

SPINAL CORD INJURY SPECIAL INTEREST MEETING

13 JULY 2020

APIL ACTIVITY UPDATE

1. CORONAVIRUS

The APIL office has been working hard to provide members with as much assistance and information as possible during the current crisis. You can find everything you need on a special page on the APIL website here: www.apil.org.uk/covid-19

Please note that the APIL office is effectively closed and all staff have been operating almost entirely from home since just before the Government lockdown. **There are contact details for all the teams on the Covid-19 page on the website.** Or you can call the main switchboard and ask to be directed to a member of staff: 0115 943 5400

Here is a flavour of what you can find on the page:

Regular Update - featuring information about caring for your health and wellbeing in this extraordinary situation; best practice information; new online training and webinars covering all the usual training issues you would expect, plus new material relevant to the crisis; relevant information issued by the courts; Government announcements; guidance on dealing with experts, and other useful links.

Training - The Covid-19 page has a list of training which is available on demand.

APIL's membership engagement panel was asked for input on the particular training needs which would be helpful to members at this time. The panel's ideas have been taken on board by the training and accreditation committee.

Collaboration with other organisations - APIL and FOIL have collaborated to devise a set of standard practices to help address members' concerns about working remotely and adapting to the new way the courts are operating in all UK jurisdictions.

Also in Scotland, APIL, the ABI, FOIL and MASS have agreed a limitation protocol to which members can sign up – all details can be found on the Covid-19 page. In Northern Ireland, the ABI and APIL have also drawn up an agreement on limitation. These are scheduled to run until 15 July and will be subject to review. The limitation agreement for England and Wales which was drawn up between Thompsons and the ABI (and supported by APIL) ended on 30 June.

2. ONLINE PROCEEDINGS IN THE COUNTY COURT

At the start of the lockdown period it became clear that it would be difficult to issue county court claims, so APIL contacted Her Majesty's Courts and Tribunal Service (HMCTS) to work out a solution. HMCTS had been testing a version of its online court for more than a year with a handful of firms, as some of you will know, but a survey of members in England and Wales demonstrated that the facility needed to be made available more widely as a matter of urgency.

Members' firms can now sign up to a pilot protocol to issue proceedings online in the county court by writing to onlinecivilmoneyclaims@justice.gov.uk with the e-mail addresses of up to ten members of the firm who would like to use the service.

3. BEREAVEMENT DAMAGES

As reported back in November, the MoJ has published a draft remedial order to allow couples who have cohabited for more than two years to be awarded bereavement damages last year. We submitted evidence to both the MoJ and the Joint Committee on Human Rights (which is scrutinising this issue) calling for wider reform. The committee took up the point and recommended wide-spread reform.

The joint committee's report was damning. It said "the current list of eligible claimants is unprincipled, discriminates against other family members in analogous positions to existing eligible claimants, and stigmatises children". It said the law on bereavement damages "as currently drafted risks further legal challenge". The joint committee recommended the Government "undertake a consultation with a view to reforming" bereavement damages.

The Government's response was published in February. It refused a wider consultation but confirmed that cohabittees of more than two years will qualify for bereavement damages.

There would also be an increase in the statutory amount available, to account for inflation since the last change in 2013. The new amount of £15,120 came into effect on 1 May.

The excuses for no further change are that bereavement damages are a 'token' and that any change will mean undue intrusion into people's lives at a difficult time. This does not seem to be a problem in Scotland, and that's where we will look in our rebuttal points to what we think are really offensive arguments.

The Joint Committee on Human Rights has urged the Government to reconsider its decision not to consult on wider reform and expressed a need to ensure the law on bereavement damages is "fully compliant with human rights law and reflects the reality of modern family life".

To support our work on this issue, we're preparing a new report to highlight the differences between the laws on bereavement damages across the United Kingdom. It will also include polling on public attitudes by YouGov.

4. OVERSEAS OPERATIONS (SERVICE PERSONNEL AND VETERANS) BILL

This Bill will curtail a court's discretion to allow some armed forces personnel and veterans to be able to bring personal injury or Human Rights Act claims against the Ministry of Defence out of time: if the claim relates to an overseas operation, an arbitrary six-year longstop will be imposed.

The Government has failed to provide an adequate explanation for this proposed longstop. We've drafted a briefing and started to speak to politicians about the Bill, and warned that the Government is taking advantage of its unique ability to legislate to restrict legal claims made against itself.

The Bill will also undermine the UK's commitment to human rights, as it will place a duty on all future governments to consider derogating from the European Convention on Human Rights in relation to overseas operations. Such a duty risks normalising the decision to derogate.

The Bill was introduced into Parliament in March, but it is unknown when it will be debated by MPs.

5. GUIDELINE HOURLY RATES

A subgroup of the Civil Justice Council is looking at the guideline hourly rates. The rates were last looked at in 2014. It is unclear at this stage whether there will be any formal consultation with the profession as in previous years. In any event, APIL has established a working group to consider what data it should be collecting and what representations it should be making. Members will be updated on this work as it develops.

6. CONSULTATION ON THE REFORM TO RETAIL PRICES INDEX (RPI) METHODOLOGY

This consultation proposes to change the way that RPI is calculated. The proposed changes involve aligning RPI with a different measure of inflation – CPIH (consumer price index including owner occupiers' housing costs). Since 2010, the annual rate of CPIH inflation has been, on average, one percentage point lower than RPI. As a result, the proposals are likely to result in a lower rate of deduction for inflation. This could result in a higher personal injury discount rate in jurisdictions where the rate is calculated with reference to RPI, such as Scotland. There are also implications for those claimants whose periodical payment order (PPO) is linked to RPI and any investments linked with RPI. The deadline is 21 August.

7. SEVERE INJURY HELP HUB

A new *Severe Injury Help Hub* will go live on the APIL website early next month. It summarises services which could be important to people, particularly in the immediate aftermath of a catastrophic event, and includes information about how to obtain relief from mortgage payments, and how to check if someone has established a lasting power of attorney to make decisions.

Following the demise of legal clinics and advertising in hospitals, the need for a service which directs people in crisis to information which could be a lifeline for them was identified. The hub provides contact details for charities, including those who can put injured people and their loved ones in touch with others who have had the same experience. Crucially, the service also guides people to accredited APIL lawyers.

Where to find help in the event of a bereavement; what to do if the injured person has no family, understanding complex medical language; and support for children of injured people and the siblings of injured children, are among the range of other subjects covered. The page will be reviewed, added to, and updated on a regular basis.

The venture will rely on search engine optimisation techniques so please support the project by sharing links to the page on social media when it goes live.

Look out for more announcements in Weekly News.

Lorraine Gwinnutt

Head of Public Affairs

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