

November 2002

AP199

PERIODICAL PAYMENTS - CONCERN OVER DETAIL

Government plans to give courts the power to order periodical payments for future loss and care costs in personal injury cases have been greeted with a cautious welcome by the Association of Personal Injury Lawyers (APIL).

“While, on the surface, the Government’s proposal makes a lot of sense, we are very concerned about how the detail will develop,” said APIL president Patrick Allen.

“Periodical payments can be good for claimants who fear their compensation may run out if paid in a lump sum,” he said. “On the other hand, they create a lifetime relationship between the injured person and the defendant, which some claimants will find extremely difficult.

“For this reason, we believe it is imperative that a judge considers the wishes and needs of the claimant before deciding whether to order compensation to be paid through a periodical payment.”

With the Government now considering how best to provide guidance on the use of periodical payments, APIL will seek to discuss the association’s idea of the development of a practice direction to help the judge come to a decision.

The practice direction would require the court to consider, at the very least:

- the claimant’s wishes
- the claimant’s future plans
- financial security of the defendant and/or his insurer
- the effect of any compromise to reflect, for example, contributory negligence or litigation risk
- the nature and extent of future uncertainties

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