiety about what's going to happen; am I going to be found negligent? Have I been negligent? Am I going to lose my job? What's going to happen? I'm supposed to be good at this and I just haven't got it right here. To be fair, it was harrowing. I think it was really harrowing. It was harrowing for two years. It took two years to get to a final decision on this. I think for that period of time somehow you've got to manage those emotions and continue, carry on working and do the best you can and believe that you're okay. It's really hard. Again, I'm really lucky because I had XX and I had their support. We would talk about it and just very supportive environment.

But it made me feel, not incompetent, that's not the right word but I just didn't know if I was really any good anymore I think. It had a huge impact on my self-confidence. I wouldn't say I'm desperately confident anyway, if that makes sense. I'm not arrogant. I understand my limitations but I feel, "Gosh, this is something I should be good at." It's an amazingly difficult time to go through. I can remember having a conversation with the solicitor. That's partly a thing, you've got the solicitor talking you through long conversations with them about, "Run me through it, tell me what happened. Tell me what's going on." She said, "Has it changed your practice?" I said, "Yes." She said, "Oh. Why?" I said, "Because I'm scared. I'm scared it's going to happen again. I don't ever want to go through this again." Just the anxiety of remembering it, just awful. She was really surprised. She was really surprised to hear that. She said, "Well how has it changed your practice?" I said, "I scan everybody." My threshold to scan was so low because I was so worried about getting this wrong.

Even now when I talk to my colleagues who come to me with cauda equina syndrome, my threshold is low because I think it needs to be but it's having to be able to justify that. I think it's really, really challenging.

I: When you reflect back on your experience, what would have been the support that you wanted? What did you want people to tell you? What did you want to know? What could have been done differently do you think?

R: I guess I would have liked my professional body to be more supportive. I think that would have been really helpful. I guess a more formal process of support. It very much depends on you as an individual, how much you access something like that. I know that some people will for sure disappear into a hole and not seek out support because they're worried about it. There'll be some that their thresholds to get support will be really low or really high. That's not necessarily helpful. Actually there's something about making it much more formal and actually regularly. As I said, it took two years to unravel that. That's a hell of a long time to be under scrutiny and to feel like your job's at risk or you're not good enough or you're not capable of doing these things. Actually maybe some mechanism around, "Okay, you say you've had this experience. When you have cauda equina possible, suspected, let's support you through that. Let's make sure that you're happy." I think it could be more formalised personally. I think that's why I would have liked some regular check-ins because it goes off people's radars, understandably. Two years is a hell of a long time. In those two years, for me, it was a long two years really.

I: What about the legal side of it? Do you think physiotherapy should have training directly in relation to litigation to understand about the process? Do you think that's important?

R: Yes, I do. When I spoke to the orthopaedic surgeon, I said, "I hear we've got a litigation?" he goes, "Yes. Whatever." I'm going, "Really?" He wasn't worried. He wasn't worried at all. Part of that is because they do have that training and they do understand that and they're more open to that litigation. They see it as not a personal thing. They see it as just part of their job, this is what happens because of where we are, what we're doing. I get that but I had no understanding, no real concept of what would happen at all or what that process would be and how I would manage it, how I would personally manage it. I think as I say, the solicitor, that's their job so why would she be worried about how I was. She was very kind and we had good conversations but I think she was surprised at my reaction because that's not what they've dealt with. I think we're a different breed to the orthopaedic surgeons for sure. So I think that's what I would say really.

Audio File Name: P003 Interview

Comments: Physiotherapist at risk of litigation

KEY:

Cannot decipher = (unclear + time code)

Sounds like = [s.l + time code]

I: = Interviewer in bold

R: = Respondent

I: So, I mean, it is quite frequent that you have to deal with quite complex cases, or is that unusual?

R: Oh, every day – every day and pretty much every patient. I think that it's very unusual that patients present with black-and-white symptoms. There are usually... patients generally – nine times out of ten – will have other co-morbidities or mental health issues, and/or lots of other things that add to the complexity and that help to add to the uncertainty within my daily job [laughs], really. Yeah.

