

Welsh Assembly Government

Putting Things Right Consultation

Draft National Health Service (Concerns, Complaints and Redress Arrangements) (Wales) Regulations 2010



A response by the Association of Personal Injury Lawyers

30 September 2010

The Association of Personal Injury Lawyers (APIL) was formed by claimant lawyers with a view to representing the interests of personal injury victims. The association is dedicated to campaigning for improvements in the law to enable injured people to gain full access to justice, and promote their interests in all relevant political issues. Our members comprise principally practitioners who specialise in personal injury litigation and whose interests are predominantly on behalf of injured claimants. APIL currently has around 4,500 members in the UK and abroad who represent hundreds of thousands of injured people a year.

The aims of the Association of Personal Injury Lawyers (APIL) are:

- to promote full and just compensation for all types of personal injury;
- to promote and develop expertise in the practice of personal injury law;
- to promote wider redress for personal injury in the legal system;
- to campaign for improvements in personal injury law;
- to promote safety and alert the public to hazards wherever they arise; and
- to provide a communication network for members.

APIL's executive committee would like to acknowledge the assistance of the following members in preparing this response:

Brian Dawson – Co-ordinator APIL Wales Regional Group;
Cenric Clement-Evans – APIL Executive Committee Member;
Michael Imperato – APIL Executive Committee Member; and
Theo Huckle – Secretary APIL Wales Regional Group.

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Introduction

The Association of Personal Injury Lawyers (APIL) is committed to campaigning for improvements in the law for people who have suffered an injury, and we welcome any steps taken to bring about such improvements. We still, however, have serious concerns about some fundamental aspects of the proposed regulations, and whether injured people will receive the full and fair redress that they need.

APIL was involved in the passage of the NHS Redress Act 2006, produced briefings for Assembly Members during the passage of the NHS Redress (Wales) Measure and provided a detailed response to the first consultation published earlier this year on this proposed scheme¹.

In responding to this consultation we raise concerns that we still have with regard to the scheme, and we will make specific comments on the issues available for consultation, namely:

- how the redress arrangements will operate in cross border situations and with independent providers in Wales (Part 7 of the draft Regulations); and
- a proposed overall global financial limit for damages (Part 6, Regulation 29 of the draft Regulations).

Executive Summary

APIL welcomes the opportunity to respond to the Welsh Assembly Government's consultation regarding the draft National Health Service (concerns, complaints and

¹ *Putting Things Right: A Better Way of Dealing with Concerns about Health Services*, Welsh Assembly Government Consultation, published 11 January 2010.

redress arrangements) (Wales) Regulations 2010. Throughout this response, APIL makes the following points and suggestions regarding the draft Regulations:

- We are an organisation which relies heavily upon the input of its members in order to formulate balanced and constructive responses and believe that the four week consultation period, on a matter which is so important, was too short.
- APIL is against the introduction of a new National Health Service redress system as currently proposed for Wales as we still believe that it will make the Welsh second class citizens to their English counterparts. The draft Regulations are so much more restrictive for them than the current procedure available to their English neighbours across the border.
- APIL previously stated that it is vital that any investigation into potential negligence must be independent from the body under scrutiny. We remain concerned that several bodies who responded to the same consultation also presented this submission to the Welsh Assembly Government and we feel that this issue was not satisfactorily addressed.
- APIL suggests that a more appropriate level for an overall global financial limit would be £25,000. We also believe that it needs to be made clear from the outset that fatal accident cases, including still birth cases, are excluded from the redress scheme altogether as this is currently not clear in the draft Regulations or the accompanying Explanatory Notes.
- APIL has always believed that, in terms of personal injury law, each case is different and each person is an individual, and therefore should be treated as such. Any kind of tariff on the amount of financial compensation to be offered will introduce inflexibility which is too restrictive and not appropriate in the circumstances.
- APIL is still concerned that independent legal assistance will not be available to the claimant unless the Welsh NHS body determines that a qualifying liability exists.
- If there are occasions when the report may cause the complainant significant harm or distress, we believe the report should be given to the claimants legal representative, who will be able to study the contents of the report, and advise of the next action to take.

- APIL agrees with Section (2) of this Regulation that legal advice must only be sought from firms of solicitors who have a recognised expertise in the field of clinical negligence. We also believe that a list of clinical negligence specialists should be compiled and updated on a regular basis, and that it should include APIL accredited members with a special interest in clinical negligence.

Our Response

APIL is aware from the consultation letter that accompanies the consultation paper² that the Minister for Health and Social Services is planning to lay these Regulations before the Assembly shortly and we are concerned about the length of the consultation period which was offered. We are an organisation which rightly relies heavily upon the input of its specialist members in order to formulate balanced and constructive responses and believe that the four week consultation period, on a matter which is so important, was too short.

