

DAMAGES SPECIAL INTEREST GROUP

29 APIL 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. DIVERSITY

A lot of work is now 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.

4. 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 in which we are calling for the law to reflect the Scottish system, where bereavement damages are decided by the courts on a case-by-case basis.

Yesterday we held a webinar for members, parliamentarians and journalists to launch our new research report. If you weren't able to attend but would like to watch the 30-minute webinar please contact Sam Ellis at the APIL office, and he'll tell you how you can do that. We'll also be asking members to help with our lobbying effort on this issue so, if you're interested in getting involved, please speak to Sam about that and he'll tell you what you can do to help.

5. OVERSEAS OPERATIONS (SERVICE PERSONNEL AND VETERANS) BILL

You may recall that 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 House of Lords inflicted a defeat on the Government earlier this month, when peers voted to exempt service personnel and veterans from the six-year limitation longstop in part two of the Overseas Operations Bill. While this was certainly progress, we still couldn't support a Bill which would exempt one category of claimant from the longstop while civilian employees of the MoD and bereaved families of veterans would remain excluded. This would create a two-tier and unfair system and we made this argument when the Bill went back to the House of Commons last week. At that point, though, MPs overturned the Lords' defeat and reinstated the longstop for veterans and service personnel

6. 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
22 April 2021