I: Perfect. Okay. And do you have any colleagues or friends that you know of who have ever been part of that litigation process? Have you seen anyone go through that?

R: No, no.

I1: Okay.

R: My only criticism with that is... or comment, sorry... is that I know a colleague who was... she's a physiotherapist, and she was sat on a [sighs] jury service, and it so happened to be a litigation case for a physiotherapist who was accused of indecently touching a patient. And her comments from it were... it was frightening, the *lack* of support that was available to the physiotherapist.

And I think one of the things that I have learnt – when I have been working, obviously, on wards, in secondary care, in primary care – is that doctors have a *fabulous* support network, in terms of dealing with this sort of situation, in terms of uncertainty, in terms of... if something has gone wrong, it's... within physiotherapy, it's a blame culture, so you *are* to blame, and you have done something wrong until you have been proven that something is right. Whereas with GPs, it's *immediately*, "Don't worry, because everything is fine, we are going to sort all this out, and this is how we are going to do it."

And that just doesn't exist in physiotherapy, unfortunately. I'm not too sure if it's an egotistical thing or whether it's been inherent and developed over a number of years, but if somebody has *done* something, it's not a... it's a criticising, downgrading, demoralising situation. It's not turned into a, "Let's see how we can learn from this so that it doesn't happen again," sort of aspect.

I: So that awareness of that risk of litigation, if you like, is such that you are actually *actively* taking steps to clarify that what you are doing will be robust enough to protect you in that situation, if anything was challenged.

I *over*... I think I *do* over-assess, and I over-examine, and I over-document, and that puts on a lot of stress and anxiety, because my time allocation for patients is a lot less than my colleagues as well, so I don't get as long per patient as some other FCPs. And it's also a full-time role, so I just tend to find [s.] that my focus is really burning out [00:32:15 – 00:32:16] for those reasons.

I: Yeah. Would you make training mandatory, do you think? Do you think it should be?

R: Definitely, without a doubt, yeah, without a doubt.

I: Yeah.

R: You know, it's that thing that you think never happens to you until it does. And, you know, hopefully, you do the very best that you can in order to *avoid* it, but it's always there. As soon as I walk through the door in the morning, it's *always* there to try...

And I worry, that my work is primarily not thinking about [laughs] the patients and how to get them better, but how not to get sued. And that is not how we should be working, but I feel as though we are going down that process, you know, in terms of... not just first contact practitioners, but I think, generally, it's about, "How do we not get sued?" rather than, "Let's treat the patient using the very best of the patient, the very best of me and my knowledge and skills, and the very best evidence" – to combine all that would create the optimum outcome. We shouldn't really be thinking, "Okay, let's not get sued [laughs]," first – which is a crying shame.

I: You are very *aware* of this risk of litigation. Is it those sorts of things that have made you have that awareness, those things that you've heard or those experiences? I just wanted to know a bit more about what has given you this real awareness of that risk of litigation.

R: I have known colleagues who have gone to the chartered society, asking for support and help about different aspects, and they have just not wanted to know. And the GPs have the Royal College of General Practitioners. They have their medical... you know, their support network on a professional basis... and the governing bodies that they have are *fabulous* at supporting them. Ours aren't worth the paper it's written on. The CSP are a waste of my £30-odd a month, they really are. And that doesn't inspire confidence at all.

Audio File Name: P004 Interview

Comments: Healthcare professional with litigation experience

KEY:

Cannot decipher = (unclear + time code)

Sounds like = [s.l + time code]

I: = Interviewer in bold

R: = Respondent

I: So if you were to ever come across these conditions or you were to do any of these procedures yourself, does it change your practice at all when you're

doing those things with that in your mind, what your colleagues have experienced?