We are also concerned that certain aspects, namely the indicative costs at the end of the accompanying Explanatory Notes, have only been published at this stage and are not available for consultation. Our concern here is that the indicative costs for medical experts, when more than two experts are required, are £350 per expert which is less than the fixed fee for a medical expert report in the current Speedy Resolution system³, which is £450. We believe that this fixed fee of £350 for additional experts should be amended to reflect the current Speedy Resolution scheme fixed fee of £450.

APIL is against the introduction of a new National Health Service redress system as currently proposed for Wales as we still believe that it will make the Welsh second class citizens to their English counterparts. The draft Regulations are so much more restrictive for them than the current procedure available to their English neighbours across the border.

² Letter from Wendy Chatham, Director Quality, Standards and Safety Improvement Directorate, Welsh Assembly Government, Draft National Health Service (Concerns, Complaints and Redress Arrangements) (Wales) Regulations 2010, published 6 September 2010.

³ Claims for Clinical Negligence Speedy Resolution Scheme – The Rules, Annex 1, Fixed Fees

Following the publication of the Welsh Assembly Government's response to the original consultation⁴, and the final draft Regulations in this consultation, we note that some proposals from our previous response have been taken on board and we welcome these changes. Most importantly, we have noticed a change in the suspension of the limitation period in Part 6 Regulation 30 (3) from three months to nine.

In our response⁵ to the previous Welsh Assembly Government consultation paper published earlier this year⁶, APIL stated that it is vital that any investigation into potential negligence must be independent from the body under scrutiny. We remain concerned that several bodies who responded to the same consultation also presented this submission to the Welsh Assembly Government and we feel that this issue was not satisfactorily addressed. APIL is still concerned that the proposed new system in Wales would not have sufficient independence, as the NHS will continue to decide on the level of complexity in every case, carrying out investigations into concern and even deciding if the Trust is liable. We still believe that if the NHS runs the entire process, it could have a detrimental effect on public confidence in the system, as people may, with some justification, suspect self interest on the part of the investigating body.

Part 6, Regulation 29

In our previous response⁷ we argued that a potential problem with the suggested £20,000 limit on damages for pain, suffering and loss of amenity could arise with fatal accident cases, where special damages could be very high. Future loss of earnings, for example, may far exceed this limit yet the case would be subject to the redress system as the general damages falls within the limit. We submitted that the proposed system would not

⁴ *Welsh Assembly Government Putting Things Right A Better Way of Dealing with Concerns about Health Services Consultation Report*, 2 August 2010.

⁵ *Welsh Assembly Government, Putting Things Right Consultation and the NHS (Concerns, Complaints and Redress Arrangements) (Wales) Regulations 2010, A Repsonse by the Association of Personal Injury Lawyers*, dated April 2010, page 1, published here: <http://files.apil.org.uk/pdf/ConsultationDocuments/1748.pdf>

⁶ *Putting Things Right: A Better Way of Dealing with Concerns about Health Services*, Welsh Assembly Government Consultation, published 11 January 2010

⁷ *Welsh Assembly Government, Putting Things Right Consultation and the NHS (Concerns, Complaints and Redress Arrangements) (Wales) Regulations 2010, A Repsonse by the Association of Personal Injury Lawyers*, dated April 2010, page 9, published here: <http://files.apil.org.uk/pdf/ConsultationDocuments/1748.pdf>

be suitable for cases with high levels of special damages. Part 6 Regulation 29 now proposes an overall global financial limit of £40,000 which would prevent those cases with total damages exceeding £40,000 from being placed within the NHS Redress scheme. A more appropriate level for an overall global financial limit would be £25,000. We believe that this figure is more representative of the types of cases which, if this system were to be introduced, should be included within such a scheme as it reflects the current fast track limit, and is also only £10,000 higher than the current Speedy Resolution limit. We also believe that it needs to be made clear from the outset that fatal accident cases, including still birth cases, are excluded from the redress scheme altogether as this is currently not clear in the draft Regulations or the accompanying Explanatory Notes.

Furthermore, Regulation 29 has also been amended to include subsections (4) and (5) which provide for a tariff to be compiled for the purpose of calculating the amount of financial compensation to be offered in accordance with the Regulations⁸. APIL has always believed that any kind of tariff on the amount of financial compensation to be offered is too restrictive and not really appropriate in the circumstances as, of course, each case is individual. Subsection 4 allows for the assessment of damages for pain, suffering and loss of amenity to be calculated on the common law basis and APIL would agree that in order to keep abreast of current law, common law is always the starting point for assessing damages. As there is provision for damages to be calculated on the basis of common law within the Regulations we believe that the addition of a tariff is unnecessary. As well as a tariff not working flexibly, it would be hugely expensive to set up, continue to be maintained and updated. An inflexible tariff that does not correctly represent current case law is also likely to be subject to costly Judicial Reviews from time-to-time.

