

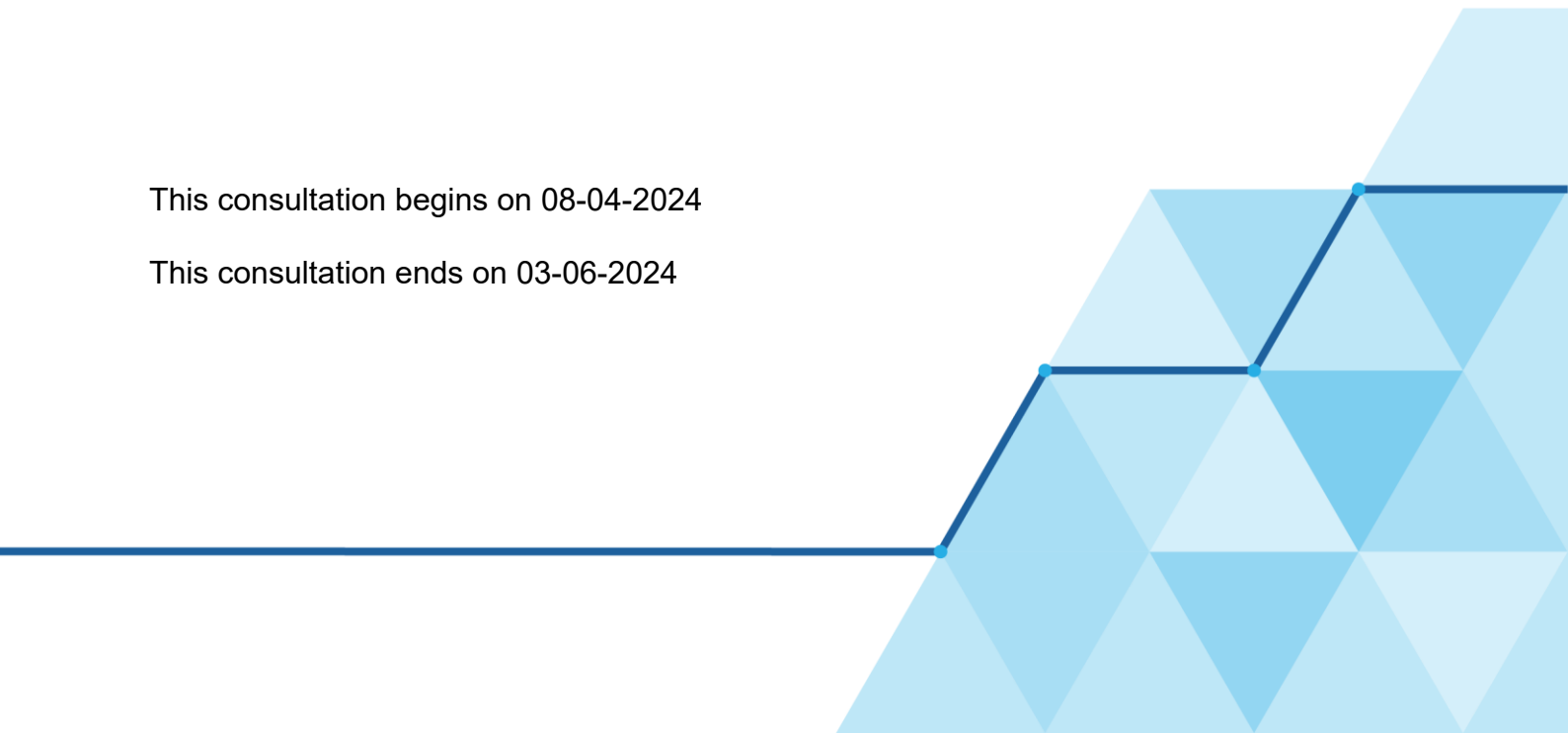


Ministry
of Justice

Reforming the Law of Apologies in Civil Proceedings in England and Wales

This consultation begins on 08-04-2024

This consultation ends on 03-06-2024





Ministry
of Justice

Reforming the Law of Apologies in Civil Proceedings

**A consultation produced by the Ministry of Justice. It is also available at
<https://consult.justice.gov.uk/>**

About this consultation

To: All those involved in or with an interest in civil proceedings in England and Wales, including litigants, legal professionals representing both claimants and defendants, the insurance industry and members of the judiciary.