R: It's difficult. It has in some respect in that I feel that now I really try to communicate with the woman beforehand just to really make sure that she does understand. As I'm sure you can appreciate, it's such a difficult conversation to have so it's just trying to be so sensitive about it. But then on the other hand, I don't think it has affected my practice that significantly because what some of my colleagues have done, for example the woman sadly losing X babies, that midwife could not have done anything differently. Her practice was... when it did go to court, they did (unclear 00:28:00) that there was nothing that could have been done to have sadly changed the outcome. There was no malpractice. So yes, it's a difficult one. I think as well, this is what upsets me about the litigation, the legal teams and things. They just see it as so black and white. They don't understand. Unless you're that person in that situation at that moment in time, you just can't understand what's going on in that moment or the emotions, the pressures, the responsibilities and the decision that will have been made at that time. There's never ever going to be any malice or anything like that. It's just so disheartening really.

Audio File Name: P005 Interview

Comments: Stakeholder legal

KEY:

Cannot decipher = (unclear + time code)

Sounds like = [s.l + time code]

I: = Interviewer in bold

R: = Respondent

I: We've spoken to some physios now and from the physio perspective, they said, "It feels personal," and they do feel it's very much related to them. So I just wondered if you could expand on that a little bit more. Who do you identify in terms of those cases?

R: Well one of the things that we did do is we would do a chronology of care. So we would obtain the medical records and then I would look at the medical records and I would do a chronology of care. So we weren't just looking for necessarily where the

new enquirer thought things had gone wrong, we were looking where we thought things had gone wrong. So take for instance we may think that, I don't know, the physio is thinking something like that through, we wouldn't just be looking for that one instance. We would be looking for anything in those records. So say a delayed diagnosis in cancer. We wouldn't just look at those, "I went to my GP three months ago with a lump in my breast and they didn't do anything about it," we would be looking, "Well three month delay probably won't make any difference." Did that person go to their GP six years ago with a lump in their breast and it wasn't... does that make sense? So we would do a chronology of their medical records and pull out from there where we thought that things could potentially have gone wrong.

Audio File Name: P006 Interview

Comments: Physiotherapist with experience of litigation

KEY:

Cannot decipher = (unclear + time code)

Sounds like = [s.l + time code]

I: = Interviewer in bold

R: = Respondent

I: Then in terms of the support, you said within your organisation you've got people that you know you would be able to access for support if you were ever involved in the litigation process. Do you think that for people in other organisations, there should be a set package of support, or do you think it is enough just to know people to go to and speak to?

R: I think that package of support should then lead to you knowing who to go and speak to. I think you need to have organisational transparency. We've got pals for people who want to speak to an organisation from a patient perspective. We should have something similar in place, whether that be the governance department, the HR department, team leader. We have safeguarding leads so we know how to act in a case when we think someone has got some safeguarding issues. So I do think people just need to know who to go to. I can't speak for other people in an organisation that I don't work in but you think would they be worried about going to their line manager because of the connotations that litigation has? The top and bottom of it is they're going to find out at some point.

Audio File Name: P008 Interview

Comments: Physiotherapist with experience of litigation

KEY:

Cannot decipher = (unclear + time code)

Sounds like = [s.l + time code]

I = Interviewer in bold

R: = Respondent

I: Okay, that's great. Then thinking about other people in your situation and obviously reflecting on the experience you've had, I mean what support do you think should be available for physiotherapists going through that process of litigation? What do you think is important for us to provide for them?

R: I think a network, a confidence that you can just talk through, that's got your back, a shoulder to cry on, somebody that you can really trust and you can have a discussion with about it, I think that's really key. It is probably up to the individual telling us what they need. That support maybe coming from just checking over their clinical work, supporting them that way, do they feel worried. I know for X, it was a sarcoma that wasn't picked up. She needed lots of help around being happy that she wouldn't miss it again. She was like, "How do I not miss a sarcoma?" "Well how does it present? What's the clinical things?" For some people it helps to really just pull that case apart, looking at all the facts and then putting it back together but I think it's very individual what people need. I think just being aware that there is support there and that they can talk to you about it, that there is somebody and maybe the same person or not from an emotional point of view. I think knowing that the organisation has got your back as well from a lawyer/litigation, that point of view, that if you have to go to court, that everything is... that that support package is there for them, whatever they need.