We would suggest that instead of a tariff, the Welsh Assembly Government could utilise existing guidelines, like the Judicial Studies Board Guidelines for the assessment of General Damages in Personal Injury Cases⁹, which are updated annually. These guidelines

⁸ *Welsh Statutory Instruments 2010 No. (W.) National Health Service, Wales, The National Health Service (Concerns, Complaints and Redress Arrangements) (Wales) Regulations 2010*, Page 29, Part 6 Regulation 29 subsections (4) and (5).

⁹ *Judicial Studies Board, Guideines for the assessment of General Damages in Personal Injury Cases*, currently on its 10th Edition, published by Oxford University Press.

offer much more flexibility than a standard tariff would and are updated regularly to reflect the common law position.

Part 6, Regulation 32

APIL is still concerned that independent legal assistance will not be available to the claimant unless the Welsh NHS body determines that a qualifying liability exists. All concerns raised under the proposed scheme will be unique to the individual, and this makes it essential for experienced, independent legal professionals to be involved, to ensure that injured people receive the level of service they deserve. Without the advice of independent legal professionals there is a high risk of conflicts of interest existing here. The involvement of a specialist legal professional at the outset of cases will ensure that the claimant receives the best possible independent advice. We still, therefore, believe that legal assistance should be made available to the claimant from the start of the scheme, until the proceedings conclude.

As submitted previously we would recommend that specialist legal professionals should be involved from the start of claims where the NHS Trust does not admit liability, regardless of the complexity of the case. Establishing liability in clinical negligence cases is an extremely complex aspect of law, and it is unreasonable to expect an injured individual who is up against the Welsh NHS body and is left to deal with these issues without independent legal advice.

Part 7, Regulation 44

This Part of the draft Regulations deals with how the redress arrangements will operate in cross border situations and with independent providers in Wales. In the same way that we reject the proposals of an overall global financial limit for damages in Part 6 Regulation 29, we continue to reject that proposal here for the reasons stated above.

We have insufficient information about the contracts between the funders and suppliers to suggest whether and how the arrangements will operate in cross border situations and with independent providers in Wales, but clearly there will be difficulties reconciling

different systems and we believe the question itself highlights the unfairness of introducing the scheme in one country, but not in another.

Part 7, Regulation 46 Section (3) Subsection (b)

APIL suggested in its previous response¹⁰ that if there are occasions when the report may cause the complainant significant harm or distress, then the report should be given to the claimants legal representative, who will be able to study the contents of the report, and advise of the next action to take. We still believe that this is true and propose the inclusion of the following paragraph as Part 7 Regulation 46 Section (3) Subsection (c):

(c) where subsection (b) of this part applies, the investigation report must be made available to the claimant's legal representative, as soon as practicable after one is appointed by the complainant.

We submit that if the claimant has been part of the investigation then they should be entitled to see the report that has been made and we also submit that as the claimant has been part of the investigation, the report will not be subject to legal professional privilege and, therefore, the claimant should be able to request it be released.

Part 7, Regulation 47

APIL's concern with this paragraph is that the body under scrutiny is judging itself against a claimant who is not independently represented. I refer to our concerns stated above about the lack of independence offered through this scheme. As stated in our previous response to the consultation published earlier this year, we believe that it is a fundamental right for injured people always to have access to the best possible legal advice, and this is even more important in the context of claims involving clinical negligence, which are often very complex. We remain concerned that the Regulations do not allow for the

¹⁰ *Welsh Assembly Government, Putting Things Right Consultation and the NHS (Concerns, Complaints and Redress Arrangements) (Wales) Regulations 2010, A Repsonse by the Association of Personal Injury Lawyers, dated April 2010, page 11, published here: <http://files.apil.org.uk/pdf/ConsultationDocuments/1748.pdf>*

Welsh NHS to provide independent legal assistance to the claimant unless it is determined that a qualifying liability exists. Please see above at **Part 6, Regulation 32**.

APIL agrees with Section (2) of this Regulation that legal advice must only be sought from firms of solicitors who have a recognised expertise in the field of clinical negligence. We also agree that the Welsh minister should continue to publish a list alongside these Regulations of specialist or panel members. However, we must also state that this list must be kept up-to-date and those listed on it must be checked to ensure that they continue to comply with the requirements of the list.

In terms of compiling the list, APIL would suggest that there should also be guidance published as to how specialist clinical negligence practitioners can apply to be on the list. We submit that it should be possible for any clinical negligence practitioner to apply to be on the list but that the Welsh Ministers might also consider automatic entry on to the panel for APIL accredited members with a special interest in clinical negligence.

APIL accreditation scheme was established in 1999 by the College of Personal Injury Law (CPIL). In 2005 the successful activities of the College were integrated into the APIL membership structure in order to provide a clear single identifiable kitemark to members of the public seeking a suitably qualified lawyer to handle their case.