Duration: From 08-04-2024 to 03-06-24

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Ministerial Foreword

The Government believes it is timely to review and consult upon the law of apologies in England and Wales.

The current law is set out in section 2 of the Compensation Act 2006 (the Compensation Act) and aims to encourage those defending claims not to be deterred from offering apologies by a perception that doing so would constitute an admission of liability. While there is little empirical evidence to suggest how effective the current legislation is, the general view is that it has had very little impact as parties are understandably very averse to offering apologies for fear of liability being admitted.

This consultation, therefore, looks at the role of apologies generally within the sphere of civil justice and asks whether the Compensation Act is suitable or whether it should be replaced with new legislation, and if so, what the new regime should be.

One fundamental question is whether it should be easier to make an apology. There are points to be made on both sides. Some argue that protected apologies help settle cases early and so it should be easier to make one. On the other hand, others believe that the apology will not assist in the resolution and therefore that the desire for one need not be addressed in an apologies statute.

Given that there is little empirical evidence, either in England and Wales or abroad, we would be interested to know real world examples of apologies. In addition, we would also be interested to know whether any reformed legislation should broadly reflect the approach taken in the Apologies (Scotland) Act 2016?

In addition, this consultation also takes forward the recommendation by the Independent Inquiry into Child Sexual Abuse to consider amending the Compensation Act to make clear that the provision on apologies extends to cases involving vicarious liability for child sexual abuse.

The Government will consider all responses carefully and publish a response setting out the way forward in due course.

Lord Bellamy KC

Parliamentary Under Secretary of State

Executive summary

This consultation paper seeks views on the role of apologies in civil proceedings in England and Wales, and whether legislative provisions to clarify or amend the current law would be useful. It considers in particular whether the existing legislation in section 2 of the Compensation Act¹ is adequate, or whether legislation along the lines of that in Scotland in the Apologies (Scotland) Act 2016² (the Scotland Apologies Act) would represent a helpful expansion and clarification of the law.

It also considers and seeks views on a recommendation by the Independent Inquiry on Child Sexual Abuse on the role of apologies in civil proceedings relating to child sexual abuse.

¹ Compensation Act 2006 (legislation.gov.uk)

² Apologies (Scotland) Act 2016 (legislation.gov.uk)

Introduction

This paper sets out for consultation proposals relating to the law in England and Wales on the use of apologies in civil proceedings. The consultation is aimed at all those involved in or with an interest in civil proceedings in England and Wales, including litigants, legal professionals representing both claimants and defendants, the insurance industry, and members of the judiciary.

A Welsh language consultation paper is available at:

<https://www.gov.uk/government/consultations/reforming-the-law-of-apologies-in-civil-proceedings>

An Impact Assessment has not been prepared at this stage and consideration of this issue is set out at page 22.

Copies of the consultation paper are being sent to:

Access to Justice Action Group

Access to Justice Foundation

AdviceUK

Association of British Insurers

Association of Her Majesty's District Judges

Bar Council

Association of Personal Injury Lawyers

British Medical Association

Centre for Effective Dispute Resolution

Chartered Institute of Arbitrators

Chartered Institute of Legal Executives

Citizens Advice

City of London Law Society

Civil Court Users Association

Civil Justice Council

Civil Mediation Council

Confederation of British Industry

Council of Her Majesty's Circuit Judges

Disability Rights UK
Equality and Human Rights Commission
Federation of Small Businesses
Forum of Complex Injury Solicitors
Forum of Insurance Lawyers
General Medical Council
Intermediaries for Justice
JUSTICE
Lady Chief Justice
LawWorks
Local Government Association
Magistrates' Association and Magistrates' Legal Executive
NHS Resolution
Nursing & Midwifery Council
Resolution
RICS (Royal Institution of Chartered Surveyors) Dispute Resolution Service
Shelter
The Law Society
The Litigants in Person Support Strategy
The Society of Clinical Injury Lawyers
Trades Union Congress
Victims' Support
Welsh Government

However, this list is not meant to be exhaustive or exclusive and responses are welcomed from anyone with an interest in or views on the subject covered by this paper.

