

APIL MEETING 06/11/2008 - HOLIDAY INN, NOTTINGHAM

This meeting was chaired by Steve Fitzwalter and there were approximately seventeen attendees. A late apology was received from Julie Walker.

Nick Xydias of Counsel gave a talk on the Provision & Use of Work Equipment Regulations. He provided a hand out and gave a power-point presentation in relation to the Regulations and current cases. Nick is a member of No 5 Chambers and regularly undertakes work for Claimant Solicitors throughout the region. It was a very well prepared speech and was received extremely well.

John McQuater, Vice President of APIL, then gave an up to date talk in relation to the actions of the Executive Committee. The following subjects were mentioned:-

(i) The New Claims Process

The Ministry of Justice had published some details in relation to the up to date position and these were still being assessed by APIL. They were restricted to road traffic accidents. It was likely to involve settlement packs and the Fast Track changing to £25,000.00. There would be fixed costs and issues still remain to be decided. There is no date for implementation, but it was anticipated that it would be some time in 2009 and there was certainly pressure from the government to have a Scheme implemented.

(ii) Insurance Histories

APIL had submitted a detailed document in relation to the need to keep Regulation 44 requiring Insurers to keep records for forty years. There had been some disingenuous comments by the Defendant Lobby.

(iii) People First

APIL had been involved in the production of a new information document aimed at increasing publication.

(iv) Disease Exceptionality Clause

This was the clause to exempt a claim from the normal fixed success fee if it was particularly complex. Although it had been agreed in principle, no conclusive formula had been reached with the Defendants. John indicated that examples were needed for this clause and that it was necessary to continue meeting with the Ministry of Justice in relation to this.

(v) **Cost Challenges**

The general feeling was that there were still a lot of cost challenges going on in relation to technical matters and APIL members were encouraged to provide real examples to the APIL office. Similar comments were made in relation to predictable costs.

(vi) **The Queen's Speech**

New parliamentary procedure allows early release of details of the Queen's Speech which is due in December. There will be new provisions for a Coroner's Bill and a draft Civil Law Reform Bill on damages. Responses are available from the APIL office and have been made to the government.

(vii) **Third Party Capture**

APIL has recently prepared a detailed document entitled Insurers Dealing Rough Justice to Constituents, which has been sent to MPs and civil servants raising this particular issue for their attention. MPs were aware of constituents coming to them with problems. Again, members were encouraged to feed examples in to the APIL office.

(viii) **Asbestos Disease**

APIL had met with the Ministry of Justice as a stakeholder in relation to a Pre-Action Protocol for Mesothelioma claims and it was clear that this was going to be something that the government were looking at keenly.

In relation to pleural plaques, the Ministry of Justice had received seven thousand responses and it was hoped that there would be pressure for the government to act sooner rather than later. APIL's response can be found on their website. There is a Bill going forward in Scotland which will overturn the pleural plaque decision.

Carrying on with asbestos disease, the new Mesothelioma Regulations came into force on 1st October 2008 allowing a wider range of applicants to receive an award. It is similar to the Pneumoconiosis award, but allows secondary exposure and self employed persons to recover an award from the government. It was worth reviewing old cases in relation to this.

(ix) **Admin Redress Bill**

Although this was a technical bill dealing with matters of constitutional issues, hidden within the same were various provisions that could well curtail the rights of Claimants to bring claims against government departments and would, for example, include the possible of pavement trippers having to prove that a government body, including possibly a council, was at serious fault, i.e. a level higher than the current civil balance of probabilities test. APIL have submitted a detailed response to this in November 2008.

John also detailed how APIL had been very active in dealing with issues where the media had been raising the spectre of the compensation culture and also in relation to comments made by the NHS Litigation Authority in relation to funding of claims and the like.

Further, APIL had submitted a detailed letter to Jack Straw following his comments at the Labour Party Conference, which had yet to receive a reply.

The venue was generally agreed to be satisfactory and there was a discussion about the next meeting in May or June.

The meeting was then brought to a close.

Steve Fitzwalter
Rowley Ashworth
East Midlands Secretary
6.11.08