The accreditation scheme operates in a number of key areas:

- Public information campaign;
- Individual accreditation;
- Corporate accreditation for solicitors' practices or chambers;
- In-house accreditation;
- Accreditation of training events; and
- Monitoring.

A copy of our accreditation brochure, which includes details of the scheme requirements, is included at Annex A.

Conclusion

There still remain several areas of concern for APIL and we hope that these concerns are taken on board and considered thoroughly before the final Regulations are laid before the Assembly.

Encl. Annex A

- Ends -

Association of Personal Injury Lawyers

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ANNEX A

APIL Accreditation Brochure

APIL accreditation scheme ▶



“recognising and building expertise in personal injury law”

Our aims:

- To provide a quality kitemark for personal injury lawyers, their practices and chambers
- To promote a recognised quality standard of competency and expertise
- To provide the consumer with a recognisable independent kitemark of expertise and specialism
- To offer professional, practical, flexible and affordable training, specially developed by and designed for personal injury practitioners, within a structured educational programme

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Introduction

The APIL accreditation scheme was established in September 1999 by the College of Personal Injury Law (CPIL).

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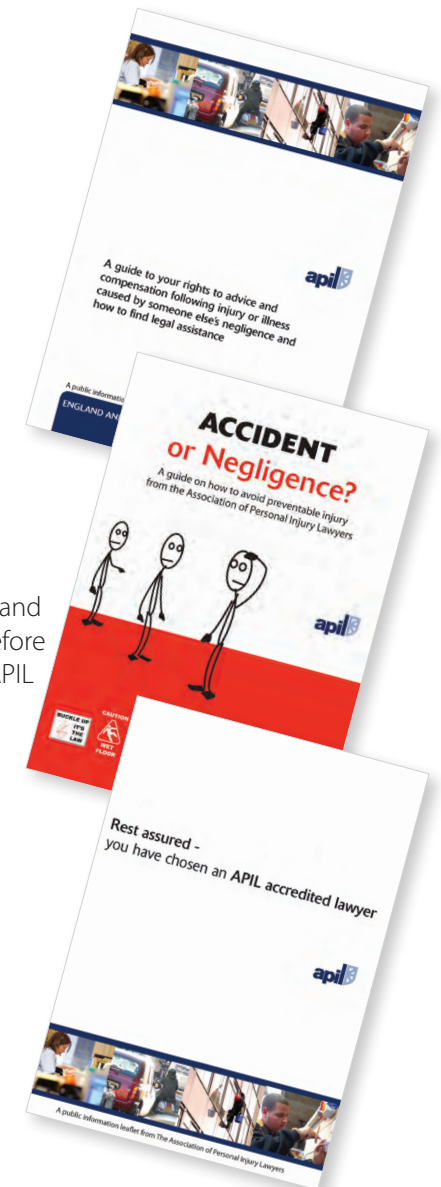
Public information campaign
Individual accreditation
Corporate accreditation for solicitors' practices or chambers
In-house accreditation
Accreditation of training events
Monitoring

Public information campaign no logo - no go

Public confidence in the APIL accreditation scheme is vital in order to meet our objectives and APIL has therefore developed rigorous criteria and procedures to ensure the highest standards of professional service amongst our accredited members. The APIL accreditation scheme is therefore supported by a national public information campaign, directing the public to APIL accredited members and their practices who display the APIL logo and thus carry the APIL kitemark of expertise.

APIL accredited members receive additional marketing and PR support, both nationally and regionally, including the publication and circulation of our booklets:

- "A guide to your rights to advice and compensation following injury or illness caused by someone else's negligence and how to find legal assistance" - circulated to all citizens advice bureaux and libraries in England, Wales, Scotland and Northern Ireland
- "Accident or negligence?" - circulated to schools, MPs, councils, play organisations and CABx
- "Rest assured - you have chosen an APIL accredited lawyer" - designed for the accredited lawyer to hand to their clients



Using the kitemark/logo

Only corporate accredited members may use the APIL logo:



The corporate accredited organisation or office may use the APIL logo, and the words 'accredited organisation' or 'accredited office' on letterheads, the company's website, business cards, and in permitted print and media advertising in accordance with the APIL guidelines.

Individual logos are available for members who have achieved a certain accredited status:



The logo must be placed near or within the members' signature and only demonstrate that the individual is accredited and not the organisation.



Certificates and posters

Certificates and posters are provided to all accredited members to accompany the public information campaign leaflets and further endorse the quality standard.

Governance

The training and accreditation division of the Association of Personal Injury Lawyers (APIL) is governed by an independent Academic Quality Council (AQC) which approves the assessment criteria for accreditation, sets quality standards, approves monitoring that has been undertaken, and makes recommendations for further monitoring activity.