The proposals

Introduction

1. The use of apologies in civil disputes and litigation in England and Wales has traditionally been approached with caution. Those defending claims have been nervous about making an apology as they fear that saying sorry is in some way an admission of liability and weakens their case.
2. This is unfortunate as the giving and receiving of genuine apologies may play an important role in the dispute resolution process across a whole range of areas of law by reducing adversarial behaviour and the potential for disagreements to escalate. A significant example is the clinical negligence sphere, where sincere, unreserved, and meaningful apologies have the potential to avoid litigation altogether. In some situations, a simple sorry may be what those bringing a claim had most wanted.
3. In an attempt to make it easier for individuals or organisations to apologise, without an admission of liability, legislation was brought in to make this possible on a statutory basis. Section 2 of the Compensation Act was designed to achieve this in England and Wales.
4. However, there is no empirical evidence about the degree to which that legislation has assisted, if at all, or whether it has any specific inadequacies. Nor is there evidence about the number of apologies made or the extent to which the provisions are relied upon.
5. The Government is therefore seeking views on the role of apologies in civil proceedings in England and Wales generally, and whether any alternative or additional legislative provisions to clarify or amend the current law would be useful.
6. The Government is open minded about whether legislative reform along the lines of that introduced in Scotland (in the Scotland Apologies Act) agreed should be adopted in England and Wales and invites views.
7. The Government is not minded, however, to adopt the approach taken in Hong Kong, set out in detail below. It has a much wider ranging legislative model that might unhelpfully affect the balance of interests between claimants and defendants in civil litigation in England and Wales.
8. In addition, the Government has already accepted the concerns of the Independent Inquiry on Child Sexual Abuse ('the Inquiry') in September 2019 on the position of

apologies with respect vicarious liability of institutions under the Compensation Act. It agreed to consult on amending the legislation to make clear that statutory provision on apologies extends to cases involving vicarious liability for child sexual abuse.

9. This consultation, therefore, also seeks views on how the existing legislation could be clarified to reflect the recommendations of the Inquiry.

Background

10. Since 1986 when Massachusetts³ adopted the first apology legislation, common law jurisdictions in the US, Canada and Australia have adopted various legal mechanisms to protect those giving apologies from legal responsibility arising as a consequence.
11. Some protections cover partial apologies i.e., those given where no element of fault is acknowledged. Others protect the party making a full apology, where they may both express regret and accept responsibility for an action, from the dangers of the apology being used in litigation to establish their liability.
12. For example, Australia in 2002 amended its legislation⁴ so that full apologies are expressly not evidence of fault or liability. British Columbia has done the same as have other jurisdictions. In Australia, the protections are excluded in cases of death, intentional harm, tobacco claims and those involving sexual assault. In British Columbia, the scope of protection has been extended to cover insurance claims so that the giving of a full apology cannot serve to void insurance cover.
13. In general terms, it has been the position of successive UK Governments to encourage the use of apologies where appropriate as a means of reducing adversarial behaviour and settling civil disputes.
14. This consultation provides a summary of the existing law in England and Wales, and it also explores the different approaches in legislation in Scotland and Hong Kong, respectively. Further details about each jurisdiction's approach are set out below.

³ Massachusetts General Laws, Chapter 233, Section 23D (2020) - Admissibility of Benevolent Statements, Writings or Gestures Relating to Accident Victims.

