

## APIL South West Regional Meeting – 7<sup>th</sup> January 2009

### Venue:

Marriott Royal  
College Green  
Bristol

### Attendees:

Chris Chan – Co-ordinator  
Gary Lightwood – Secretary

**Attendees – 15 (22 registered to attend)**

### **Speakers:**

1. Kevin Shaw – Dorset Orthopaedics – Prosthetics and Orthotics at Dorset Orthopaedics.
2. Richard Stead – Counsel – St John's Chambers – The Animals Act (Section 2(2))
3. Victoria Mortimer-Harvey – APIL Executive – Update on the Ministry of Justice and the new claims process.

**Kevin Shaw** provided a history of his company which provides a one to one high quality (more time with the patient) service by way of independent clinics around the country. Production of prosthetics with the use of silicone is the company's speciality and Kevin was able to demonstrate by the use of Power Point and actual prosthetic limbs that he brought with him, how realistic these prosthetic limbs can now be made where, often, in light of NHS budgets, the limbs that are provided through the NHS, are very poorly constructed and ugly in design.

Dorset Orthopaedics offers a legal service where lawyers can access their advice and recommendations by way of legal reports. They have offices based in Leeds, London, Ringwood and Birmingham. They produce approximately 100 reports a year, approximately 80% of which are on behalf of claimants, 5% on behalf of defendants and 15% on a joint basis.

Dorset Orthopaedics is one of three independent companies and they believe that their costs are in line with the other companies. The costs of prosthetic limbs through Dorset Orthopaedics is inevitably higher due to the quality and comfort of the prosthetics produced. The prosthetics produced via the NHS are worsening in their quality due to competitive tendering and contracts are simply being given to the lowest tender, which means lower prices and therefore lower quality.

Claimants who may require prosthetics or advice in respect of obtaining prosthetics which look as real as is possible, can access this information from Dorset Orthopaedics who are qualified and geared to provide the legal profession with appropriate reports.

**Richard Stead** – head of Chambers at St John's, provided a very informative and entertaining talk in respect of Section 2(2) of the Animals Act 1971 following the cases of *Mirvaheady v. Henley* in the House of Lords, *Bowl v. Clarke*, *Welsh v. Stokes*, *Freeman v. Higher Park* and *Mackenny v. Foster* in the Court of Appeal. Richard was counsel in the cases of *Hunt v. Wallace*, *Mirvaheady v. Henley* and *Welsh v. Stokes*. A detailed handout was also provided by Richard, which deals with, essentially, a situation where damage is caused by an animal which does not belong to a dangerous species and the circumstances in which a keeper of such an animal is liable for any damage caused by that animal.

**Victoria Mortimer-Harvey** – provided an update from the EC.

- i) Victoria reminded the attendees of the increase in the fast track limit where the indication is that this will occur in April of this year.
- ii) Victoria reminded the attendees of the change in the new claims process and the three stages of how this will work, which are summarised as follows:
  - a) E-mail from the claimant to defendant's address – 21 days to respond (30 days for the MIB).
  - b) If liability is accepted, a medical report is obtained and a settlement pack prepared and submitted to the defendants with an offer after which a negotiation period is allowed.
  - c) If negotiations fail, an application is made to the court for a hearing that should be carried out either orally or on paper. The documents required for the hearing are still under discussion.
  - d) If liability is denied following the initial e-mail, the matter is taken out of the track and dealt with as before.

- iii) At present there is discussion in respect of rehabilitation and interim payments to facilitate rehabilitation being introduced as a standard practice within the claims process. The Ministry of Justice are sympathetic to the arguments being put to them in this respect and meetings are presently scheduled with the Ministry of Justice to take place in the near future.
  
- iv) ELCI regs 4 (4) – APIL are arguing for a central data base and do not see why employers should be allowed to avoid compulsory insurance and why a central data base is not available. The ABI are carrying out a ‘scoping study’ in relation to the logistics of such a data base and APIL are inviting members to write to their MPs requesting that such a data base be brought into being and particularly referring to any mesothelioma cases they may have.
  
- v) Victoria also referring in short to the ‘People First’ campaign being run by APIL – creditation leaflets.
  - Queen Speech – Coroner’s Bill
  - Coroner’s Justice Bill
  - Consultation – law of damages – expected this session
  - Third party capture
  
- vi) Costs and funding – Ministry of Justice have commissioned a study into the process of a No Win, No Fee arrangement although APIL do not yet know why this would be but it has raised concerns particularly following Jack Straw’s recent criticisms regarding the ‘compensation culture’ as he put it.

APIL have asked for a meeting with Jack Straw and the Ministry of Defence have said that such a meeting would only take place after the review/study has been concluded – watch this space.

The number of members attending was a little lower than had been expected but the weather conditions were atrocious on the roads, which would probably explain the shortfall.

Gary Lightwood

Secretary APIL South West Region