

**Department of Justice
Review of the level of statutory bereavement damages in
Northern Ireland**



**A response by the Association of Personal Injury Lawyers
November 2015**

The Association of Personal Injury Lawyers (APIL) is a not-for-profit organisation with a 25-year history of working to help injured people gain access to justice they need and deserve. We have around 3,700 members, committed to supporting the association's aims and all of whom sign up to APIL's code of conduct and consumer charter. Membership comprises mostly solicitors, along with barristers, legal executives and academics.

APIL has a long history of liaison with other stakeholders, consumer representatives, Governments and devolved assemblies across the UK with a view to achieving the association's aims, which 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;
- To provide a communication network for members.

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

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Introduction

As an organisation which campaigns for the rights of people injured through no fault of their own, and also for bereaved families, APIL welcomes this consultation by the Department of Justice. This year APIL has met with MLAs to highlight the difference between bereavement damages in the UK, and we are pleased that the Department is now considering an increase in the level of bereavement damages in Northern Ireland. Bereavement damages in Northern Ireland are lower than anywhere else in the UK and Ireland, and this is simply unjust. A life in Northern Ireland is not worth less than a life elsewhere. No amount of money can ever replace a loved one who has died, but bereavement damages play an important role in supporting the bereaved person/family at an extremely difficult time, and providing recognition from society of the grief suffered.

The bereavement damages postcode lottery which exists throughout the UK is highly unfair, and APIL welcomes any steps which are taken to redress the balance.

Q1 Do you think the level of bereavement damages should be increased in Northern Ireland?

Yes. The level of bereavement damages in Northern Ireland is offensively low at present. No amount of damages could replace a loved one, but bereavement damages play an important role as acknowledgment that a death has been caused needlessly, and recognition of the grief suffered by families when their loved one has died as the result of another person's negligence. The fact that a loved one has died needlessly and prematurely as a result of negligence can only increase the sense of pain and loss of the bereaved. The arbitrary figure of £11,800 currently awarded in Northern Ireland is no comfort at all to relatives who need to understand that the death of their loved one is taken seriously by society.

An increase is necessary, as bereavement damages are set so low that it is cheaper to kill than to maim, and this cannot be right. The level of bereavement damages in Northern Ireland is, for example, less than the level of damages that may be awarded in a case where a person has lost two front teeth.¹

Further, a life in Northern Ireland is not worth less than elsewhere, and a solicitor in Northern Ireland should not have to explain to their client that the amount of money they will receive as acknowledgement of their loved one's death and the grief they suffer as a consequence is less than it would be elsewhere in the UK or across the border in the Republic of Ireland. If a person is killed as a result of another's negligence in Northern Ireland, their family will receive over £1,000 less in bereavement damages than a family in identical circumstances in England or Wales, up to £13,000 less than a family in identical circumstances in the Republic of Ireland, and most likely much less than a family in identical circumstances in Scotland (where bereavement damages are not a fixed sum, but awarded on a case by case basis). That a bereaved person/family in Northern Ireland is short-changed in this way will surely increase the distress and upset that they are experiencing due to the loss of their loved one.

It is time for the balance to be redressed, and we welcome the Department of Justice's decision to re-examine the level of bereavement damages. If a bereaved family in Northern

¹ <http://www.jsbni.com/Publications/personal-injury-guide/Pages/Facial-injuries.aspx>

Ireland were to receive at least as much in bereavement damages as a family in an identical situation in England and Wales, this would go some way to redressing the balance and dismantling the postcode lottery of the law on bereavement damages. The consultation document itself at paragraph 2.3 recognises that the number of bereavement awards is relatively small, so the financial impact on the government of ensuring parity, fairness and justice, will be minimal.

Q2 Do you think the level of bereavement damages should increase to the same level as England and Wales?

It is time to put an end to the geographically lottery of bereavement damages. We believe that the level of bereavement damages should be increased to at least the same level as England and Wales - £12,980. A life in Northern Ireland is not worth less than a life elsewhere in the UK. For the position to remain as it is, is insulting to bereaved families throughout Northern Ireland.

Q3 Do you think the level of bereavement damages should increase in line with inflation as measured by the CPI?

Yes, we believe that the level of bereavement damages should increase in line with inflation as measured by the CPI, and the level should be reassessed annually. This would prevent the level of bereavement damages stagnating as has been the case in Northern Ireland since 2013.

Q4 If you consider options 1 and 2 to be inappropriate, do you think the level of bereavement damages should be increased by another method?

APIL welcomes any steps towards bringing an end to the bereavement damages postcode lottery i.e. increasing the level of bereavement damages in line with England and Wales. APIL has, however, been campaigning for a number of years for an increase in the level of bereavement damages in England and Wales, as this too is - in reality - unsatisfactory. Results of a 2013 public survey commissioned by APIL indicated that over 80 per cent of the people asked felt that bereavement damages should be over £15,000². Criticism of the amount awarded also made headlines earlier this year, when the mothers of two young girls who died in a car crash called the payment “pathetic”³.

We maintain that the fairest way to assess bereavement damages is not to have an arbitrary fixed sum, but for the level of bereavement damages to be calculated on a case by case basis – as takes place in Scotland. Bereavement damages should be awarded on a case by case basis throughout the UK – ensuring fairness for families throughout England, Wales, Scotland and Northern Ireland.

- Ends -

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² <http://www.apil.org.uk/files/campaigns/bereavement-damages-research-report-2013.pdf>

³ <http://www.dailymail.co.uk/news/article-3238162/Mothers-two-teenage-girls-killed-car-crash-say-13-000-bereavement-compensation-increase.html>

