

**ADVICE SERVICES ALLIANCE / CITIZENSHIP FOUNDATION / LEGAL
ACTION GROUP (LAG)**

TOWARDS A NATIONAL STRATEGY FOR PUBLIC LEGAL EDUCATION

**A RESPONSE BY THE ASSOCIATION OF PERSONAL INJURY LAWYERS
(APIL23/04)**

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The Association of Personal Injury Lawyers (APIL) was formed by claimant lawyers with a view to representing the interests of personal injury victims. APIL currently has around 5,000 members in the UK and abroad. Membership comprises solicitors, barristers, legal executives and academics whose interest in personal injury work is predominantly on behalf of injured claimants.

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

- To promote full and prompt compensation for all types of personal injury;
- To improve access to our legal system by all means including education, the exchange of information and enhancement of law reform;
- To alert the public to dangers in society such as harmful products and dangerous drugs;
- To provide a communication network exchanging views formally and informally;
- To promote health and safety.

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

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TOWARDS A NATIONAL STRATEGY FOR PUBLIC LEGAL EDUCATION

Executive Summary

1. APIL welcomes the opportunity to respond to the Legal Action Group's (LAG) discussion paper entitled 'Towards a national strategy for public legal education'. In summary, APIL agrees that there is urgent need for more public legal education. We feel that the current 'compensation culture' myth would be dispelled if more people had a better understanding of the law, in particular the law of negligence.
2. APIL considers that in order for legal education to be truly effective, it needs to be provided as early as possible. APIL proposes that there should be a basic legal rights module in the newly introduced citizenship course which is currently being taught in secondary schools. In addition, this could be developed further with scope for the establishment of a GSCE and/or 'A' level in legal rights.
3. In order to ensure that school leavers are not excluded from receiving a similar grounding in what constitutes a person's basic legal rights, APIL suggests that 'citizenship days' should be held for their benefit and information. In fact, the concept of 'citizenship days' should be extended so as to target the general public and allow people to gain access to basic legal education.
4. A further means of providing legal education to the general public would be the establishment of adult education classes which included legal rights and distribution of information via mass media. In respect of the mass media, APIL would encourage the BBC's consumer programmes to promote and explain people's basic legal rights within their current programme structures.

5. APIL feels that the responsibility for co-ordinating and managing legal education on a national level should lie with the Department for Education and Skills (DfES).

6. Finally, while not directly considered within the consultation document, APIL considers that there is a case to be made for providing all employees with details of their legal rights and obligations in the workplace. An employer can discharge his responsibility to give this information by setting out the worker's legal rights and obligations during the health and safety induction when initially joining the company.

Introduction

7. APIL is fully supportive of the paper's contention that "*public legal education is a right*" and agrees that there is an "*urgent need ... to promote public awareness and knowledge of legal issues*"¹. In particular, APIL feels that there is currently a significant need for wider public knowledge about the law of negligence and the situations which justify a personal injury claim. The lack of effective knowledge in this area has meant that claiming for a personal injury has wrongly become synonymous with the myth of a 'compensation culture' - a myth perpetuated by both the media and the insurance industry. A recent report by the Better Regulation Task Force - a Cabinet Office-endorsed organisation - highlighted this problem stating "[m]any of the stories we read and hear [about compensation culture] either are simply not true or only have a grain of truth about them"². The Lord Chancellor subsequently emphasised the dangers of the compensation culture myth by stating that "[t]he real damage ... is where organisations behave differently because they fear the prospect of litigation. As the stories of a compensation culture abound, so an unrealistic fear of litigation grows"³. APIL believes that by providing effective national public legal education - which informs people of their rights and the necessary elements needed for a personal injury claim - the damaging perception of a rampant 'compensation culture' can be tackled and hopefully laid to rest.

Compulsory legal education

8. APIL considers it essential to instil basic legal knowledge in a person as early as possible in their development, so that it can inform their ongoing sense of social responsibility. We agree that "[l]egal education is a key competent of a holistic approach to legal services" and that acquiring pre-emptive or defensive legal knowledge 'just in case' will aid "*life-long*

¹ Consultation document – page 1

² Better Regulation Task Force – Better Routes to Redress (May 2004) page 12

³ Speech given by Lord Falconer at the Insurance Time's *Future of Personal Injury Claims* seminar – 12.11.04

*learning [and] general life skills*⁴. APIL proposes, therefore, that teaching legal rights and concepts should be included within compulsory education. The most appropriate forum for such information would be the recently introduced school-based citizenship courses. Citizenship education became a statutory national curriculum subject in secondary schools in September 2002. Citizenship provides learning opportunities for pupils, from the Foundation Stage, through Key Stages 1 to 4 and for students in the post-16 sector, to gain the knowledge, skills and understanding necessary to play an effective role in society at local, national and international levels. APIL believes that basic legal knowledge, which could be included as a model on the citizenship course, will help further these aims.

9. APIL considers, however, that one possible difficulty with citizenship courses is that they are only for under-16 year olds still enrolled in compulsory education. This means 16-plus school leavers, who may have missed the initial introduction of citizenship courses into the classroom, will be left behind without a grounding in basic legal knowledge. APIL therefore supports the concept of school-leavers attending 'citizenship days'. Citizenship days involve presentations from various members of the local community (e.g. police, doctors, etc.) to help educate school leavers about relevant community topics. By including a presentation on personal injury law in the citizenship day, possibly by an APIL member, the possible gap in 16-plus school leavers' knowledge would hopefully be bridged. While APIL understands citizenship days do take place in some schools, due to the value they provide, we would like to see them become a more frequent addition to the academic calendar.

