



OCCUPATIONAL HEALTH FORUM FOR NORTHERN IRELAND

“WORKING FOR HEALTH”

**A PROPOSED WORKPLACE HEALTH STRATEGY FOR NORTHERN
IRELAND**

A RESPONSE BY THE ASSOCIATION OF PERSONAL INJURY LAWYERS

JANUARY 2003

The Association of Personal Injury Lawyers (APIL) was formed in 1990 by claimant lawyers with a view to representing the interests of personal injury victims. APIL currently has over 5300 members in the UK and abroad, 138 of which are based in Northern Ireland. Membership comprises solicitors, barristers, legal executives and academics whose interest in personal injury work is predominantly on behalf of injured claimants. APIL does not generate business on behalf of its members.

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WORKING FOR HEALTH

1. APIL supports fully the forum's efforts to improve health and safety in the workplace in Northern Ireland and welcomes the proposed workplace health strategy, as outlined in the consultation paper. We agree that it will take many years of commitment and dedication on behalf of all interested parties to achieve "a work culture, which protects, promotes and supports health and well-being" and that this can be achieved through support, awareness, compliance, rehabilitation and intelligence. Our comments on each of these elements appear below. On a more general note, we are concerned that the strategy does not seek, as it should, to address workplace fatalities, which are of major concern.

SUPPORT

2. APIL agrees that the provision of good and easily accessible occupational health support will be essential to the success of the strategy and we support all of the action points identified on page 17 of the consultation paper. We are concerned, however, about the proposed timings. It is proposed that an action plan, including specific targets for approval by the Workplace Health Strategy Implementation Group, should be developed by December 2003, whereas the information gathering exercises should be completed by March 2004 or March 2005. We believe it would be preferable to develop the action plan after:
 - Assessing current levels of occupational health support provision in Northern Ireland and identifying areas for improvement; and
 - Examining models for the provision of support services available elsewhere and assessing their potential for use in Northern Ireland; and
 - Carrying out a feasibility study to identify cost effective mechanisms for the provision of an occupational health support service.

AWARENESS

3. The key to improving health and safety in the workplace must be ‘prevention’ and interested parties can only prevent injury and ill health if they are aware of and understand:

- The risks that could arise in individual workplaces;
- How those risks could be prevented; and
- How the symptoms of injury and ill health can be identified at the earliest possible stage.

We agree, therefore, that action should be taken to increase awareness of the relevant issues. One of the action points is to “ensure that workplace health issues are addressed at all levels of education and on all business and management training courses where appropriate” and APIL fully supports this. In fact, as we have submitted in the past in the context of other consultations, we believe that health and safety training programmes should be compulsory for both employers and employees. In respect of employees, we believe that employees should receive training so that they can recognise symptoms associated with common workplace illnesses and injuries, such as repetitive strain injury and stress. This is because the earlier that ill health is recognised, the greater the chance that its’ impact can be minimised and the relevant employee rehabilitated.

4. Whilst we support the action points identified on page 18 of the consultation paper, we do think that one of the first steps to be taken should be to identify the resources needed to develop an effective workplace health awareness programme. If this is not achieved before the development of an action plan, there is a risk that the action plan will be unrealistic and its objectives not achieved due to resourcing problems.

COMPLIANCE

5. As noted by the forum, employers are subject to wide-ranging legal obligations, which are imposed to protect those at risk from work-related activities and if employers complied with those obligations, health and safety would be greatly improved. Ensuring compliance must, therefore, be an essential part of any health and safety strategy. If a high rate of compliance is to be achieved, the HSE (Northern Ireland) must:

- Monitor whether employers are complying with their obligations through regular and thorough inspections;
- Take enforcement action where there is sufficient evidence to suggest that an employer is in breach of health and safety law.

We welcome, therefore, the development of a programme of enforcement initiatives on priority areas such as musculo-skeletal disorders and work-related stress and the securing of consistent enforcement action by all enforcing authorities and throughout all industry sectors on health issues. It must be noted, however, that monitoring and enforcement action must be stringent, as otherwise there will be no incentive for complacent employers to change their behaviour.

6. Whilst monitoring and enforcement action are key to improving health and safety, we appreciate that there are complementary means of encouraging compliance with health and safety obligations as recognised in the proposed programme in relation to compliance. We support the encouragement of the involvement of safety representatives in promoting compliance on health issues. Workers have first hand experience of the actual conditions of work and are often the first to identify potential problems. It is very important, therefore, that established channels of communication exist between workers and employers. We also agree that the insurance industry could play an increased role in securing health and safety, although the system of employers' liability insurance is currently the subject of Government review.

7. The forum could also consider the role of directors in ensuring that health and safety is a company priority. The responsibilities of directors' in this respect are currently on a voluntary footing, although APIL continues to submit that they should be placed on a statutory footing if there is to be any impetus for a change in attitude at board level. We recognise, however, that such an initiative would still fail to catch small businesses, which are prevalent in Northern Ireland and this is why it is important to educate small businesses, through information leaflets or otherwise on the economic case for complying with health and safety legislation. We believe this could, and should, be achieved before March 2005 as proposed.

REHABILITATION

8. We do not believe that there can be any objections to the objectives of the action programme in relation to rehabilitation and APIL supports all of the action points identified on page 20, subject to the point made below. APIL seeks to encourage the use of the Code of Best Practice on Rehabilitation, which seeks to encourage the use of rehabilitation where an injured victim claims personal injury compensation. This, however, has limited application and so we support any action that allows rehabilitation to be viewed from a wider perspective.
9. It is stated employers should be "encouraged" to develop rehabilitation and return-to-work programmes. As we have previously submitted in the context of other consultations, we believe that employers should have legal duties in respect of rehabilitation, as they do in respect of conducting risk assessments. This would include a legal duty to consider an employee's request for rehabilitation. The current lack of investment in rehabilitation is, however, a major limiting factor on the availability of services. Adequate funding is a necessary precursor to a successful rehabilitation scheme. If, as we hope, rehabilitation becomes more widely available, it will also be crucial that the organisation of rehabilitation services is developed and

that the capacity is extended. There are currently inadequate supervisory mechanisms to cover all those who work in the rehabilitation business. There must be a mechanism for ensuring quality and consistency of rehabilitation for the benefit of the victims of injury.

10. In addition, the forum proposes the evaluation of the economic benefits of effective rehabilitation programmes. If duties in relation to rehabilitation are not placed on a legal footing, it may be worth considering the inclusion of the economic case for rehabilitation in any literature distributed to employers on the economic case for complying with health and safety law, as a means of encouraging its use.

INTELLIGENCE

11. APIL supports the need to develop robust mechanisms to collate intelligence, which would allow the evaluation of the effectiveness of the strategy and the action points identified on page 21. This would allow for the external collation of health and safety related information. The forum could also consider, however, the collation of health and safety by businesses internally by requiring (as we would propose), or encouraging them, to investigate incidents or circumstances that have led to death, injury or ill health. Investigating the causes of death, injury or ill health would help employers to understand more readily how the same occurrence could be prevented in the future.

CONCLUSION

12. In summary, subject to some concern about the proposed timings of some of the action points, APIL is supportive of the forum's proposed workplace health strategy for Northern Ireland and its objective in seeking to create a "work culture which protects, promotes and supports health and well being". We are encouraged to see

that specific programme action teams will be established to ensure that all relevant action will be taken and that an implementation group will oversee the whole process.