

TRANSPORT SIG MEETING

14 OCTOBER 2020

APIL ACTIVITY UPDATE

1. APIL'S NEW STRATEGIC PLAN: Building a Brighter Future for Injured People

Our new strategic plan was published last week and I hope that, by now, you have all have received your copies.

Please do take a few minutes to read it: the strategy is a major milestone for our association as we set out a vision for the future in our thirtieth anniversary. I hope you will welcome and embrace our exciting new direction and work with us to make its ambitions a reality.

There are four key pillars to the plan which, if delivered effectively, will help build a brighter future for injured people. They are: to rebuild public trust in PI law; prevent needless injury; ensure prompt and full redress for injured people; and drive excellence in legal representation. Our campaign to rebuild public trust is particularly far-reaching and its success will require us to build support and embrace the capability of the whole sector to improve the environment for injured people. Most of us have practiced for years in a hostile environment where misconceptions have been bred from misinformation and, in some cases, poor standards. This has led to deeply entrenched public views that too many claimants are fraudsters and too many PI lawyers are greedy ambulance chasers. This far-reaching strategy aims to address that.

2. INJURY PREVENTION

The prevention of needless injury has been one of APIL's objectives since the organisation's inception 30 years ago and, as I've said, it is one of the four 'pillars' of our strategy. A lot of work has been done on this already, this year.

Our aim of generating a national strategy for the prevention of needless injury had a major boost in August with the publication of a report by a top UK think tank. *Better Than Cure* was made possible by a generous donation from APIL and was produced by the Institute for Public Policy Research (IPPR).

The report calls on the Government to treat injury prevention as a “public health priority” and advocates “a high-level cross-sector injury prevention strategy”, a key part of which would be the establishment of an injury prevention commissioner to co-ordinate different sectors and ensure Government action on the issue.

In a press release issued in response to the report, our chief executive Mike Benner said the report should be a ‘catalyst for action’ and that ‘the time to take injury prevention seriously is long overdue.’

A week later, APIL’s Injury Prevention Week was launched – this used to be just a one-day event but was extended to reflect both the strategy and the growing popularity of the day.

This year the theme was road safety for pedestrians and there were lots of elements to the event, some of which I’m sure you will have seen: content on Facebook, Twitter, LinkedIn; the launch of a new APIL Instagram account, a video demonstrating why you should **not** be looking at your mobile when trying to cross a road, articles in the press, and, for the first time, opportunities for MPs to get involved – and a lot of them actively supported the initiative.

Highlights:

- 28 MPs supported the campaign
- Press circulation of 717,000 (including the Daily Telegraph and the Daily Star)
- 2 million potential impressions on the #IPWeek2020 hashtag
- Video viewed more than 18,000 times

We also had brilliant support from our members, including 53 blogs written by members about the importance of injury prevention.

A big thank you to everyone who supported the initiative.

The team at head office is planning how to capitalise on both the report, and Injury Prevention Week to bring us nearer that goal of a national strategy for injury prevention.

3. BEREAVEMENT DAMAGES - UPDATE

Last time we met we updated you on the Ministry of Justice's draft remedial order to allow couples who have cohabited for more than two years to be awarded bereavement damages. In evidence to the Joint Committee on Human Rights (which has been scrutinising this issue) APIL called for wider reform. The committee took up the point but the Government refused to consult more widely on possible reform.

The remedial order came into effect on 6 October. Prior to this, it was debated in both the House of Commons and the Lords, and APIL issued briefings ahead of both debates. The briefing supported the proposed changes but warned that, without further change, the law on bereavement damages would not be fit for the 21st century. We've also had a private meeting with Labour's shadow justice minister, Peter Kyle who, in debate, called the changes 'a missed opportunity' to do more.

There was robust debate in the House of Lords, where peers also approved the remedial order while calling for wider reform.

The Fatal Accidents Act was condemned as "an archaic piece of legislation" by Shadow Attorney General Lord Falconer of Thoroton. His Labour colleague Lord Hain branded the approach to bereavement damages across the UK as a "postcode lottery game".

