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## “LOST OPPORTUNITY” AS GOVERNMENT FAILS TO ADDRESS NEED FOR DAMAGES INCREASE

Injured people will bear the brunt of the Government’s failure to keep the law of damages up to date, lawyers have said.

In its response to the Ministry of Justice (MoJ) consultation on the Draft Civil Law Reform Bill\*, the Association of Personal Injury Lawyers (APIL) said several Law Commission recommendations relating to personal injury compensation had once again been ignored by the Government.

“I am exasperated that the Government has missed another opportunity to implement Law Commission recommendations from as far back as 1999\*, which said general damages in most cases should be increased by at least 50 per cent,” said APIL president, John McQuater. “It is ironic that in her foreword to the consultation, MoJ minister, Bridget Prentice, says she is grateful to the Law Commission for its work in keeping the civil law up to date. Why, then, have these important recommendations yet to be implemented?”

In its response to the MoJ, APIL acknowledged the Government’s proposals to extend the list of people eligible to claim for bereavement damages under the Fatal Accident’s Act, but said the extension did not go far enough. There is no provision for a parent to receive bereavement damages for a child who dies over the age of 18, for example.

“It goes against the natural order of things for parents to lose a child,” said McQuater. “The suffering they endure is the same no matter how old that child is and, when that child is killed through negligence, that compounds the suffering.”

“It is absolutely wrong to suggest parents should not be entitled to bereavement damages if the child is over the age of 18,” he said. “It suggests that when a child reaches that age, the suffering and pain parents feel will somehow be less than it would be for a younger child.”



APIL said the Westminster Government should learn from its Scottish counterpart, where the system for awarding bereavement damages is much fairer to relatives.

"In Scotland there is no difficulty recognising the closeness between parents, grandparents, siblings and other people who lived with the deceased as part of a family," said McQuater. "The law in England and Wales should offer bereaved people no less comfort than those in Scotland."

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Note to editors:

- \* In Law Commission report 257 – Damages for Non-Pecuniary Loss, published in 1999, it was recommended that damages for non-pecuniary loss should be increased by at least one and a half times (for damages above £3,000) and that, for damages valued between £2001 and £3000, that they should be subject to a series of tapered increases of less than one and a half times. The Law Commission also stated: "we recommend that, if the minimum increase recommended by us...is not achieved by the judiciary within a reasonable period (say three years from the date of publication of this report), it should be implemented by legislative enactment."
- APIL's full response to the consultation is available online at <http://www.apil.org.uk/APILResponds.aspx>.