

# MINUTES

apil

**DATE : 02 October 2013**

**SUBJECT: Mental Capacity in the Court of Protection  
and A Practical Guide to Costs Budgeting**

**LOCATION: St. Philips Chambers, Birmingham**

**ATTENDEES: See Separate Attendance Sheet –  
17 Attendees in Total**

## **INTRO**

The Co-ordinator welcomed everyone to the Regional Group Meeting and invited members to put forward any suggestions for topics that they would like to be discussed at further meetings.

### **1. Subject title - EC Update presented by Cenric Clement-Evans**

The Executive Committee invited members to raise any points of concern or items that they wished to raise with the EC to take up to Head Office.

He discussed the Enterprise Act, and Section 69, which came into effect on the 1<sup>st</sup> October 2013 and referred to an article written in the Focus Magazine and mentioned that matters had changed since the introduction of “the Six Pack”, and also with the introduction of the concept of Risk Assessments, mentioned in the 1988 COSHH Regulations, which meant that the situation would not return to how it was before the Six Pack was introduced.

He referred to an article being written by Nigel Thomkins in the December Issue of JPIL which attacked the Enterprise Act.

He indicated expert evidence may be required in Employers’ Liability cases but proportionality issues would have to be considered because of their cost.

He also indicated that there are Human Rights Act issues to be considered, and referred to the case of *Ward v Tesco*.

He indicated it had been a non stop summer for APIL and there had been a lot of consultations for the Health and Safety Executive and advised members to download the existing Health and Safety Executive Documents before they disappeared off the site.

He confirmed that the Whiplash and Small Claims Limit consultations had closed, and referred to the feed on twitter.

He indicated that the Transport Committee Report, on the 31<sup>st</sup> July 2013, had accepted some of the points APIL had put forward.

He also highlighted the APIL Tailgating Campaign, and suggested members went on the website to view the video.

The Mesothelioma Bill had reached the Commons and the legislation would hopefully introduce a support scheme and even where untraced insurers were involved some workers should still receive compensation. Unfortunately, the scheme does not cover other lung diseases.

APIL had raised concerns about the scheme if Insurance Companies were going to actually run the schemes.

Genric updated the members with regard to the discount rate and also referred to the representations being made with regard to bereavement damages and highlighted the difference between the English position and that in Scotland.

He questioned if Legal Expenses Insurance had any value now and referred to an RAC Policy which had an excess of up to 25% of damages and had been very badly written.

He would be interested in knowing if there are any other similarly badly drafted policies out there.

One member enquired as to who was the worst Insurer for making pre-med offers, and mention was made of when a pre-med offer was made and a case fell out of the MOJ Portal, it may have the same affect as a Part 36 Offer.

Comment was made that BTE Policies were not worth a lot now.

## **2. Subject title – Mental Capacity in the Court of Protection: Why they matter and how they work Presented by Jim Tindall**

Jim Tindall – Counsel of St. Philips Chambers, Recorder of the Crown Court, and part-time Employment Judge gave the presentation and members are referred to the notes of his presentation for details of the same. He did indicate we should look out for the case

of *Dunhill v Burgin*, which is due before the Supreme Court in November to hear the Appeals from the Court of Appeal (see paragraph 3 on page 1 of the notes).

At the end of the presentation Jim Tindall indicated he was giving a further lecture on Social Care next Wednesday for Social Workers.

### **3. Subject title - A Practical Guide to Costs Budgeting Presented by Julie Reddish**

Members are referred to the copy of the notes of the presentation for details.

The meeting concluded with a chance for an informal discussion between the members and presenters and with a drink and buffet.