The council membership comprises:

- Head of Legal Education and Training Policy, Solicitors Regulation Authority
- Head of Education Standards, The Bar Standards Board
- Chief Executive, APIL
- Independent academic from another jurisdiction(s)
- Academic members from the university sector
- Independent quality assurance assessor

The council is chaired by the Academic Registrar of the College of Law.

There is no other professional body providing accredited levels of membership, working in tandem with specialised, interactive and structured personal injury law training.

Panels and committees

Four sub groups report to the AQC on an annual basis:

Applications assessment panel

All applications for accredited membership and training are assessed by the APIL applications assessment panel. Applicants are advised whether they have been approved or rejected based upon the APIL marking criteria.

If rejected, individual and corporate applicants will be advised that they do not meet the criteria along with the reasons. Individual applicants will generally be offered a lower level and invited to give further information within a 21 day timescale. Firms may re-apply when they can confirm they meet the criteria.



Appeals panel

The independent appeals panel hears appeals regarding accredited membership applications at all levels and provides final independent assessment.

Senior fellows assessment panel

The independent senior fellows assessment panel considers applications for senior fellowship based on selection criteria approved by APIL's AQC. It also considers selected applications for fellowship based on the marking criteria and standards required.

Training and accreditation committee

The training and accreditation committee oversees and monitors the quality of accredited training, advises on the APIL training programme, and makes recommendations to the AQC for any proposed changes in the assessment procedures and criteria for admission to the APIL accreditation scheme.

Benefits of accreditation

APIL accreditation provides a kitemark of competence and specialist expertise for solicitors and barristers dealing with personal injury claims. This kitemark helps the consumer to recognise expertise and specialisms within the profession. The accreditation scheme demonstrates that an APIL lawyer has achieved a specific standard.

With accredited corporate and individual membership, you will:

- become linked to a major national information campaign, promoting the logo and directing the public to accredited APIL members, their organisation and offices
- benefit from APIL's supporting press and PR activity to support APIL's national public information campaign
- through APIL's consumer website and advertising campaigns, receive independent recognition for you and your organisation's:
 - expertise
 - competencies
 - high professional standards
 - high standards for client care
- ensure your practice/chambers is clearly differentiated.

Areas of expertise

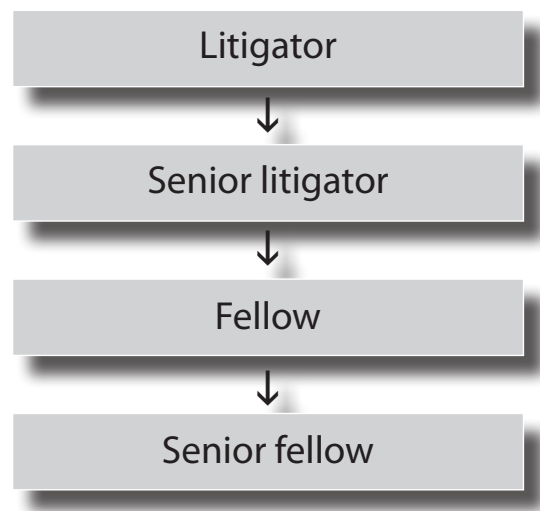
Accredited members may amend their areas of expertise at any time through the members' area of www.apil.org.uk and by linking from "My details".

Individual accreditation

Individual accreditation is free for APIL members. Any practitioner, paralegal or student member of APIL may apply for individual accreditation.

The levels

There are four levels of accreditation:



Senior fellowship is the highest accolade awarded to APIL members.

Eligibility

Eligibility for the various categories of APIL membership is based upon the criteria set out in respect of each of them. The criteria include the range and depth of experience and expertise appropriate to each category. Confirmation of competence is sought through referees.

There are no requirements for an applicant to have had a particular length of experience and, equally, a length of experience alone is not evidence that criteria have been satisfied. All applications will be considered on their own facts and merits, in relation to the criteria.

However, given the nature of the criteria, it is likely that the experience expected of a senior litigator will have taken around five years of PI practice to gain; and that the experience and expertise expected of a fellow will have taken ten years of PI practice to acquire.

Features of individual accreditation

- No charge
- Use of individual accredited logos for senior litigators, fellows and senior fellows within or near signatures
- Senior litigators, fellows and senior fellows may also publicise their individual accredited status, calling themselves one of the following:

- APIL Senior Litigator
 - APIL Fellow
 - APIL Senior Fellow
- } or APIL Accredited Lawyer

- Promotion of senior litigators, fellows and senior fellows under the accredited logo via our corporate banner advertising package within Yellow Pages and Thomsons
- Listings of litigators, senior litigators, fellows and senior fellows on APIL's dedicated consumer information website
- Listings of litigators, senior litigators, fellows and senior fellows sent to enquiries from members of the public, calling APIL's telephone helpline
- Litigators can demonstrate their commitment to the accreditation scheme and ongoing learning path
- Litigators may use the words "APIL accredited member or lawyer" or "APIL litigator" near or within their signature
- Public advised of APIL accredited lawyers' commitment to APIL's consumer charter and code of conduct

Quick accreditation

Please note that APIL members can fast-track their application for accreditation by demonstrating membership of the following panels:

- SRA Accredited Personal Injury Panel - litigator status
- SRA Accredited Clinical Negligence Panel – senior litigator status
- AvMA panel – senior litigator status
- Law Society of Scotland Accredited PI Specialist Panel – senior litigator status

The Law Society's Accident Line scheme run by Abbey Legal Protection also recognises senior litigator status as automatic entry to their scheme.