Audio File Name: P009 Interview
Comments: Physiotherapist at risk of litigation

KEY:

Cannot decipher = (unclear + time code)

Sounds like = [s.l + time code]

I = Interviewer (Interviewer in bold)

R: = Respondent.

I: Just thinking back to litigation, do you think that it would be helpful to have any training early on about litigation for physios at all?

R: I don't know is the answer because [pause] I don't know, because you're going to frighten people and I know that you've got to be aware of these things but are we then creating more fear in the junior staff who are already quite fearful, a lot of them are out of their depth, and we're not giving the support structure to develop them. I don't know is the answer, I suppose.

Audio File Name: P011 Interview
Comments: Physiotherapist with experience of litigation

KEY:

Cannot decipher = (unclear + time code)

Sounds like = [s.l + time code]

I = Interviewer in bold

R: = Respondent.

- I: It's really interesting that and I suppose at that stage in your career, it's great that you could turn that round and make that a learning experience, I don't know that necessarily everybody would have reacted in the same way to that, really?**
- R: I'd like to say I did, I think I probably buried it for a couple of years and thought shit, let's not talk about that, but I do talk about it quite a lot now with people and share that because I think it was a useful trigger for me, I think, to start thinking about how I communicated, think about the implications of missing serious pathology, so that's... it was embarrassing and painful and all those things, really. I couldn't really talk about it for a while. I talked about it with XX, we were sharing hushed experiences really [laughter]. We've all had similar misses or encounters with patents where they've had serious pathology and they've not been managed well.
- I: I think it is so important, isn't it? Other physios who have had this experience that we've spoken to has made some reference to the fact that: "It's not black and white, everything is grey, if it was that straight forward we would pick it up," but it never is and I think it's really interesting to hear you say that as well.**
- R: The lawyers want black and white and they think it's black and white because they don't understand it and that's all they're interested in. "They have symptoms well, of course they have cauda equina," well, look, don't be a bloody idiot, here's the other 50 things that could cause that. It's a challenge, I think.

Audio File Name: P015 Interview

Comments: Physiotherapist with experience of litigation

KEY:

Cannot decipher = (unclear + time code)

Sounds like = [s.l + time code]

I = Interviewer (Interviewer in bold)

R: = Respondent

I: How did it feel when you first found out about that there was a claim and that you were involved in some way in that claim?

R: Well, I think because I had not had any experience, or training as we said about it, it's quite a scary situation. You're worrying about, 'Am I going to get struck off? What have I done? What are the implications for it?' So, yes, there is a large fear there really.

I: Yes, and so at that time, do you think that when you first found out about the case, did it have any impact on you at work in the way that you kind of went about your everyday practice or ...?

R: Yes.

I: Yes.

R: Negatively and positively really, I would say. I think negatively in terms of that frustration. There were sort of accusations being made as part of the case and things that we hadn't done which were clearly documented, and we had all the evidence to cover ourselves really from that perspective, but then I think also, positively, a positive impact on I then fed back to the department about the case and what we had learnt from the case, and how we may be able to change sort of future practice, and I think a lot tighter with the documentation as well as a result.

I: Yes, yes. So, you've kind of taken a bit of the positive from it and learnt from it and got that learning experience from it as well.

R: I think yes, I think so. I think it has changed my practice. I am a lot more aware of how I'm wording my notes and things like that, and the detail that I am going into with all the notes as well, yes.

I: Part of the debate with the undergraduate training programme, it's that a few people have suggested that it's good to kind of get a bit of an idea about these things quite early on, just so that people are aware of it when they start their career, and then other people have said that they think that that might be, "Quite a scary thing," for people, at quite a young age at the very start of their career, and that it might people off. Do you have any thought on that at all?

