
A CASE THAT CHANGED THE COURSE OF MEDICAL NEGLIGENCE PROCEEDINGS: A COMMENT ON BOLAM V/S FRIERN HOSPITAL MANAGEMENT COMMITTEE

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Court: Queen's Bench (UK)

Year: 1957

INTRODUCTION:

One of the most famous that resulted in the famous **Bolam Test** is the Bolam v/s Friern Hospital Management Committee. The test played a crucial role in providing support and defining the **tort of negligence** at the medical cases.

What was the case?

Mr **John Hector Bolam** was a 38 or 40-year-old man who was experiencing **chronic depression**. He was prescribed to go through the **Electroconvulsive Therapy (ECT)** which involves passing an electric current to the brain to produce a generalised seizure.¹ ECT stands out as the most peculiar medical treatment technique applied to people with **severe major depression** or **bipolar disorder** as a last resort after other treatment methods have failed.² Doctors are also of the opinion that the involuntary spasms can assist the brain to restructure or more precisely rewire itself thus alleviating symptoms.³

Mr Bolam began attending the ECT sessions. During the third session, he experienced **violent muscle spasms** which resulted in **bilateral fractures** of the **acetabula**, i.e., fracture of both **pelvic hip sockets** because he was not provided with the following:

1) Muscle relaxant,

¹ Salik, Irin, and Raman Marwaha. "Electroconvulsive Therapy." *StatPearls*, StatPearls Publishing, 2025. *PubMed*, <http://www.ncbi.nlm.nih.gov/books/NBK538266/>.

² *What Is Electroconvulsive Therapy (ECT)?* <https://www.psychiatry.org/443/patients-families/ect>. Accessed 5 Jan. 2026.

³ *Electroconvulsive Therapy: MedlinePlus Medical Encyclopedia*. <https://medlineplus.gov/ency/article/007474.htm>. Accessed 5 Jan. 2026.

- 2) Anaesthesia,
- 3) Restraint and
- 4) Warning

Mr Bolam proceeded and sued the hospital claiming **medical negligence**. The questions that were raised in court were whether the doctor did not administer any muscle relaxant, anaesthesia, restraint or warning and therefore, was negligent. However, the court ruled that it was not qualified to determine a case whether the doctor was correct in making his decision or not and therefore a group of medical professionals was sought and they were requested to provide their views which was the initial step of the Bolam Test.

What is the Bolam Test?

Bolam test is the test assessed based on the view of the **professional peers of a doctor**. A **negligence claim** would be **defeated** in a situation where a responsible group of medical practitioners was placed in a similar circumstance and acted in a similar manner and attained a similar outcome.⁴ When the Bolam test is used simply, it implies that a physician is **not negligent** as long as he or she acts within the standard as perceived by a body of **responsible** medical practitioners.⁵ A medical negligence claim is founded on the use of the Bolam test when the patient states that a medical practitioner has aggravated his or her condition or made him or her sick.⁶ This is why the hospital was not liable in case of the damages sustained by Mr Bolam.

JUDGEMENT

At this point, although most of the medical professions indicated that they would have contacted a warning, muscle relaxant, anaesthesia, and restraints, the court did **not find the hospital liable** due to the **Bolam test**. Referring to current medical thinking on what constitutes proper practices in the area of electro-shock treatment, the hospital did not violate the

⁴ "What Is the Bolam Test?" *Waldrons Solicitors*, <https://www.waldrons.co.uk/insights/what-is-the-bolam-test/>. Accessed 6 Jan. 2026.

⁵ "The Bolam Test." *Timms Solicitors*, <https://www.timms-law.com/personal-services/clinical-negligence/thebolam-test/>. Accessed 6 Jan. 2026.

⁶ "The Bolam Test | Medical Negligence Claims." *Https://Davisons.Law/*, <https://davisons.law/services/medicalnegligence/bolam-test/>. Accessed 6 Jan. 2026.

negligence doctrine in performing the treatment.⁷

CRITICAL ANALYSIS

Bolam Test:

Although the Bolam Test has been a major contributor to the law of medical negligence, the test contains some inherent weaknesses that render its use problematic with regards to the rights of patients.