Members wishing to receive quick accreditation must write to the APIL office stating which panel membership they hold, and confirming that they agree to complete the 16 accredited training hours per annum.

Applying for individual accreditation

There are four forms, one for each level. Applicants should complete the forms as comprehensively as possible and continue on separate sheets if required. The number of referees required increases for each level of membership. Applicants should refer to the separate criteria and guidance notes for each level and submit the relevant number of references required along with their application.

It is preferred that applications are typed wherever possible. Electronic documents for completion are available on the APIL members' area of www.apil.org.uk. Further guidance on which level to apply for can be obtained from the APIL office.

Corporate accreditation

The Association of Personal Injury Lawyers (APIL) introduced a corporate accreditation scheme as part of its public information campaign in September 2005.

APIL's independent research indicated that the public want clear routes and access to accredited qualified lawyers. APIL's accreditation scheme provides firms with the opportunity to differentiate themselves from unqualified, non-specialist providers of legal services. The scheme allows firms to identify themselves as accredited personal injury lawyers and use the APIL accreditation kitemark. The corporate scheme has been integrated into APIL's current individual accreditation scheme, which recognises specialist expertise and skills.

Accreditation is by individual office and there are seven criteria for accreditation:

- The organisation
- Individual accredited status
- Client care
- Training and development
- Supervision
- Quality assurance
- Monitoring

Features of corporate membership

- Use of APIL's accredited logo on business and marketing material, as defined within APIL guidelines
- The opportunity to advertise your firm as "accredited organisation" or "accredited office" in your marketing
- Substantially reduced training rates for all staff at your firm
- Media advice
- Accredited corporate membership certificate
- Each individual accredited organisation or office profiled on the dedicated consumer information website
- Hyperlink facility from the APIL consumer information website to individual APIL accredited organisation or office websites
- Distribution of APIL branded material to CABx and libraries
- Supply of promotional items -booklet, client leaflet, poster, and window sticker
- Further supplies are available for a small fee
- Opportunity to personalize booklets and client leaflets
- Site visits commenting on important issues surrounding your business and client care
- Print advertising – both nationally and locally
- PEOPLE First – consumer linked activity

Applying for corporate accreditation

There is one form for completion which confirms compliance with the criteria. Please see the separate criteria and guidance notes on corporate accreditation for an explanation of the criteria and evidence required. All boxes must be ticked, or expanded upon separately, and the form must be signed by the firm's representative.

An electronic document is available for completion if preferred on the APIL members' area of www.apil.org.uk.

Further guidance can be obtained from the APIL office.

Accreditation of training

APIL training criteria

APIL accredited events must:

- include clear learning objectives
- be aimed at appropriate APIL levels – litigator, senior litigator, fellow & senior fellow – courses should cover no more than two APIL levels (fellow and senior fellow being considered as one level) unless the training is a general update which may cover all levels. APIL members attending a course at a higher level do not qualify for APIL hours
- be of specialist significance for personal injury lawyers
- contain an element of interactive training and learning by experience
- be geared towards the provision of information to keep specialised PI lawyers up to date
- All individual APIL accredited members at corporate accredited firms must attend accredited personal injury update training on an annual basis. This can be either an APIL accredited six hour personal injury update course or, in the case of in-house accredited firms, individual sessions amounting to six hours covering liability, quantum, procedure and funding.

Note: Non-legal courses, for example IT skills, do not qualify for APIL hours.

It is recommended that trainers of accredited events fit one of the following criteria:

- have obtained either senior litigator status or above
- are academic members of APIL
- specialised expert witnesses
- members of the judiciary with a special interest in personal injury law
- fee earners who have attended an "APIL training the trainers" course

APIL trainers, at senior litigator level, (or higher), may claim double APIL accredited hours for delivery of training. APIL provides regular "training the trainers" courses, for those who wish to present.

Evaluation

All events must be evaluated by delegates and the feedback submitted upon request by the APIL assessment panel.

Which training is accredited?