R: I think yes, I think it probably would be a scary thing at undergraduate level. I think it would probably be a lot scarier if you're going into it fresh when there's a case involving you. I know I would much rather be taught how to document things properly and have that awareness at an undergraduate level in that safe environment, rather

than when the horse has already bolted, and you're being cited in a claim against you. I think that's going to be a lot scarier. So, yes, I think there definitely needs to be some sort of undergraduate training or giving them some sort of insight into litigation rather than it just that being the first time that they have experienced it, or had any knowledge or it when, as I say, they are cited in a claim.

Audio File Name: P016 Interview

Comments: Physiotherapist at risk of litigation

KEY:

Cannot decipher = (unclear + time code)

Sounds like = [s.l + time code]

I: = Interviewer in bold

R: = Respondent

I: And when you were talking before about, you know, wanting that understanding of the actual legal process and the legal sort of responsibilities and requirements if you like of physios. So, again, you think that should come as a whole package at that sort of really early stage in their career?

R: Yeah, no, no. I think the CSP could kind of have some sort of, you know, like, an asynchronous e-learning package or something that they could, you know, send from their legal team. I don't know. There's loads of different things you could do, isn't there? But I, definitely, think it will be something that's worth having a bit more info about.

Audio File Name: P20 Interview

Comments: Physiotherapist with experience of litigation

KEY:

Cannot decipher = (unclear + time code)

Sounds like = [s.l + time code]

I: = Interviewer in bold

R: = Respondent.

I: I was just going to say, if you could just take us back to that first moment when you realised that you were told that you were involved in this claim, how did you feel at that time when you first found out about that?

R: It was very stressful because of the wording that was used, that you have been negligent and those are very strong words. So yes, I mean a whole lot of emotions, the fear, the worry, the doubt, the unknown I think, a big thing is the unknown, you don't know what I need to do next and what's going to happen, what's likely to happen but yes, it was very, very stressful, a lot of anxiety.

I: At that time then, you've mentioned a little bit about how you felt really worried and anxious, and it was a really stressful time, did that carry on throughout that time that the claim was open or was it more of an initial stress?

R: No that was the entire time until the day ... I actually think it was maybe my birthday, whenever it closed, which would be XX. So, that could have been a full year then but right up until they said it was settled, I hadn't been given any inclination that it would be settled. Somebody might have said, it will probably be settled but that's not overly helpful. Actually, to be honest, my XX is a solicitor and at one point, I was chatting to him and just asking his advice and because he's not a solicitor in that area, he asked somebody in his work.

So, then he actually got involved in it and this guy started writing letters to the CSP and it really was to try and get them to support me in it because I had copies of emails where the CSP rep had said, no there's nothing else you need to do. Whereas if they had told me to fill in the form's straightaway, then I wouldn't have had the loss of the support from the insurers. So, this guy was writing official solicitor letters to the CSP and I was getting these bills for thousands of pounds for an hour's work.

Now my XX then said, oh just ignore that, just ignore that but I was still getting that and that added to the stress, if I'm honest. He was trying to get the CSP to say, yes, we made a mistake, and we will support you, but they never did. They never came

back and that was never settled at all, so, that just added to the stress, I think if it had been made clear to me that as an employee of the Trust, the Trust will cover you. I think if that had been made clear, that would have helped but that was never made clear to me and I felt a bit, probably angry towards the end, that I hadn't had that information because that would have made a huge difference.

Audio File Name: P021 Interview

Comments: Legal stakeholder

KEY:

Cannot decipher = (unclear + time code)

Sounds like = [s.l + time code]

I: = Interviewer in bold

R: = Respondent

I: So in terms of different outcomes, what are the outcomes that are likely with this type of claim? So what can the possible outcomes be?

R: Well the other thing that I developed was what's known as a root cause analysis. So on any claim I get, once the claim has finished, I send the outcomes, so there'll be learning from it, back to the services. So the ops managers and the managers over that department can have a look and have a discussion and go, "Oh, there is a gap. We need to do something about that," so that they can stop it from happening again.

