

APIL NORTHERN IRELAND GROUP MEETING

22 MARCH

APIL ACTIVITY UPDATE

Correspondence with Peter May - bereavement damages and the discount rate

- Oonagh wrote to Peter May, permanent secretary at the Department of Justice to ask him to review the discount rate in Northern Ireland. We argued that it cannot be right that injured people in Northern Ireland are subject to a discount rate which is deemed no longer appropriate in the rest of the UK. The letter also asked for an assurance that bereavement damages would be adjusted as planned in 2019. The amount of bereavement damages was last changed in 2016, at which point the Department of Justice committed to adjustments every three years.
- Mr May said the department is keeping the discount rate under review but it is not straightforward to proceed without a minister or a functioning Assembly. So he is waiting to see what happens in the rest of the UK before deciding how to proceed in Northern Ireland. He also reminded us that a court can take a different discount rate into account, if it can be shown that it is more appropriate.
- He did confirm, though, that the department “is working towards making an inflationary adjustment to the amount of statutory bereavement damages this year”. This has subsequently been confirmed by the DoJ, but no date is available yet.

Consultation: improving cost recovery in the civil courts

Last month we submitted a response to the DoJ’s consultation on improving cost recovery in the civil courts.

Our key messages:

- court fees should not be increased over and over again without reform to the broken system;

- full recovery of costs should not be the main focus when setting court fees – courts should primarily be funded by tax payers, with users paying a contribution;
- the Northern Ireland Courts and Tribunals Service should focus on improving efficiency eg greater use of email, telephone conferences, and a move towards paperless courts;
- people should not be barred from using the courts because they cannot afford the necessary fees;
- County court rules should be amended to permit solicitors to claim interest on disbursements such as court fees to be awarded at the time of the decree.

Brexit

1. BREXIT

Last year APIL formed a working group of members to help identify key priority areas for personal injury law, relating to Brexit. The group also helped define APIL's general policy lines on each issue which will be developed further and expanded upon as required. Essentially, they are about preservation of key rights and protections. They are:

- Health and safety
 - Health and safety standards must be maintained in line with the EU as a minimum
- Motor insurance
 - Rights conferred by the Motor Insurance Directive must be preserved
- Consumer protection
 - UK consumer law should keep pace with EU law; Package Travel Regulations to be maintained
- Product liability
 - Consumer Protection Act should be maintained
- Judicial co-operation and cross-border claims
 - Judicial collaboration between the UK and EU should be maintained; UK residents should not lose the right to claim in the UK
- Fundamental rights

- Legislative changes as a result of Brexit should not weaken the rights of individuals

We are monitoring directives and regulations that are being transposed into UK law, and the working group is being consulted regularly to ensure there are no unintended consequences arising from the transposition.

Latest developments: We recently succeeded in persuading the Government that the Motor Vehicles (Compulsory Insurance) (Amendment etc.) (EU Exit) Regulations 2019 should be debated in Parliament as they could deny compensation to UK residents who are injured in road traffic accidents in the EU. There was opposition to the statutory instrument which will bring in these regulations, both in the House of Lords and the Commons. Unfortunately, though, because of the arcane parliamentary procedure for this type of debate, the Government was always going to win the day. It is, nevertheless, really important that issues are raised with the Government so it can be held to account should the need arise in the future.

During debate in committee in the House of Commons last week, transport minister Jesse Norman told MPs, “if it turns out to be a material issue, the Government will of course look closely at how people claiming abroad can be supported in that environment”. This assurance could be very helpful to us in the future.

Meanwhile, we understand the MIB is trying to see what it can do to establish bilateral agreements across different jurisdictions.

Lorraine Gwinnutt
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