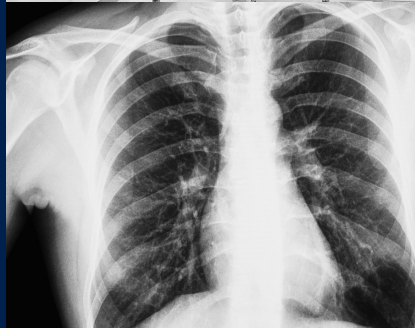
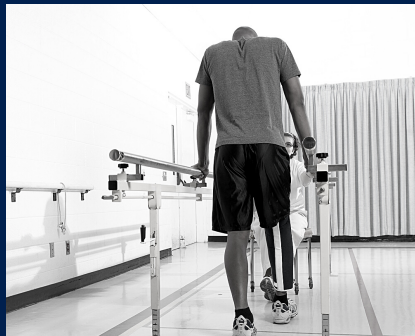




JUSTICE FOR VICTIMS OF NEGLIGENCE



NOVEMBER 2023

TABLE OF CONTENTS

- 3** INTRODUCTION
- 4** FAIRNESS FOR FAMILIES
- 5** ASBESTOS-RELATED LUNG CANCER
- 6** SUPPORT FOR SURVIVORS OF CHILDHOOD SEXUAL ABUSE
- 7** A JUSTICE SYSTEM THAT WORKS



INTRODUCTION

PEOPLE WHO HAVE BEEN INJURED, MADE ILL, OR LOST A LOVED ONE BECAUSE OF NEGLIGENCE WILL BE AT THEIR MOST VULNERABLE. THEY NEED TO BE ABLE TO RELY ON THE LAW TO HELP THEM GET THEIR LIVES BACK ON TRACK.

The Association of Personal Injury Lawyers (APIL) has produced this booklet to set out reforms which can be introduced by the Government to help these people, and why the right to full and fair compensation for victims of negligence must be protected.

For some victims of negligence, the law falls woefully short. The law fails many bereaved relatives because of an outdated view of what constitutes a modern family. The law denies full compensation to some people who develop lung cancer because their employers failed to keep them safe. The law does not help all survivors of childhood abuse secure the redress they deserve.

FAIRNESS FOR FAMILIES

A MODERN BEREAVEMENT DAMAGES LAW FOR A MODERN ENGLAND AND WALES

Losing a loved one is one of the worst things that will ever happen to someone, and no amount of compensation can ever bring that person back. The purpose of bereavement damages is to provide an acknowledgement of what has been lost, but it fails even to do that because the law is based on an outdated view of what constitutes a family.

The law was passed in 1982, and provides a fixed amount of compensation to recognise certain relatives' grief and trauma. This does not include adult children, grandparents, grandchildren, or even a father if he was not married to the mother when the child was born. They are all denied bereavement damages. This is even more unfair now most children in England and Wales are born to parents who are not married or in a civil partnership. The law on bereavement damages in England and Wales is hopelessly out of date.

Scotland has a modern law which recognises the closeness between many different family members. In England and Wales, a lot of family relationships are treated as if they are not important, or do not exist.

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our film and research
report



WHAT CAN THE GOVERNMENT DO?

Introduce a modern law on bereavement damages which recognises the close relationship between different family members, and which provides compensation amounts on a case-by-case basis.

ASBESTOS-RELATED LUNG CANCER

FULL AND FAIR COMPENSATION

The law fails to guarantee full compensation for some people who develop asbestos-related lung cancer after they were not protected from asbestos exposure at work.

It can be decades after exposure to asbestos that symptoms of asbestos-related lung cancer begin to develop, and often people will have worked for several employers where exposure occurred during their working lives. In that time, businesses may have folded, and insurance records may have been lost and cannot be traced. If people with the disease cannot trace all the former employers who exposed them, they will not receive full compensation.

The number of people affected by this problem is small, but the impact on their lives, and the lives of their families, can be devastating. Without full compensation they may be unable to pay for private care at home, or afford medical treatment which may be unavailable, or not available immediately, on the NHS.

Asbestos-related lung cancer is similar to mesothelioma, another terminal cancer, and even medical experts can find it difficult to distinguish between the two diseases. But if sufferers of mesothelioma cannot trace all their former employers, the law still helps them secure full compensation. There is no reason why sufferers of asbestos-related lung should not receive the same support from the law.

WHAT CAN THE GOVERNMENT DO?

Introduce a UK-wide law to allow sufferers of asbestos-related lung cancer who cannot trace all their former employers to recover full compensation from any one responsible employer.

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SUPPORT FOR SURVIVORS OF CHILDHOOD SEXUAL ABUSE

RECOGNISING THE IMPACT OF ABUSE

There has been an increased focus in recent years on how society responds to child sexual abuse, but it can still be difficult for survivors to secure redress for what happened to them.

In England and Wales, survivors of abuse must bring a civil legal claim within three years of the abuse, or within three years of turning 18 if they were abused as a child. Trauma, fear, shame, and a mistrust of authorities are some of the very valid reasons why people hold back from speaking out about what happened to them, let alone take steps to seek justice. The Independent Inquiry into Child Sexual Abuse (IICSA) recommended that this time limit should be abolished in England and Wales. Scotland had already removed this time limit in 2017, because the Scottish Government recognised that abuse survivors are a unique category of injured people, and will often bring their claims late for valid reasons.

Not all survivors of child sexual abuse will want to pursue a claim through the courts, especially if they find the litigation process traumatic. For those survivors, there must be a redress scheme from which they can receive the appropriate level of compensation to acknowledge their suffering and losses, and make a significant difference to their lives. It should be funded by a compulsory contribution from the insurance industry. APIL supports the recommendation that the Government consults on the establishment of a redress scheme.

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WHAT CAN THE GOVERNMENT DO?

Abolish the time limit for legal claims by survivors of childhood sexual abuse, and launch a meaningful and comprehensive consultation on the details of a redress scheme.

A JUSTICE SYSTEM THAT WORKS

ENSURING FAIRNESS AND
REDDRESS FOR VICTIMS OF
NEGLIGENCE

Victoria Lebec was lucky to survive when the driver of a skip lorry knocked her off her bicycle. She was dragged along the street and suffered devastating injuries. She woke in hospital days later to find her leg had been amputated.

Because the law allowed Victoria to secure redress for her life-changing injuries, she was able to obtain a prosthetic leg which was suited to her needs, rather the NHS prosthetic which was barely fit for purpose. She says her life would have been much, much worse had she not been able to obtain redress for her injuries.

The law worked for Victoria. But the law is a fragile thing, subject to erosion by those who are influenced by false myths and ignorance about the needs and motivations of injured people. In recent years this has resulted in the introduction of measures which have made it much more difficult for victims of negligence to receive proper compensation for their injuries.

Whether the amount is £5,000 or £5 million, compensation is never a 'win' or prize. It is calculated very carefully to ensure it meets an injured person's practical needs, often for the rest of that person's life, as well as the pain and suffering caused as a result of the injury – no more, no less.

WHAT CAN THE GOVERNMENT DO?

Be vigilant. Ensure injured people are at the centre of policy-making. Protect the laws that help put the lives of ordinary people who are victims of negligence back on track.

Scan the QR code to watch
Victoria's story





ABOUT APIL

The Association of Personal Injury Lawyers is a not-for-profit organisation, formed by claimant lawyers, which has campaigned for the rights of victims of negligence for more than 30 years. APIL's vision is of a society without needless injury but, when people are injured, a society which offers the justice they need to rebuild their lives. Members include solicitors, barristers, legal executives and academics.

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