Audio File Name: P028 Interview

Comments: Legal stakeholder

KEY:

Cannot decipher = (unclear + time code)

Sounds like = [s.l + time code]

I: = Interviewer (Interviewer in bold)

R: = Respondent.

I: Yes, okay. And then the other thing I wanted to pick up on, you said about shared learning, and it's something that's come up quite a lot in a lot of the interviews is about root cause analysis and sharing learning. But to some of the people I've spoken to, it seems to be stuck within the trust. So, it doesn't seem to go across. So, I wondered, how do you go about sharing that learning?

R: A good point because it's really difficult, and I think having worked as XX before I came into this post, so you very much work in your own silo, so you probably will share within your organisations, the learning, but actually, coming into this role, and I wanted to look at how we can do that further, and actually, some organisations, they don't even share the learning between their own directorates, let alone outside. And they're just very much fearful that they don't want to share things because it looks bad on them. So, it is a real work in progress. But it's huge, and I think there's so many different organisations trying to get together to share learning and things like that.

Audio File Name: P029 Interview

Comments: Physiotherapist at risk of litigation

KEY:

Cannot decipher = (unclear + time code)

Sounds like = [s.l + time code]

I: = Interviewer (Interviewer in bold)

R: = Respondent.

I: Yeah. That kind of leads me on to kind of the next few questions that I wanted to ask you about and that's kind of more in relation to training, so going forward what needs to be in place to provide that support? Do you have any

thoughts of what you think will be good going forward to help provide support?

R: Well, I know in X at the moment, there's one company that has a barrister that used to be a physio, and she's truly brilliant. I also hear at the moment that medico-legal is the biggest rise for solicitors in terms of funding. If that's the case, it's only a matter of time before people start to sue us on a more regular basis for information, so we need to be ahead of that curve. We need training on what we can and cannot say and how we handle ourselves in these situations. Perhaps more so, the CSP need a pathway and an emergency button that when we press it, we know that something's going to happen. Even if that's somebody from a legal background that can answer a question, am I going to, and is my job going to end today, and that can be on any questions being a male as a physio, is it because a female suggested something? Or is it because that something we've put in our notes or a comment that we've said that we deemed inappropriate, we need somebody that can analyse this on a quick turnaround, give us a legal opinion very quickly because these things escalate very quickly.

Audio File Name: P031 Interview

Comments: Physiotherapist at risk of litigation

KEY:

Cannot decipher = (unclear + time code)

Sounds like = [s.l + time code]

I = Interviewer (Interviewer in bold)

R: = Respondent.

I: Okay. So, just moving on then, one of the things that we've been asking people is what can be done better. So, what can, say, employers do to help provide support, what could the CSP do to provide support to those people who might, may be involved in one of these cases?

R: Well that's a really good question. I mean, number one, you obviously, you need people to feel that they're in a no-blame culture, don't you? You need to feel that

people are, feel safe within their employment or whatever. That makes it quite difficult, I think, to go to the employer because actually if you've missed the cauda equina, you've missed the cauda equina, you've made a mistake, haven't you? So, the first line of help really should be from the CSP or one of the professional organisations. My honest opinion is that the CSP are profoundly useless at this sort of thing. They don't have the specialists sitting inside the organisation to help out with this. In actual fact, I would've thought the MLACP were the main people who should be supporting litigated against.

Audio File Name: P033 Interview

Comments: Physiotherapist with experience of litigation

KEY:

Cannot decipher = (unclear + time code)

Sounds like = [s.l + time code]

I = Interviewer (Interviewer in bold)

R: = Respondent.

I: Yes. I know exactly what you mean. Do you feel all right to carry on.

R: Yes, I'm fine.

I2: So, it potentially played a part in feeding into the professional anxiety you felt.

