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Government urged to ‘grasp the nettle’ in damages law reform

Reform of the law of damages must not be a compromise between the needs of seriously injured people and those who have caused them harm, lawyers have warned.

The Association of Personal Injury Lawyers (APIL) welcomed many proposals in the Government’s consultation on the law of damages. But concerns have been raised by the suggestion that there is a need to ‘balance the interests of claimants and those of defendants and their insurers’.

“The Government has done much in this paper to recognise the limitations of the current law, and we welcome discussion about claims for psychiatric illness, some innovative ideas in relation to the Fatal Accidents Act, and moves to relieve the burden from local authorities of paying for care,” said APIL president Martin Bare.

“But we are extremely concerned that a desire to discuss what is fair to both sides will override consideration of what is fair and full compensation to the victim of the defendant’s negligence.

“Damages for pain and suffering have not increased in line with Law Commission recommendations made eight years ago. The number of compensation claims being made has been generally falling for several years,” he went on. “If ever there was a time for the Government to go further to really grasp the nettle of full and fair redress for needless and preventable injury, surely this is it.”

In its response, APIL calls for bereavement damages to be increased, and points to Scottish law as an example of how bereavement damages are awarded fairly by the court system.

The association also points out that rehabilitation will be seriously affected if injured people are prevented from obtaining health care from the private sector rather than the NHS.

“Even if NHS waiting times are substantially reduced, it’s highly unlikely that the early intervention needed to get the claimant back to work quickly will be available from the NHS alone,” said Martin.

“And where the claim is against the NHS, it would be inhumane to force a claimant to use the same NHS service which caused the injury.”

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Note to editors:

A copy of APIL’s full response can be found at

<http://www.apil.com/RespondingOnBehalfOfInjuredPeople.aspx>

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