- 1) The Bolam principle is considered to be **too reliant** on medical testaments which have a propensity of favoring the defendant.⁸ The test puts too much emphasis on the opinions of medical professionals and this leads to the medical community establishing their own standards of care.
- 2) One of the shortcomings of the Bolam Test is that the test **aims at the professional practice as opposed to focusing on patient safety**. The liability of a particular medical practice may be off-loaded by a doctor as long as such a practice is sanctioned by an authoritative body of professionals. The practice would permit justifying the old and unsafe practices since they are tolerated in one of the sectors of the profession.
- 3) **Informed consent** is also weakened through the Bolam Test, which puts the duty to warn as a doctorly decision, not a patient right into the picture. The problem of informed consent is also complicated in the situation where the patient is a minor or has a mental illness and is not capable of making reasoned decisions on his/her own.⁹ It should not leave the professionals to disclose risks out of their own authority, since they might deny patients the right to make informed choices concerning their bodies. A paternalistic practice where physicians are shown to be the sole decision makers **superseding patient autonomy** is indicative of this.

⁷ “The Bolam Test.” *Timms Solicitors*, <https://www.timms-law.com/personal-services/clinical-negligence/thebolam-test/>. Accessed 6 Jan. 2026.

⁸ Samanta, Ash, and Jo Samanta. “Legal Standard of Care: A Shift from the Traditional Bolam Test.” *Clinical Medicine*, vol. 3, no. 5, Sept. 2003, pp. 443–46. *PubMed Central*, <https://doi.org/10.7861/clinmedicine.3-5-443>.

⁹ LawTeacher. “The Bolam Test in Clinical Negligence.” *LawTeacher.Net*, 2 Feb. 2018, <https://www.lawteacher.net/free-law-essays/medical-law/bolam-test-clinical-negligence.php>.

4) The test also fails to prompt a direction in making an independent determination of the **reasonableness of medical conduct** by the courts. With near complete dependence on opinion of experts, the courts do risk dropping their duties of offering **accountability and fairness**.

Thus, the Bolam Test is the tool that gives the doctors the **required protection** against the unfounded claims but does not create the right balance between **professional discretion and patient rights**.

Judgement:

In the case Bolam v. Friern Hospital Management Committee, although the intention of the court to consider the professional expertise was feasible, the scope of the results of such reliance as to the medical opinion resulted in **imbalanced consideration** of the rights of the doctors and the rights of the patients.

The most horrible part of the ruling is that the judgment utilized the Bolam Test of negligence to act as the **critical test**. By concurring that a doctor can **not be negligible** because his or her behaviour was embraced by any established accountable medical fraternity body, the medical profession placed its own hierarchical of negligence. This is a defective approach as the professional groups may be unwilling to raise a voice against the generally accepted practices despite the fact that such practices expose patients to serious risks.

The lack of minimum precaution in the form of **muscle relaxants, anaesthesia and due warnings** led to Mr. Bolam seriously sustaining injuries in the case in point. This did not mean that the hospital was not **exempted** of the liability because the medical opinion may stand in support of the treatment approach taken. It may be the situation that prompted the priority of professional custom to patient safety and the failure to adequately take into account the **right of the patient** to be informed of the **high risks**.

Also, a paternalistic attitude in the medical decision-making process of the ruling in the case of the informed consent is in place. The court has renounced the duty to warn and instead of being a legal obligation due to the duty of care to the patient, it was a medical ruling that served as a compromise to the autonomy of the patient. This concerns particularly the vulnerable patients like the patients with mental conditions.

All in all, Bolam played an important part in taking part as the development of the act relating to medical negligence and the ruling did not provide any fair balance between law and the medical community. This would be more inclined to the interest of justice and protection of the patients by a more critical judicial review of the medical practices.

CONCLUSION

To sum up, in the case of Bolam v. The Friern Hospital Management Committee played an important role in the development of the medical negligence law, the committee excessively relied on the professional opinion against the protection of the patients. The case cites the need to have a middle ground that will address both the medical and judicial authority and uphold their rights to the patients.