The public affairs team at head office is now planning to follow up this, and other support, by holding an online political event and publishing a new report to highlight the differences between the laws on bereavement damages across the United Kingdom. The report will also include polling on public attitudes by YouGov.

4. OVERSEAS OPERATIONS (SERVICE PERSONNEL AND VETERANS) BILL - UPDATE

This Bill is now in its final stages in the House of Commons and we have been lobbying against some of its provisions from the very beginning. One of the aims of the Bill is to 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.

APIL has raised concerns about the Bill with MPs from across Parliament, including with the Labour, SNP, and Liberal Democrat shadow defence teams. A good working relationship has been maintained with the political adviser to Labour's shadow defence secretary, who has continued to ask us questions and for advice about different aspects of the Bill. Parliamentary questions have also been drafted for both Labour and the Liberal Democrats.

To help assist with Labour's understanding of the possible consequences of the Bill, APIL arranged for the shadow defence secretary to speak to a client of Ahmed Al-Nahas, secretary of APIL's military special interest group. This direct contact between a high-level parliamentarian and someone who has been affected by the issues involved can prove extremely effective. Last week, Ahmed also addressed a high-profile committee of MPs about the problems this Bill will cause for veterans who need to claim compensation for injuries sustained while serving overseas.

Defence minister Johnny Mercer has persistently argued that "it is simply wrong to assert that the Bill prevents service personnel, veterans or their relatives from bringing claims, because it does not change how the time limit is calculated". In addition to our high-profile campaign work on this issue, we have written to Johnny Mercer to explain that there are many different reasons why service personnel do not always bring a claim within the time limit.

We have now submitted amendments to Parliament with the aim of removing these provisions from the Bill or, if that is unsuccessful, at least mitigating the impact of the six-year longstop.

5. VETERANS UK

In other work for veterans we have written to the Ministry of Defence to raise concerns about the lack of information on its Veterans UK website about entitlement to claim for compensation through the civil courts as well as through the Armed Forces Compensation Scheme (AFCS). We also raised concerns about the lack of information about the importance of seeking independent legal advice.

Despite the MoD's assurances that the wording on the website had been changed, it still does not make clear that veterans and armed forces personnel have the right to pursue civil claims.

So we have written to the MoD again and highlighted the importance of:

- applicants being fully informed of all compensatory options and the benefits of legal advice;
- transparency of the connection between the MoD and Veterans UK;
- claims handler training regarding handling claimants with mental health illnesses and complex cases; and
- record keeping.

We have also offered to develop an information leaflet in association with the MoD to ensure veterans and armed forces personnel understand all options available to them after suffering injuries during or as a result of service.

We're currently waiting for a response.

6. GUIDELINE HOURLY RATES - UPDATE

A subgroup of the Civil Justice Council is looking at the guideline hourly rates, which were last looked at in 2014. We now understand that there will be a formal consultation at the end of the year. APIL has established a working group to consider what data it should be collecting and what representations it should be making.

APIL will be making a submission to the CPRC and we are gathering anonymous data on market rates charged by firms which will form the basis of that submission. **All responses and data are being anonymised as we appreciate that this is market sensitive.**

A spreadsheet has been sent to one contact in each firm who has been asked to fill in the blanks and tell us what rates their firm charges for the four fee earner grades for various areas of expertise Members are urged to encourage their firms to respond. We have had a good response, for which we are very grateful to members, and analysis on the data has started with a view to APIL feeding into the subgroup as soon as possible

7 . CONSULTATION ON CHANGES TO HUMAN MEDICINE REGULATIONS TO SUPPORT THE ROLLOUT OF COVID-19 VACCINES

Our response to this consultation highlights concerns about using an unlicensed covid-19 vaccine; calls on the Government to underwrite and accept liability if significant injury is caused by any such vaccine, and says consumers should be given the full picture when receiving the vaccine, ie: they will be receiving an unlicensed vaccine which has not demonstrated the standards of safety which would normally be expected, and that the manufacturers are supplying it on the basis that they are protected from suit.

