

Ministry of Justice

Stakeholder consultation

**Amendment to the Automatic Transfer Provisions of the Civil
Procedure Rules**



A response by the Association of Personal Injury Lawyers

18 March 2011

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 nearly 5,000 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:

Muiris Lyons – APIL President; and

Cenric Clement Evans – APIL Executive Committee Member.

Any enquiries in respect of this response should be addressed, in the first instance, to:

Katherine Elliott, Legal Policy Officer

APIL

Unit 3, Alder Court, Rennie Hogg Road, Nottingham NG2 1RX

Tel: 0115 958 0585; Fax: 0115 958 0885 E-mail: Katherine.elliott@apil.org.uk

Introduction

APIL agrees with the Ministry of Justice (MoJ) proposals and that automatic transfer should be centred on what would provide easy access to justice for the injured party; however the injured party is not always the claimant and any amendments to the Civil Procedure Rules (CPR) would need to provide for these exceptions.

Executive Summary

APIL welcomes the opportunity to respond to the MoJ's consultation regarding amendments to the automatic transfer provisions of the CPR. As our remit only extends to personal injury cases, we have only answered those questions which relate to this field.

Consultation Questions

Q.3 Do you agree that the CPR should be amended to provide that where a defended claim is for an unspecified amount of money (and mixed claims), claimants should be required to indicate where they would like the claim to be automatically transferred for allocation, case management and hearing?

Q.4 If your answer to Q.3 was no, please provide reasons.

As an organisation APIL can understand the benefits of the Civil Business Modernisation Programme (CBMP), and the need to remove county court processes that do not require judicial intervention from the courts to Business Centres so that county courts can better concentrate on providing support for the judicial process.

In relation to claims for an unspecified amount of money and mixed claims APIL agrees that any proposed location for automatic transfer should be centred on what would provide easy access to justice for the injured person. However, there can be instances where the injured person is not the claimant, such as when the claimant becomes the defendant when a counter claim has been filed.

In principle APIL agrees with the proposed amendments to the automatic transfer provisions of the CPR, however, we suggest that there should also be included within

the CPR the opportunity for exceptions. The exception would provide that when filing a defence in a counter claim, the defendant of the counter claim can request that the automatic transfer provisions are ignored in this instance and that the case proceeds to court for a judge to determine where the case will be heard.

A further exception that APIL can identify is language barrier issues that may become apparent with regards to Wales. A Welsh citizen has the right to be heard in Welsh and so should also be able to request that the automatic transfer provision of the CPR is ignored and the case should continue to proceed before a judge who will then decide where the case will be heard.

We understand that the proposals to amend the automatic transfer provisions of the CPR have been made to quickly process the majority of these cases and we agree with it in principle, however it should be made clear in the amended provisions of the CPR that there may be exceptions and that in exceptional circumstances, such as when a counter claim is filed, the judge can exercise their discretion.

- Ends -

Association of Personal Injury Lawyers

- ▶ 11 Castle Quay, Nottingham, NG7 1FW ● T: 0115 958 0585
- W: www.apil.org.uk ● E: mail@apil.org.uk