

LONDON REGIONAL GROUP

11 MARCH 2021

APIL ACTIVITY UPDATE

The following notes will give you a flavour of just some of our key campaign and strategic priorities at the moment.

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

A lot has happened since the last meeting of this group! Given the pandemic, of course, you would expect us to re-examine and re-prioritise our work to respond to the needs of our members during this challenging time.

But despite all the challenges of last year, we published our new strategic plan in October. You should all have received copies and I hope you have managed to 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. 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.

2. REBUILDING SHATTERED LIVES CAMPAIGN

This major new campaign was launched in November and is based on a centrepiece video which is worth watching again.

NB: SLIDE 5 (AFTER THE HEADLINE SLIDE) IS THE CAMPAIGN VIDEO

APIL has always pursued a zero-tolerance policy towards misleading commentary and bad legislation which attacks the rights of injured people - but this campaign takes things to a whole new level.

The aim of the campaign is to turn around all that negative press and political commentary about claimants and the work we do as personal injury lawyers, and create a fairer and more empathetic environment in which people are NOT criticised for claiming compensation and lawyers are NOT condemned for what they do.

It is a massive undertaking. It won't be achieved overnight. But our chief executive, Mike Benner, and the executive committee, are convinced that if we pull together as APIL members - and more broadly as a sector - we can do it.

You can watch the video again on our dedicated campaign website: rebuilding-shattered-lives.org.uk

This is essentially a social media campaign and it's been very well received so far, already reaching more than a million people on Facebook, Twitter, LinkedIn and Instagram. Furthermore, it has not generated a single negative response. This is extremely unusual, especially in the field we're working in.

This is a long-term project and we need you to help us - it's really easy to support the campaign. Just email our team at getintouch@rebuilding-shattered-lives.org.uk ask for our special, easy-to-use social media 'toolkit' and get involved!

The key to the campaign's success, though, is for us to be able to tell lots of real stories about real people, and **YOUR SUPPORT IN THIS IS GOING TO BE CRITICAL! PLEASE HELP BY TAKING UP THE 200 WORD CHALLENGE!** Our work is all about helping people rebuild their lives, and the APIL team is asking us to help spread the message by sending them those stories in no more than 200 words. It's fine if you anonymise your story – obviously, if it isn't anonymised, please ask your client's permission before passing it on.

The stories need to include the following:

- what happened to your client;
- how that injury affected your client's life – **THIS IS THE MAIN PART OF THE STORY**
- how your client's life was changed as a result of your help.

The best stories will be used to support the campaign on social media and on the dedicated website.

So let's not let the impact we all make on people's lives be a best-kept secret. Please send your stories, marked '200 word challenge' by email to getintouch@rebuilding-shattered-lives.org.uk.

And please – support the campaign as much as you possibly can!

If you'd like more information about how to get involved, contact our head of public affairs, Lorraine Gwinnutt at the email address on the slide.

3. ELECTIONS TO THE EXECUTIVE COMMITTEE

Over the past couple of years, it's been noticed that some people who clearly have the potential to be part of the EC show initial interest in standing but then change their minds. This is usually because they think they are not senior enough to stand, or that they don't have enough experience.

If you are passionate about helping injured people and fellow APIL members, and about helping the organisation grow and develop, then you are perfectly capable of being a member of the APIL EC! The work is really varied and there are many ways to contribute, depending on your interests and skills: you can contribute ideas to consultations, parliamentary briefings, strategy development, lobbying and training, to name but few.

Elections for EC officers are now open and close on 1 April. If you are interested in standing, you are very welcome to call the APIL office and speak in confidence to Helen Blundell in the first instance about the process. Nominations are submitted online, and there is a short Q&A to complete. You can also record a short video to accompany your nomination. If you are interested in standing for election please don't wait – and don't be shy! Start the process early, take your time with it and submit your application in good time to avoid any last-minute technical hitches (because sometimes they do happen!).

4. DIVERSITY

There is also a lot of work underway to encourage greater diversity among APIL members. A robust, progressive and deliverable Equality, Diversity and Inclusion Plan is to be developed and this is considered an essential part of delivering APIL's objectives.

The EC and our CEO want to engage the next generation of PI lawyers and create a culture of inclusion, fair treatment, access and opportunity for all, regardless of background, race, ethnicity, gender, age, sexual orientation or physical ability.

To ensure these ambitions become a reality, and are recognised and acted upon across the association, a new diversity working group has been created. It has been formed as a sub-committee of the executive committee (EC) and tasked to develop our policy and turn it into an action plan.