⁴ Civil Liability Act 2002 01-a0-02 Xml (legislation.wa.gov.au)

The Law in England and Wales and other Comparative Jurisdictions

The Law in England and Wales

15. Under the common law in England and Wales, an apology does not of itself necessarily amount to an admission of liability. However, the effect of an apology depends on the terms in which the apology is given. In some instances, the words used will clearly demonstrate an acceptance of fault, and in such cases the common law does not prevent a claimant from relying on that admission merely because it is couched in the form of an apology.
16. The main statutory provision relating to apologies is section 2 of the Compensation Act. This provides that:

“an apology, an offer of treatment or other redress, shall not of itself amount to an admission of negligence or breach of statutory duty.”

17. This provision was included in the Compensation Act to encourage businesses, insurers, and other organisations not to be deterred from offering apologies by a perception that doing so would necessarily constitute an admission of liability. The target was intended to be very broad, being any claims where an admission of negligence or breach of statutory may be relevant, and whether at common law or otherwise. The Compensation Act did not, however, include a definition of an apology.
18. It should, however, be recognised that despite the existence of current legislation there appears to still be a reluctance to apologise which may be founded on residual concerns that an apology may amount to an admission of liability and be relied upon in civil litigation. It is therefore unsurprising that a degree of caution for defendants (including public bodies) remains in relation to whether an apology is offered, or the wording used. Institutions and organisations may also be concerned that an apology will invalidate any insurance they have.
19. We would welcome any evidence on how often apologies are made and how widely the current law is being used. Views on reasons why it has or has not been used, as well as its success in being deployed by parties in disputes are also welcomed.

20. In addition, the Government is not aware of any significant case law relating to this provision.
21. That said, despite the absence of empirical evidence that the law has had a significant impact, there is a sense that defendants remain very averse to offering apologies for fear of liability being admitted.

The Law in Scotland

22. The Scottish Parliament passed the Scotland Apologies Act to provide legal certainty that an apology (as defined under the terms of the Act) cannot be used as evidence in civil proceedings. Section 1 states:

“In any legal proceedings to which this Act applies, an apology made (outside the proceedings) in connection with any matter—(a) is not admissible as evidence of anything relevant to the determination of liability in connection with that matter, and (b) cannot be used in any other way to the prejudice of the person by or on behalf of whom the apology was made.”

23. The Scotland Apologies Act is more detailed than the Compensation Act, in defining what is meant by an apology (Section 3):

“In this Act an apology means any statement made by or on behalf of a person which indicates that the person is sorry about, or regrets, an act, omission or outcome and includes any part of the statement which contains an undertaking to look at the circumstances giving rise to the act, omission or outcome with a view to preventing a recurrence”.

24. Furthermore, the Scotland Apologies Act applies to a wider range of proceedings, namely all civil proceedings apart from certain specified exceptions such as defamation and public inquiries (Section 2).
25. The public inquiries’ exemption is an acknowledgement of the more inquisitorial nature of inquiries, reflecting the need for the inquiry chair to draw upon all relevant events including the offer of an apology as part of that process. Public inquiries are not about liability but are intended to provide an account of what happened and why.
26. As with the Compensation Act, the Scottish Government has no firm data on the impact of its Act, but it is acknowledged to be quite low.

The Law in Northern Ireland

27. At present Northern Ireland has no specific legislation governing the use of apologies in civil litigation.

The Law in Hong Kong

28. The Hong Kong legislature passed an Apology Ordinance in 2017.⁵ This applies to all civil proceedings and goes significantly further than the legislation in Scotland and in England and Wales. It prescribes that an apology will not constitute an admission of fault or liability even if it includes such an admission, nor may such an admission be admissible in evidence to the detriment of the apology maker. The legislation differs from others in that any statement of fact included in an apology will also, in most cases, be inadmissible in evidence against those making an apology. In exceptional cases it may be admitted as evidence at the discretion of the decision maker, but only if it is “just and equitable” to do so, having regard to “the public interest or interests of administration of justice”.⁶ The intention behind this is to encourage full and burden-free apologies to prompt amicable settlement.

