

**Recurrent surgery for varicose veins
(07HDC13222, 27 January 2009)**

General surgeon ~ Private hospital ~ Lymphatic leak ~ Varicose veins ~ Haemorrhage ~ Blood transfusion ~ Risks ~ Informed consent ~ Vicarious liability ~ Rights 4, 6(1)(a), 6(1)(b)

A general surgeon performed varicose vein surgery on a woman at a private hospital. She developed postoperative complications of swelling and leaking from the surgical wound and underwent further surgery the following month. The leaking recommenced and, during a further operation later in the month, an anterior wall of the femoral vein was punctured, leading to a sudden massive venous haemorrhage. The woman required resuscitation and blood transfusion. The vein was repaired and she was transferred to another private hospital able to provide high-dependency monitoring. She made a satisfactory recovery.

It was held that the woman had a right to the information that a reasonable patient, in her circumstances, would expect to receive, including an explanation of her condition (both pre- and postoperatively), and her treatment options, including the expected risks, side effects and benefits of each option. The surgeon did not provide this information and breached Right 6(1)(a) and (b). The failure to appropriately plan the surgery to take account of the possibility of complications amounted to a failure to provide surgical services in a manner that minimised potential harm. In these circumstances the surgeon breached Right 4(4).

The surgeon's omissions were attributable to individual clinical decisions and could not realistically have been prevented by the private hospital imposing any conditions on his visiting privileges. The private hospital was therefore not vicariously liable for the surgeon's breaches of the Code.