Our Mike Benner has written a lot more about this in the CEO's 'last word' column in the March issue of PI Focus, so please have a look at this if you can.

5. BEREAVEMENT DAMAGES

A remedial order to allow couples who have cohabited for more than two years to be awarded bereavement damages came into effect on 6 October last year. 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 was subject to robust debate in both the House of Commons and the Lords, and APIL issued briefings ahead of both debates which supported the proposed changes but warned that, without further change, the law on bereavement damages would not be fit for the 21st century. There has been enough political support for these arguments to give new impetus to our campaign activities and we are planning on online political event and publication of 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.

6. OVERSEAS OPERATIONS (SERVICE PERSONNEL AND VETERANS) BILL

Last year we submitted evidence to the Joint Committee on Human Rights about part 2 of this Bill, which will end judicial 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.

Intensive lobbying has been undertaken on this important issue, and APIL has had high-profile involvement at every stage of parliamentary debate. This included presentation of oral evidence to the House of Commons Bill Committee by the secretary of our military SIG, Ahmed Al-Nahas.

To say that passions have run very high during debate is putting it mildly. Government spokesmen have resorted to name-calling and on one occasion the deputy speaker had to call for a 'drop in temperature'.

The problem is that the Bill conflates two issues: the desire of the Government to introduce a longstop on the prosecution of armed forces personnel for crimes committed overseas (what it calls 'lawfare') and then (apparently in the interests of fairness and consistency) also introducing a similar longstop for injured personnel who need to claim compensation from the Ministry of Defence. The problem is that the defence minister continues to claim that the Bill is 'good' for military personnel, when it very clearly is NOT good for all of them.

The arguments are this week being debated at committee stage in the House of Lords, and we have circulated another briefing to peers and issued a press release to coincide with that, so look out for more details in Weekly News.

7. DISCOUNT RATE IN NORTHERN IRELAND

APIL was corresponding with the Northern Ireland Department of Justice (DoJNI) officials all last year about the need to change the discount rate, which is still 2.5% in the jurisdiction. This included responding to a consultation on alternative methods for calculating the discount rate, drawing on our extensive experience of lobbying on the issue in England/Wales and in Scotland. Following the end of that consultation, we had expected an announcement at the end of 2020 confirming that a new discount rate would be set.

Instead, the DoJNI announced that the minister had recused herself from the process and, in her place, the permanent secretary took the decision to leave the discount rate unchanged pending legislative changes to the way the rate is calculated.

The Committee for Justice was not convinced that this was the appropriate procedure. APIL has instructed Phoenix Law Solicitors in Northern Ireland, assisted by Bindmans and Jude Bunting of Doughty Street Chambers.

A pre-action letter to the DoJNI to challenge the decision by way of judicial review was sent. After learning of another JR, which was issued just before the year-end, APIL's challenging judgments working party decided to apply to intervene in that case which will be heard early this year. Permission has been granted to make written submissions to the Court, which are now in the process of being drafted.

Meanwhile, legislation to change the way the rate is calculated was debated in the Northern Ireland Assembly on Tuesday. In our briefing to MLAs (Members of the Legislative Assembly) we said that the discount rate should still be based on *Wells v Wells*. We also pointed out that the DoJ should, under the current law, set an interim discount rate now to ensure that while this legislation is debated, injured people in Northern Ireland will no longer face the prospect of being undercompensated by the 2.5 per cent discount rate.

8. CLINICAL NEGLIGENCE

It seems there is always discussion going on at meetings and forums and debate sessions about the issue of claiming against the NHS during the pandemic, and work is ongoing in the public affairs team to make sure we are ready to respond publicly to this highly sensitive issue when the need arises.

Meanwhile, APIL staff met with NHS Resolution (NHSR) at the end of last year to discuss ongoing concerns about maternity safety and the early notification scheme (ENS). At the next meeting we will be looking for more information about what is happening elsewhere in the system with NHSR partners and discussion about best practice relating to the duty of candour.

In the meantime, any cases that members have where the ENS criteria have not been met, or where families have been told that the criteria have not been met, but where members have concerns about that decision should be reported to APIL.

We are also keen for feedback on examples where a Trust has not spoken to the family about the maternity incident or where communication has broken down between the family and the Trust. NHSR reported at our recent meeting that it is looking to make improvements around the dialogue between the family and Trust once the incident has occurred. Members' feedback will help with this. Any information should be sent to Abi Jennings, head of legal affairs, at abi.jennings@apil.org.uk.

Lorraine Gwinnutt

Head of Public Affairs

9 March 2021