The response also highlights the underlying issue that the existing Vaccine Damage Payments Act 1979 is not fit for purpose.

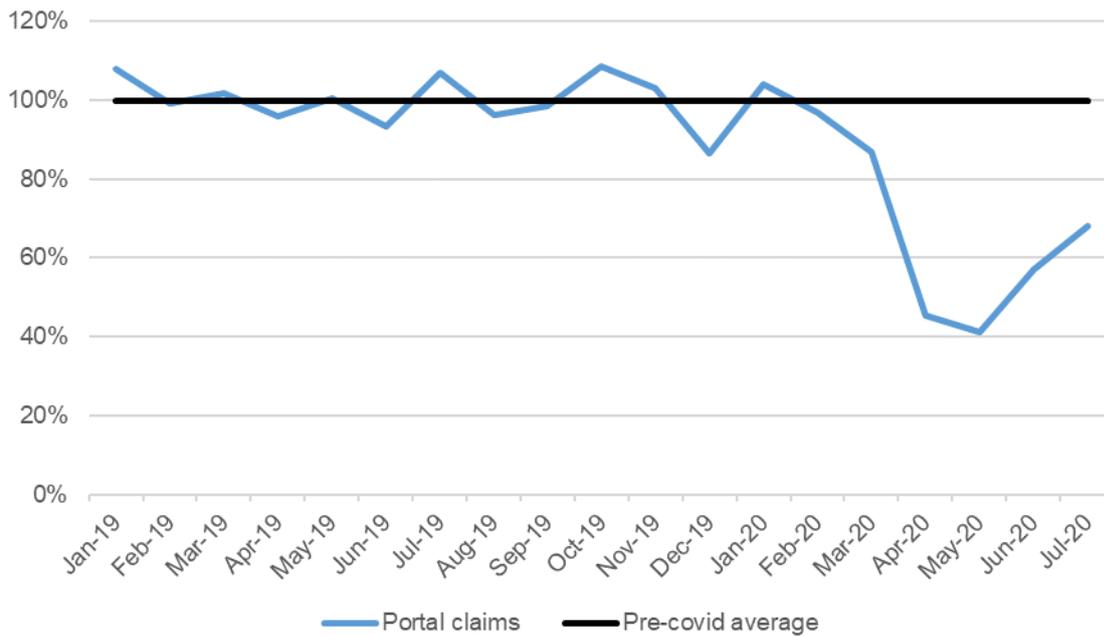
This is just one of many consultations to which we are responding. If you would like to put forward views for any of our consultations, please make sure you read Weekly News for more details about ongoing consultations and how you can get involved.

8. COVID-19: IMPACT ON PERSONAL INJURY

APIL's researcher has been monitoring the impact of the pandemic on personal injury.

Personal injury claims volumes fell dramatically following the imposition of lockdown. While volumes are now recovering, they remain some way off the levels seen prior to the pandemic.

This is illustrated starkly by the chart which looks at the number of claims submitted to the claims portal. The black line represents the "pre-covid" normality. As you can see, there was a dramatic drop in portal claims following the introduction of lockdown in March, and claims continued to decline in May. Despite a recovery beginning in June, portal claims remain at just 68% of their "pre-covid" level.



There has been a similar picture in clinical negligence. Here the number of new clinical claims reported to NHS Resolution (NHSR) has “*dropped since restrictions relating to Covid-19 were put into place*”, according to NHSR’s latest board papers. In terms of the longer-term impact of the pandemic, NHSR state that “*no conclusions can yet be drawn about the impact of Covid 19 on claims volumes and specialties*”.

Over the coming months, APIL will continue to closely monitor data on claims volumes to understand the impact of the covid-19 pandemic on personal injury.

Lorraine Gwinnutt
Head of Public Affairs
 12 October 2020