

# A manifesto from APIL: 30 years of commitment to injured people



- **Prevention of Needless Injuries**
- **Fairness for Injured People**



# Introduction

We all have the right to live our lives without fear of needless injury, whether that is at work, at school, in hospital, or on the road. No one asks to be injured, but when the worst does happen, it is vital that we have a justice system which works for, and not against, injured people.

Too many people are let down by our justice system simply because they don't have the right type of disease, or because their relationship with a loved one who has died isn't recognised by the Government as being close or loving enough.

APIL is a not-for-profit organisation founded by a group of barristers and solicitors in 1990. Our aim is to help people find the redress they need to rebuild their lives when they have been injured through no fault of their own. In this election we're asking candidates to support a civil justice system which is fairer for injured people and bereaved families. It is important to recognise that these people should never have been injured in the first place, so we're also calling on candidates to commit to the prevention of needless harm, suffering, and hardship.



# Prevention of needless injuries

More than 1.6 million incidents causing harm to people happen every year at work, in hospitals, and on the roads. These are all injuries which should never have happened in the first place. Needless injuries can have life-changing and lasting consequences not just for those who have suffered the harm, but also for those closest to them. Such injuries can also have a reputational and financial cost to wrongdoers, who are usually employers, the NHS, motorists, businesses, or local authorities.

Litigation against the NHS, for example, continues to be a highly-charged subject, but the key to reducing the NHS compensation bill is for the NHS to stop the negligence which causes needless injuries to patients. The NHS could help itself by learning from its mistakes. A greater focus on prevention will mean fewer injuries and more money to spend on frontline care.

Each year APIL hosts Injury Prevention Day, when we ask people to think about what they can do to prevent harm to others. While everyone has their own part to play in reducing needless injuries, the lead must come from the Government and MPs, who can introduce and champion policies which will make our workplaces, hospitals, and roads safer.

## **FACT:**

There were more than half a million injuries at work in 2018/2019 <sup>1</sup>

## **FACT:**

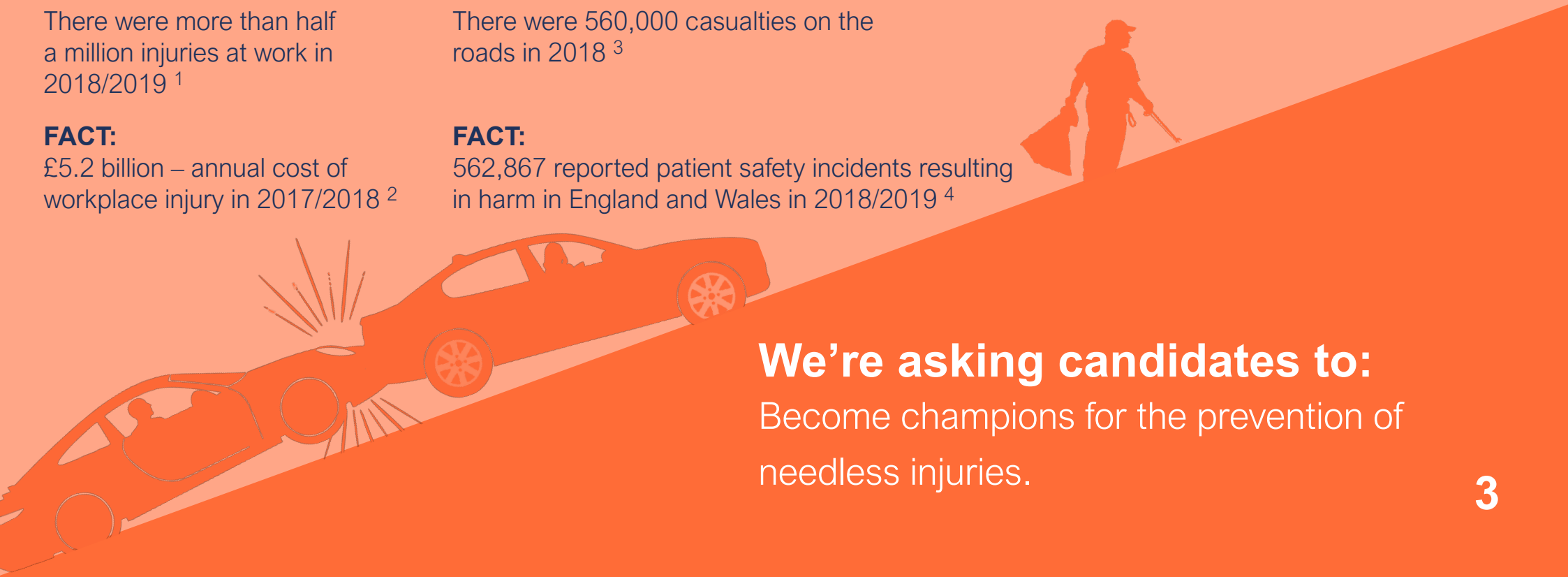
There were 560,000 casualties on the roads in 2018 <sup>3</sup>

