

Association of Personal Injury Lawyers

GROUPS

Minutes of North East Regional Group Meeting 30 January 2018

Irwin Mitchell, Wellbar Central, 36 Gallowgate, Newcastle upon Tyne

Main theme(s)

- **APIL campaign activity at a glance** – Deborah Evans, Chief Executive, APIL
- **The effect of delayed treatment on stroke outcomes, in a medico-legal context**
– Professor David Mendelow

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| Chair | | APIL SIG/REG Coordinator – Joanne Willits, Sintons APIL SIG/REG Secretary – Rebecca Maddock, Irwin Mitchell |
| Speakers | | See above |
| Attendees | | See attendance list |

APIL campaign activity at a glance – Deborah Evans, APIL

A copy of the presentation slides are available and filed with these minutes.

The key points were as follows:

- The Civil Liability Bill may be imminent
- Discount Rate - The Justice Select Committee said it would prepare a response and then the Government would respond by the end of January 2018. That now looks unlikely.
- The Government states that if the 'basket' of investments moves from very low risk to low risk then they can change the discount rate. APIL's response is that this makes injured Claimant's investments more risky, and that they know from past experience that Claimants have had to make very risky investments to make ends meet from their award of damages.
- Cases need to be listed for trial so that awards are made using the -0.75 discount rate.
- The rate does not appear to be changing anytime soon; we have had this rate for almost a year now. APIL is of the view that -0.75 is the correct amount for the discount rate.
- There have been false promises about insurance premiums costing less; we know from past experience that savings by insurance companies will not lead to reduced premiums.
- APIL welcomes the use of experts to advise on the discount rate, and would prefer this to the Lord Chancellor making this decision on their own.
- The Justice Select Committee has rebuked the Government for failing to provide costs and benefits information and a proper risk analysis
- The Justice Select Committee has said that the Government should safeguard people who could be under-compensated and APIL notes that if the Government does not get the discount rate right then people's reliance will fall back onto the state.
- Whiplash and small claims court reforms - these will be contained within the Civil Liability Bill. The Bill will include a definition for whiplash. A lot of debate continues in relation to how to treat whiplash claims.

- APIL opposes increasing the limit and the tariff for whiplash. APIL considers that the previous figures were so low that people could not have afforded to instruct a lawyer.
- There is a proposal to increase the small claims limit to £5,000 for road traffic claims (with the whiplash element being dealt with on a tariff) and to £2,000 for others claims. People will be expected to run these claims without a lawyer. Injured people will get a lot less compensation than they deserve and access to justice will be an issue. People will not want to bring claims without legal representation.
- APIL considers that the number of admissions of liability in road traffic claims will reduce when litigants in person are handling their own claims.
- An online system is being proposed which will exclude anyone without a computer or internet access, and those who are unable to use computers.
- The proposals include a ban on pre-medical offers which APIL thinks is a good thing; APIL thinks people should have a proper medical examination before pre-medical offers are made, in case their injury is more serious than initially thought.
- The Government cannot yet find a way to get a fair liability outcome without a lawyer.
- Financial Guidance and Claims Bill – there is going to be a ban on cold calling in respect of pensions.
- Gastric Illness Claims – In summer 2017 the Government said it was ready to take action on these claims. A lot of the problem appears to have been caused by bad case management companies.
- APIL are looking at a proper definition of ‘vital’ and exclusions for multi parties.
- Fixing costs in clinical negligence claims – this was first announced in summer 2016. Fixed costs to £25,000, as a result of lobbying.
APIL considers that you should not fix costs until you have fixed the process.
- Jackson Review – wants to see fixed costs for all fast track cases as well as for clinical negligence cases. APIL says that we need to look at cultural issues at NHS Resolution, not just costs and the process. There is no start date yet for a CJC working party.
- APIL says the things that have been specified in the review such as 3 day trials and parties only being allowed permission for two experts each, are unworkable, as no two cases are the same.
- Accreditation – Deborah Evans is going to speak to the Solicitors Regulation Authority and the Bar Standards Board soon to try and encourage them to recognise APIL accreditation.
- Website – APIL has a new website and have aimed to make it more attractive to those people looking for a lawyer.
- Today’s meeting can be logged as APIL training through the website.
- Serious Injury Guide – this is now recognised by the Civil Procedure Rules. APIL are thinking about this guide being used as an alternative to the Jackson reforms.
- The Spinal Injury Association are going to work with APIL to help pour lawyers put injured people at the heart of the process and APIL are also going to talk to MASCIP regarding vocational rehabilitation with a view to putting something about this into the Serious Injury Guide.

The effect of delayed treatment on stroke outcomes, in a medico-legal context – Professor David Mendelow

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The key points were as follows:

- A Thrombectomy is a relatively new form of treatment for strokes, which involves removing a clot from the artery.
- Studies show that its effectiveness is “beyond any reasonable doubt” and that it is nearly 3 times as effective as thrombolysis within 1 hour.
- A question was asked as follows: why not use clot busters when doing a craniectomy?

Professor Mendelow said that there is likely to be too much swelling to enable you to use them, and also, that it is likely that their use at that stage could lead to a high level of disability.

Closing remarks

- Joanne Willits asked members to raise any topics that they would like to be addressed at future meetings. Members are to speak to Joanne or Rebecca Maddock (secretary) if they want to pass on any ideas.

Rebecca Maddock, Secretary
11.02.18