APIL accredits training delivered by a number of means:

- Training within your own organisation or office
- APIL's national open programme
- APIL courses delivered in-house
- Courses delivered by other providers
- Distance learning courses, including DVDs

In-house accreditation (training within your own organisation or office)

In-house accreditation enables accredited members to accrue their APIL hours by attending training delivered in-house. Any firm wishing to be in-house accredited must apply on the relevant form, in accordance with the separate criteria and guidance notes, and agree to be subject to monitoring.

Each organisation or office is required to supply quarterly in arrears a list of courses during the previous quarter, showing:

- learning objectives
- APIL levels
- details of the trainer (with, if appropriate, their APIL accredited level)
- length of course
- a list of those attending claiming APIL CPD hours

Any organisations or offices delivering any training in-house must also apply to the Solicitors Regulations Authority (SRA) for CPD accreditation. Failure to do so makes any training exempt from SRA CPD hours.

APIL's national open programme

APIL provides professional, practical, flexible and affordable training, specially developed by and designed for personal injury practitioners, within a structured educational programme. All APIL events adhere to the APIL training criteria and are offered at varying levels according to expertise and experience.

All courses qualify for SRA, Institute of Legal Executives (ILEX) and APIL CPD hours.

APIL delivers over 150 training events nationally each year, along with 80 regional and special interest group meetings.

APIL training courses delivered in-house

APIL will organise the speaker, materials and expenses and take courses in-house. Any training bought in-house through APIL is automatically APIL accredited.

Firms will usually have applied to the SRA for CPD accreditation. Failure to do so makes any training exempt from SRA CPD hours. For any APIL training courses taken in-house, SRA accreditation can be organised by APIL if desired.

Courses delivered by other providers

APIL encourages other providers to accredit their courses with APIL hours. This is to enable APIL accredited members to have greater choice and flexibility in how they fulfil their training commitments.

All providers seeking APIL accreditation are required to meet the separate criteria and guidance notes set and monitored by APIL's independent Academic Quality Council and apply on the relevant form.

A full listing of accredited events can be found at www.apil.org.uk through the training and external accreditation links.

Distance learning

APIL accredits organisations providing distance learning by the following means:

- Live update one-off webcasts or seminars
- On line regular modular training courses
- Paper based training programmes
- DVDs, videos, CDs, audio cassettes

Each event must last no longer two hours and members may accrue 25% of the 16 hour requirement through distance learning.

All accredited seminars are monitored by the APIL assessment panel.

Maintaining accreditation

INDIVIDUAL

Training logs

To maintain individual accreditation members are expected to keep a record of their training and must accrue 16, APIL accredited, hours personal injury law training annually. A member's accreditation year will start from the date of accreditation. Members wishing to move their accreditation year to fall in line with other CPD years may do so by completing the required number of hours pro rata up to the date of commencement of their preferred CPD year.

Each accredited member's training record will be requested and checked. If a member fails to acquire the 16 accredited hours, their individual accreditation status will be revoked.

Accruing APIL hours

Hours can be obtained through:

- a. Attendance at APIL's national programme of over 150 training events
- b. Attendance at APIL's regional and special interest group meetings – 1 CPD hour may be claimed per meeting
- c. Attendance at APIL's regional forums – 2¾ CPD hours can usually be claimed per forum
- d. Attendance at courses delivered by APIL in-house accredited firms
- e. Attendance at in-house courses which are delivered by APIL or APIL accredited trainers
- f. Attendance at APIL accredited courses delivered by other providers. A full listing of providers and courses can be found at www.apil.org.uk/training
- g. Delivering training for either APIL, other organisations or in-house in accordance with the APIL philosophy. Hours may be claimed at the ratio of 2:1 for every hour of delivery – applies to senior litigators, fellows and senior fellows. Please note a maximum of two thirds (10.5 hours) of your requirement can be accrued in this way
- h. Writing articles for publications/books, at a ratio of 2:1 – applies only to fellows and senior fellows. Please note a maximum of two thirds (10.5 hours) of your requirement can be accrued in this way
- i. Viewing personal injury DVDs produced by APIL accredited distance learning providers*
- j. Participation in web seminars organised by CPD Webinars *

*Please note that distance learning events, as indicated * above, may count towards a maximum of 25% (4 hours) of the 16 hour annual requirement.*



Non-fulfilment of the 16 hour requirement for individual accreditation

An accredited member who has not fulfilled the requirement will have their accredited membership terminated. If the member wishes to be reassessed for accredited membership, the member will need to provide evidence that the requirement has been satisfied in a 12 month period after membership has ceased.

Accredited membership is therefore suspended for at least 12 months until sufficient evidence of compliance is available.

Members working part-time

Part time employees are expected to remain as up to date with their training as their full time counterparts and they are therefore required to gain the full 16 APIL accredited hours each year.

Long term illness/maternity/paternity/parental leave

For an absence of up to three months, accreditation will continue, providing the 16 APIL hours are completed within the relevant 12 month period.