## **FACT:**

£5.2 billion – annual cost of workplace injury in 2017/2018 <sup>2</sup>

## **FACT:**

562,867 reported patient safety incidents resulting in harm in England and Wales in 2018/2019 <sup>4</sup>



**We're asking candidates to:**

Become champions for the prevention of needless injuries.

# Fairness for families - bereavement damages

No one wants to imagine a loved one never returning home because of the carelessness of another person. Losing a loved one is the worst thing which could ever happen to someone. The heartache is compounded if the death could have been avoided. Bereaved people deserve our compassion and support. They should be able to expect nothing less.

Where they live should not come into it.

Yet the law in England, Wales and Northern Ireland treats bereaved families like second class citizens when they need to claim statutory bereavement damages after the wrongful death of a loved one. Only certain relatives from a very restricted list are able to claim, and damages are restricted to a statutory amount set by the Government. The system is rigid, discriminatory, and woefully out of date.

In Scotland, claims for compensation for bereavement damages are considered on a case-by-case basis, with personal circumstances and relationships taken into account. Bereaved people in England, Wales and Northern Ireland deserve no less.

## **FACT:**

People entitled to bereavement damages in England, Wales and Northern Ireland:

- Wife, husband or civil partner of the deceased
- the parents of unmarried children under the age of 18 (or, if the child is illegitimate, the mother only) <sup>5</sup>

## **FACT:**

People **NOT** entitled to bereavement damages in England, Wales and Northern Ireland include:

- Unmarried fathers
- Sons and daughters
- Parents of children over the age of 18
- Brothers and sisters
- Grandparents and grandchildren
- Cohabiting couples

## **FACT:**

**£12,980**

the amount of statutory bereavement damages in England and Wales;

**£15,100** in Northern Ireland <sup>6</sup>

## **We're asking candidates to:**

Support the modernisation of the law on bereavement damages in England and Wales, bringing it in line with the law in Scotland.



# Support for sufferers of asbestos-related disease – a full fair fund

There are people across the UK living with the detrimental health consequences of just going to work. Exposure to asbestos can be a death sentence. If someone has contracted a disease through the negligence of an employer, that person has a right to compensation. In this day and age it shouldn't be impossible or even difficult for someone with an asbestos-related disease to receive full and fair compensation. Yet, for some people, it is.

It may be decades since someone worked in the industry where the exposure happened, and the company may no longer be in business. This makes it difficult to trace a relevant insurance policy against which to pursue a claim. If an insurance policy cannot be traced, a claim cannot be made against the employer, and someone living with an asbestos-related disease may not receive any or all of the much-needed compensation.