R: I think it probably did actually. Yes, because actually if I think about the timeline, within six months, I'd wanted, I'd put my, I want to go part time, and if they weren't going to give me part time, I don't know what I would've done. There's a possibility that I would have had to quit and but I couldn't actually put, nobody asked me why, nobody asks you. Because your work carries on, doesn't it, life carries on.

Audio File Name: P034 Interview

Comments: Physiotherapist with experience of litigation

KEY:

Cannot decipher = (unclear + time code)

Sounds like = [s.l + time code]

I: = Interviewer. (Interviewer in bold)

R: = Respondent.

I: Can you talk me through, your involvement with the patient and how it went?

You know, so we went to see a barrister who was... I by this stage was an emotional wreck. I was, like, so upset. And then, he was going, "You might as well stop crying. This is a game to me, you know." And he was lovely. He was lovely. He was going, "My job is... you're going to be dead easy. You're going to be no point putting you up on the stand because you're an emotional wreck. You care about your job too much. You physios are known for being... because you take it too personally. You take... you know." And he was lovely. My whole experience, it was worth £500, I have to tell you. My whole experience with him was him going to me. "Stop. You know, we're going to try and find out what went right and what went wrong." And he was lovely. He was lovely.

Audio File Name: P035 Interview

Comments: Physiotherapist at risk of litigation

KEY:

Cannot decipher = (unclear + time code)

Sounds like = [s.l + time code]

I: = Interviewer. (Interviewer in bold)

R: = Respondent.

I: So, do you mind then just talking me through that experience and what happened and your involvement with the patient?

So, when I got this letter, obviously, it was a really, really (unclear 0:18:35) situation because I was [off work]. I wasn't there. I had no access to the notes. I couldn't even remember the date, you know, the treatment, what I did. I knew I hadn't caused any injury because I would have noted that in the notes. And I was just really upset that the physios had written back and sort of said that's what they thought I'd done. So, obviously, I contacted the CSP and said, "What do I do?" And they said, "Well, we'll put you on to the legal team."

I: Yeah.

R: But the CSP, the solicitor that I dealt with, she was really good. So, she took the case (unclear 0:20:09) and, basically, just said, "Right, this is how it works. We reply and we ask for more information." So, they replied and they asked for more information and they asked, "Well, where are you wanting to take this?" And then it was a case of just sitting and waiting and waiting and waiting and waiting. But we never... they never took it any further. They just left it. It had to remain open for three years.

I: So, that kind of leads me onto my last few questions really, which is in relation to kind of the support needed and training really. So, in your opinion then, what do you think can be done better in terms of support from maybe the CSP or from employers or through, you know, people that you work with? From all those different aspects, you know, in your life at that time, what do you think could have been done better to kind of support you through that?

R: I think you should have a designated person within the CSP that has some counselling background even has maybe some legal understanding to be able to have maybe a helpline available, so they could be able to do other aspects of the job. But I would (unclear 0:40:31) probably need one designated person because they would be full-time, wouldn't they? It's a bit like Samaritans, isn't it? You know, we probably need that avenue within the CSP to help reassure and, you know, give sort of reassurance and confidence to the physio because we put a lot of self-doubting ourselves. And, you know, we do... we just take it all so to heart. But, yeah, having somebody within the CSP, a helpline as such that is available for physios, I think, that should be available.

Audio File Name: P038 Interview

Comments: Physiotherapist with experience of litigation

KEY:

Cannot decipher = (unclear + time code)

Sounds like = [s.l + time code]

I: = Interviewer. (Interviewer in bold)

R: = Respondent.

I: So, you're doing it as, you know, a learning opportunity and probably making people feel more at ease the fact that, you know, these things do happen and you can learn from each other and support each other, I suppose.

R: I think that's really important. I think in all these cases that we've mentioned today, none of them were gross misconduct of the physio, none of them were aiming to be negligent. Everyone was trying to manage the patients to the best of their ability and manage it well. And I think we have a no-blame culture in work. And I really pushed that with staff because that is not someone's fault if somebody comes in like that. We look at the whole system. We look at how we can improve things. And we want staff to be able to feel that we can share patients that have gone well and not gone well. And not feel like people are going to think that they're a rubbish physio because, you know, it's not the case. So, I do think that's really important.

