



## **Association of Personal Injury Lawyers**

### **Briefing: Civil Liability Bill – House of Lords third reading – June 27 2018**

#### **About APIL**

The Association of Personal Injury Lawyers (APIL) is a not-for-profit organisation which has worked for almost 30 years to help injured people gain the access to justice they need, and to which they are entitled. We have around 3,000 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.

#### **Assumed rate of return on investment of damages – judicial discretion**

APIL opposes the amendment to clause 10 in the name of Lord Hope of Craighead, which would leave out lines 3 to 5 of page 9. This amendment will remove the ability of a court to apply a different discount rate from the specified rate.

Throughout debates on the Civil Liability Bill, APIL has argued for the importance of judicial independence and judicial discretion in personal injury cases. We welcomed the decision of the Government to include a provision in the Bill which would retain the ability of a court to apply a different discount rate. We urge peers to reject Lord Hope's amendment and continue to allow a court to have this discretion.

The ability for a judge to apply a different discount rate is an appropriate safeguard against any abrupt changes in the financial market. While the proposed legislation provides for regular reviews of the discount rate, a scheduled review could be too late if there is a sudden change in the market. The discount rate could be too high, and it could be years until the next review when the rate could be corrected. In the meantime, injured people will be undercompensated, and will be in fear of what happens when their money runs out.

It is vital, therefore, that a judge has the ability to provide for a different discount rate in the event of these circumstances. These injured people will be at their most vulnerable, and there is a real need to ensure they are protected from any unexpected and dramatic changes in the financial market.

We urge peers to preserve this vital safeguard to protect the interests of catastrophically injured people, defend the discretion of the judiciary, and vote against the amendment.

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