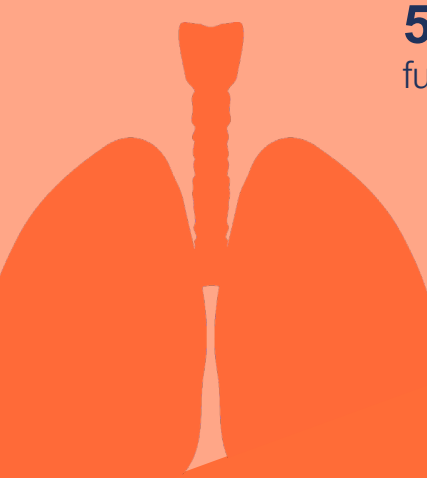
A fund of last resort funded by the insurance industry exists, but only for those with mesothelioma. It is used when all avenues for justice have been exhausted. It is time for a similar fund of last resort for sufferers of other asbestos-related diseases to be established, so these people are able to receive full and fair compensation.

## FACT:

**1,105** – number of inquiries made on behalf of people with asbestos-related diseases (asbestosis, pleural thickening, asbestos-related lung cancer) in which an insurer could not be identified <sup>7</sup>

## FACT:

**5,100** – number of people expected to benefit from a fund of last resort over a ten-year period <sup>8</sup>



## We're asking candidates to:

Support the creation of a fund of last resort for sufferers of asbestos-related diseases.

# Full and fair compensation

The lives of people who suffer serious and needless injuries can be changed forever. They may need round-the-clock medical care and help with the everyday tasks most of us take for granted. Full and fair compensation is vital to pay for that support, and can be all that stands between someone living with dignity, or struggling to cope. If compensation is not full and fair, these people often just survive rather than thrive. Many live in fear of what will happen if the money runs out.

People whose lives have been shattered by negligence are required to invest their compensation to make sure it will last for the rest of their lives. But they should not have to take risks with that investment in order to make sure ends meet. Recent changes by the Government to the way compensation is calculated means that taking risks is exactly what they are required to do. Injured people are not stockbrokers: a failed investment can mean the money runs out, leaving the injured person in a position of real hardship, or having to rely on support from the State, effectively leaving the taxpayer to pick up the bill for someone else's negligence.

These are vulnerable people whose only thought is “how can I eke out my compensation payment to make sure it lasts long enough to look after me and my family for the rest of my life?”.

Injured people have suffered enough. Their need for full and fair compensation should be at the heart of any future debate on personal injury issues.

**“I thought, right, I need to try to do something here because I need some money to be able to manage for what is going to be the rest of my life”<sup>9</sup>**



**We're asking candidates to:**  
Commit to ensure injured people  
receive full and fair compensation.

## References

- <sup>1</sup> <http://www.hse.gov.uk/statistics/>
- <sup>2</sup> <http://www.hse.gov.uk/statistics/overall/hssh1819.pdf>
- <sup>3</sup> <https://www.gov.uk/government/statistical-data-sets/ras54-survey-data>
- <sup>4</sup> <https://improvement.nhs.uk/resources/national-patient-safety-incident-reports-25-september-2019/>; <https://gov.wales/patient-safety-quarterly-data-based-when-incident-occurred-april-june-2019>
- <sup>5</sup> <http://www.legislation.gov.uk/ukpga/1976/30/section/1A>
- <sup>6</sup> <http://www.legislation.gov.uk/ukpga/1976/30/section/1A>; [http://www.legislation.gov.uk/nisr/2019/80/pdfs/nisr\\_20190080\\_en.pdf](http://www.legislation.gov.uk/nisr/2019/80/pdfs/nisr_20190080_en.pdf)
- <sup>7</sup> [http://www.elto.org.uk/Documents/ELTO\\_Annual\\_Report\\_2017.pdf](http://www.elto.org.uk/Documents/ELTO_Annual_Report_2017.pdf)
- <sup>8</sup> [https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/206172/expanding\\_scope\\_meso\\_bill.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/206172/expanding_scope_meso_bill.pdf)
- <sup>9</sup> <https://resolution.nhs.uk/wp-content/uploads/2018/10/Behavioural-insights-into-patient-motivation-to-make-a-claim-for-clinical-negligence.pdf>

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