Audio File Name: P039 Interview
Comments: Stakeholder – professional body

KEY:

Cannot decipher = (unclear + time code)

Sounds like = [s.l + time code]

I: = Interviewer. (Interviewer in bold)

R: = Respondent.

I: So, in relation to CES litigation, the process has been quite an interesting thing for us to look into. So, can you talk us through the chronology of a typical CES litigation case from the CSP perspective?

R: So, then, I mean, the CSP has nothing to do with any of that. But the service is there to support an individual who is normally, very normally shocked, really concerned and, you know, often really panicking about what to do or what not to do. So, they are dealt with really quickly to actually provide that support, both from, if it's required, a legal team but also for support from the brokers team to share with them the likely process that will actually occur.

I: Yeah, okay. So, in relation to support you talked about before, when you reflect on that, what do you think's done well and what can be improved in relation to support for physiotherapists going through this litigation experience?

R: My understanding from the feedback received from CSP members that have been through this, is that the support they receive is great. And we get nothing but positive feedback. I haven't had any negative feedback of a lack of support from either the broker or the wider sort of legal team at all.

I: Do you think that fear of CES litigation has affected the CSP?

R: It has not affected... We have had... you know, CES is a risk against the PLI because a single claim could in the future, exceed our current covers of 7.5 million. And so, if that had a negative impact on premium, you know, that could lead us, ultimately, to saying, "Actually, we can't provide this anymore." And that would be a... I don't think that'd be a very good idea. So, insurance is going up anyway. And it's going to go up because of the insurance sector, business continuity insurance problems. The whole sector, (unclear 0:39:29) going to be seeing, I think all of us, about a 15% increase on premiums because the sector is really struggling.

Audio File Name: P040 Interview

Comments: Physiotherapist with experience of litigation

KEY:

Cannot decipher = (unclear + time code)

Sounds like = [s.l + time code]

I = Interviewer. (Interviewer in bold)

R: = Respondent.

I: Yeah, yeah. It's interesting because we've heard similar in other interviews, of experiences similar to yours from a physio's perspective, in terms of it feels personal when you first find out. And, people don't realise it's not just them who's, having a claim made against them.

R: Yeah, yeah. I didn't realise that when they do a cauda claim... from what I can gather now. So, XX, that's what she does for the NHS. So, I chatted to XX about it. And she was like, "They go for anybody. Anybody that they can along the line." And she's like, "It's like the new whiplash." And I think, since I've understood that a little bit as well, because she says, you know, the claims are so high-value, they're a good claim for solicitors to do, you know, they make a lot more money than they would of off a whiplash claim, that's made me feel a little bit better about it, really. Because I wasn't aware that they'd look at everything. And they're just trying to find a fault somewhere along that journey, rather than they're trying to specifically find a fault with me. And it might be that they don't find fault with me.

I: And from your perspective then, when you first got into the advanced practice role, would you say that you were fully aware of, that increased responsibility or possibly increased risk of these kinds of claims?

R: I think I was, yeah. I don't think I was as aware as I am now. But I, definitely, think I knew there was a difference between me doing what my previous role was and doing this role, particularly because previously, I'd have spoken to (unclear 0:55:27) if I was worried about something. So, I've felt like I've got some sort of support. And like I said, you can discuss it amongst our colleagues and things like that. And again, that's something that I probably would change if I discussed it. I'd, definitely, document that I've done that now so that there is something in there about it. Yeah, but I don't... I think the big thing that I probably learnt is I was unaware of how prevalent it is at the moment. Since I've been involved in it, I'm aware that it isn't uncommon at all. And I think it's probably going to get more and more common given that physios are seeing more of this type of patient because the doctors are seeing less of it.