Pro rata hours will be approved if an accredited member has been off work for a period of time of four months or more.

Accredited membership will be suspended in the case of long term absence, i.e. over six months and a request for reinstatement should be made on a case by case basis for approval by the APIL assessment panel.

Retirement policy

An accredited member is deemed to have retired if he is no longer a practitioner in personal injury law. It is accepted that there may be accredited practitioners who no longer have their own caseload but are carrying out an advisory role within their firm.

CORPORATE

Non-fulfilment of the criteria for corporate accreditation

If a firm cannot provide sufficient evidence that it complies with the criteria when it is monitored, the firm will be given six months to improve its standards, after which it will be dismissed from the scheme if the evidence is still not available.

Monitoring policy

To comply with APIL's criteria and standards, a full programme of monitoring activity is in place for all areas of accredited membership and training:

1. Individual membership – training logs and spot checks
2. Corporate membership – remote and onsite monitoring
3. APIL events
4. Training delivered by other providers
5. In-house accredited firms

1. INDIVIDUALS

Training logs

Members must accrue 16 hours of accredited personal injury related CPD annually. The APIL policy is to ensure that the training log for each individual accredited member is checked. A full procedure is in place for reminding members when they will fall due.

Members who have not fulfilled the requirement will have their accredited membership revoked.

Fellowship applications

In addition to approving acceptance at senior fellowship level, the senior fellows assessment panel is asked to consider the assessment of a number of fellowship applications at each panel meeting in order to confirm and approve acceptance at this level.

Spotchecks

Senior fellows are invited into the APIL office on a regular basis to assess a number of applications received during the past week and make recommendations on approved applications taken randomly from files.

2. CORPORATE MEMBERS

APIL monitors compliance of the accreditation criteria and monitoring is undertaken in two ways – remote and onsite monitoring.

Remote monitoring

The records of the firm or chambers, and of the qualified persons named in the application, will be checked against the records of the SRA or The Bar Standards Board, as appropriate, along with the APIL records of individuals named within the application.

APIL carries out a number of “mystery shopper” calls to organisations to monitor quality of service to clients. APIL also checks whether or not members have received client care and PI update training in the relevant period.

Onsite monitoring

APIL conducts a number of monitoring visits to firms annually. This monitoring enables an assessment to be made not only of minimal compliance with the criteria, but also of the effectiveness of the systems that a firm has in place to address those criteria.

Monitoring is undertaken by an independent quality assurance consultant together with a personal injury lawyer.

Judgements are made against the accreditation criteria. In the case of each criterion reviewers consider what evidence is available in relation to it, and evaluate that evidence to enable a judgement to be reached as to whether the organisation is in compliance with the criterion. Recommendations may be made by assessors during the visit.

All firms and branches of firms must renew to confirm compliance on an annual basis, one year after application, and re-accredit after three years.

3. APIL EVENTS

APIL runs approximately 150 training events in each calendar year at all of which delegates are asked to complete an evaluation form and the feedback is analysed upon return to the office by APIL event organisers.

The feedback is distributed to speakers, all events organisers, in particular those responsible for the selection of venues, quarterly to the Training and Accreditation Committee for their consideration and comments, and annually to the independent Academic Quality Council for approval.

Training is monitored randomly by independent assessors to ensure that APIL’s high quality standards are upheld.

4. TRAINING DELIVERED BY OTHER PROVIDERS

All external training providers apply for accreditation on a course by course basis, in accordance with APIL’s training course criteria.

APIL sends along anonymous independent assessors to ensure that the courses adhere to the APIL criteria and that the quality standards are maintained.

PI update materials are requested in advance of the courses to ensure they are fully updated and to the right standard. Other course materials are requested on an ad hoc basis.

All events must be evaluated. Ad hoc monitoring of feedback forms will take place. APIL may ask for the feedback to be submitted for any event that has run.

5. IN-HOUSE ACCREDITED FIRMS

In house accredited firms are asked to provide a listing of forthcoming training events and visits may be made to assess the quality and standard of their training.

Course materials are monitored on an ad hoc basis.

Complaints

Complaints from the public will be dealt with in accordance with procedures outlined in APIL's code of conduct

Complaints from the public in relation to the consumer charter will be directed to the designated client care representative for each corporate member organisation

Redress will be dealt with by the applicant's professional body

Overall monitoring and accreditation policy

If, on review of information, at any stage the APIL assessment panel is not fully satisfied that the required standards are being met, they reserve the right to take whatever steps they consider to be appropriate up to and including withdrawal of accreditation.

If you would like further information regarding APIL's accreditation scheme, copies of the criteria and guidance notes, or if you have any queries regarding the completion of your chosen level of accreditation, please do not hesitate to contact the Accreditation Helpline on telephone numbers:

0115 938 8723

0115 938 8716

0115 938 8720



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