10. APIL suggests that there may be an opportunity for a GCSE⁵ and/or an 'A' level⁶ in legal rights to be offered to pupils, in addition to the inclusion of basic legal rights in citizenship courses. There is a growing need, and

⁴ Consultation document page 2, paragraph 7

⁵ General Certificate of Secondary Education (GCSE) – typically a two-year course taken by pupils aged 14 to 16.

wish, for academic topics being taught in schools to have a practical application and relevance outside the classroom. APIL believes that a course detailing what an individual's legal rights and obligations are, as well as basic law making and legal decision making, will therefore be extremely helpful to young people.

Public legal education

11. While APIL is committed to introducing legal knowledge into the education system at the earliest possible stage, it is essential that basic legal education is also offered and available to the public at large. APIL suggests that wider public legal education should be provided via community events, adult education and possibly national television coverage.

12. APIL proposes that – following on from the idea of ‘citizenship days’ within schools – short courses about individuals’ legal rights should be held at local community locations. In order to make such events as effective as possible, they should be held relatively regularly and be supported by a dedicated public information campaign. APIL is happy to support any such community-based initiative, and would be willing to provide any assistance needed in relation to personal injury legal rights. APIL has more than 5000 members, many of whom would be prepared to give up some of their time to speak about the basic legal principles involved in tort and negligence law.

13. APIL is also prepared to help in any moves to design and implement adult education courses relating to legal rights in terms of personal injury actions. The College of Personal Injury (CPIL) is APIL's dedicated training arm, and already designs and offers courses on all aspects of personal injury law. CPIL is independently monitored by the Academic Quality Council (AQC), administered by The College of Law, and accredited by The Law Society and the General Council of the Bar. The

⁶ Advanced Level certificate – ‘A’ level

AQC oversees the academic quality and integrity of all CPIL programmes. APIL and CPIL have many years of experience in designing programmes, for all types of audience, and would be able to provide support in relation to wider public legal education. APIL also has experience of presenting information about legal rights in an academic context to university students, many of whom were very interested and unfamiliar with their legal rights.

14. APIL suggests that, in addition to the already proposed GCSE and 'A' level in legal rights, there could be an APIL-endorsed adult education module about people's rights in respect of negligence and tort law. In order to make sure that as many people have the necessary information to attend such a course, APIL feels that the Government should ensure it is publicised widely and is included in any wider campaign concerning public legal education.

15. APIL believes that any national strategy for public legal education must try to attempt to engage the wider population. In order to do this effectively, any educational scheme should be actively promoted through the mass media. APIL suggests that television consumer shows - such as 'Watchdog' - should be used to inform people about their basic legal rights, both in the context of consumer law but also in respect of personal injury law. In addition, APIL considers that there may be scope for a dedicated programme about legal rights, and feels that such a suggestion would fit with the BBC Chairman's recent pledge that the BBC will be "*placing the public interest before all else*"⁷ when commissioning future schedules. Indeed with the introduction of BBC digital channels, there are now considerably more outlets for consumer led programmes than ever before.

⁷ Michael Grade – BBC Chairman – Future of the BBC: Chairman's Prologue – BBC website (see <http://www.bbc.co.uk/thefuture/bpv/prologue.shtml> for full details)

Responsibility for public legal education

16. APIL feels that any national strategy for public legal education should be co-ordinated and managed by the Department for Education and Skills (DfES). While the consultation paper highlights a number of possible government departments and non-governmental organisations which could be responsible for public legal education, APIL believes that due to the fact that the message being delivered is educational in nature, DfES should dictate the delivery of this information to the general public. Furthermore, if APIL's proposal to introduce a legal rights module into schools' citizenship courses is to be enacted both quickly and efficiently, the educational governing department dealing with the course is the most appropriate body to do so.

Health and safety induction

17. APIL suggests that there should be a duty on employers to tell workers about their legal rights and obligations in regard to the workplace. This information could be provided in the initial health and safety induction when commencing a job or placement. While not explicitly discussed within the consultation document, APIL believes it is essential that legal education is delivered to the areas in which it is most needed – such as the workplace. Although 2.5 million people have an accidental injury each year, many of which will be the fault of their employer, less than a third of these people actually claim⁸. If more people knew their rights, employers would be compelled to operate a stringent safe and healthy regime so as to prevent avoidable injuries and possible litigation. In practice, this would mean a health and safety induction would include both an individual's legal rights and obligations in the workplace, and more practical health and safety requirements – i.e. what to do in a fire drill.

⁸ Citizens Advice press release – 'Unscrupulous claims farmers are adding insult to injury on personal injury claims, says Citizens Advice' – released 13.12.04 (see <http://www.citizensadvice.org.uk/press-041213> for copy)

18. APIL is encouraged to note that within the current Department of Work and Pensions (DWP) employment liability compulsory insurance (ELCI) pilot scheme there is a duty placed upon employers to explain the legal rights and obligations to each employee upon arrival at the company. APIL contends that the preservation of an employee's rights is paramount – as evidenced by the previous stipulation – but it is hoped this scheme will make the litigation process faster and more efficient, therefore reducing the amount of adversarial frictional costs incurred on both sides.