



Joint Committee on Human Rights - Draft Fatal Accidents Act 1976 (Remedial) Order 2020: Second Report

A response by the Association of Personal Injury Lawyers – April 2020

Vital recognition for cohabittees

1. The absence of a ring or marriage certificate should never be used to call into doubt the loving relationship which exists between partners. Just because someone is not married, it does not diminish the sense of grief and injustice which will be felt after the needless death of a partner. The Fatal Accidents Act 1976 (Remedial) Order 2020 is a welcome acknowledgement of the loss felt by those cohabittees who have either not yet married, or made the decision not to marry.
2. We are disappointed, however, that the Government still intends to impose a two-year minimum period on cohabitation before someone is eligible for bereavement damages after the loss of a partner. A minimum period is not imposed on cohabittees in Scotland, nor is any minimum period imposed on married couples anywhere in the UK. The law in England and Wales will continue to fail to recognise that couples who choose to live together have made a loving commitment from day one, and not day 730.
3. Extension of eligibility for bereavement damages for cohabiting couples is long overdue, and while the remedial order does not go far enough in its reforms, we hope it is approved by Parliament at the earliest opportunity.

A missed opportunity

4. It is disappointing the Government has so far chosen to rule out a wider consultation on bereavement damages, despite the joint committee's recommendation. APIL has long campaigned for reform of the law, and we had hoped the Government would use this opportunity for further reform of the law on bereavement damages in England and Wales.
5. In response to the joint committee's recommendation, the Government referred to bereavement damages as a "token"¹. Of course, No life can be valued simply in monetary terms, but financial compensation is the only tool a court has at its disposal to acknowledge the relatives' loss and try to reduce the burden of that loss. The Government has said the restrictions which exist in the current law "are not intended in any way to imply that people outside those groups would not grieve at the death in question"². Yet that is the reality, despite the Government's intention.
6. Amelia, the client of one of our members, is one of many bereaved people who feel let down by the current law. Amelia had lived with her partner, Jordan, for 18 months when he was killed in a car crash. She was 29 weeks pregnant with their first child. They'd made the commitment to live together, to have a child together, yet she was not entitled to bereavement damages after Jordan's death. To Amelia it is not about the money. It is about the lack of recognition of her loving relationship with Jordan, and what she has lost since his death.
7. We reject the belief of the Government that an extension of eligibility for bereavement damages would lead "in some cases to intrusive and upsetting investigations of the claimant's relationship with the deceased person"³. It is the experience of our members in Scotland, where bereavement damages are awarded on a case-by-case basis, that defendants rarely challenge the closeness of a relationship. Only where the relationship is challenged and has to be proven can it become intrusive, and those occasions are rare.

¹ The Government Response to the twenty-first report from the Joint Committee on Human Rights, Session 2017-2019 (HC 2225, HL paper 405): Proposal for a draft Fatal Accidents Act 1976 (Remedial) Order 2019. Page 6

² The Government Response to the twenty-first report from the Joint Committee on Human Rights, Session 2017-2019 (HC 2225, HL paper 405): Proposal for a draft Fatal Accidents Act 1976 (Remedial) Order 2019. Page 6

³ The Government Response to the twenty-first report from the Joint Committee on Human Rights, Session 2017-2019 (HC 2225, HL paper 405): Proposal for a draft Fatal Accidents Act 1976 (Remedial) Order 2019. Page 6

About APIL

8. The Association of Personal Injury Lawyers (APIL) is a not-for-profit organisation which has worked for 30 years to help injured people gain the access to justice they need, and to which they are entitled. We have more than 3,500 members who are committed to supporting the association's aims, and all are signed up to APIL's code of conduct and consumer charter. Membership comprises mostly solicitors, along with barristers, legal executives, paralegals and some academics.

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