29. This approach was taken as it considered a more limited measure would be unlikely to have sufficient effect in encouraging settlements. However, it would mean that exchanges between parties that led to the apology, including an admission of fault, and including facts it relied on, would nonetheless need to be proven in court. That may well represent a duplication of work for the claimants and an increase in their costs that may not be recoverable.

30. The broad scope of the Hong Kong provision may also need to be reflected in other pieces of legislation, such as limitation periods and in civil procedure, for example in pre-action protocols dealing with narrowing the issues in contention. That could have other complicating or unintended consequences.

⁵ <https://www.elegislation.gov.hk/hk/cap631?pmc=1&m=1&pm=0>

⁶ <https://www.elegislation.gov.hk/hk/cap631?pmc=1&m=1&pm=0>

Proposals For Reform

31. In December 2020, John Howell MP (Conservative, Henley) introduced a Private Member’s Bill, the Apologies Bill. The aim of that Bill is to encourage the use of apologies as a means of settling civil disputes and preventing issues becoming disputes in the first place.

32. In introducing his Bill,⁷ Mr Howell stated:

“A fresh apologies Act would be a clear statement from Westminster and a simple legal mechanism to help to improve our country’s conversations. It could incentivise disputing parties to make apologies whether in the direct aftermath of an accident, mistake or other dispute, or further down the line, should the dispute escalate, with a view to achieving a more amicable resolution.”

33. He commended the approach taken to this issue by the Scottish Government in its legislation (as summarised above).

34. The Bill did not complete its passage through Parliament before the end of the 2019–21 session.

The Independent Inquiry on Child Sexual Abuse (“the Inquiry”)

35. In September 2019,⁸ the Inquiry recommended in its Accountability and Reparations investigation report that:

“The government should introduce legislation revising the Compensation Act 2006 to clarify that section 2 facilitates apologies or offers of treatment or other redress to victims and survivors of child sexual abuse by institutions that may be vicariously liable for the actions or omissions of other persons, including the perpetrators.”⁹

⁷ <https://hansard.parliament.uk/commons/2020-12-01/debates/1B5DAE62-69B1-4EF3-8C5B-1A2CAB41A519/Apologies>

⁸ <https://www.iicsa.org.uk/key-documents/14231/view/accountability-reparations-report-19-sep-2019.pdf>

⁹ <https://www.iicsa.org.uk/key-documents/14231/view/accountability-reparations-report-19-sep-2019.pdf>

36. The rationale given for this recommendation was as follows:

“Defendant organisations must be able to make apologies, offers of treatment and other redress to victims of child sexual abuse, without undermining their ability to defend civil claims. The Compensation Act 2006 is intended to facilitate this but cannot do so if defendant insurers consider that its wording may not apply to claims involving allegations of vicarious liability for the actions of individual abusers.”¹⁰

37. The recommendation stemmed from the focus of the evidence considered by the Inquiry being the institutional response to abuse by local authorities and other public bodies, who were in a position of vicarious liability for the abuse rather than direct liability.
38. While Section 2 of the Compensation Act refers to apologies in relation to negligence or breach of statutory duty, it does not explicitly make it clear that vicarious liability¹¹ – which is the main basis on which child sexual abuse claims are now brought – are also in scope. As such, there is uncertainty as to whether the courts would apply it in abuse claims.
39. In vicarious liability claims there are two ‘limbs’ to the test that a claimant has to satisfy in order to bring a successful action:
1. A qualifying relationship – that the relationship between a defendant and (in this context) an abuser was sufficiently close as to qualify for vicarious liability.
 2. A qualifying connection – that the connection between that relationship and the abuse was close enough to impose a liability on the defendant.
40. Insurers and other witnesses to the Inquiry indicated that they were unclear whether section 2 of the Compensation Act extended to instances of vicarious liability (although in practice some defendants have interpreted it as doing so). As the Inquiry heard, for some victims and survivors, receiving a meaningful apology was said to be more important than compensation.
41. The Inquiry considered that legislation to clarify the applicability of section 2 of the Compensation Act to such cases would assist in encouraging the giving of apologies as it would place the matter on a statutory footing and resolve the question once and for all.

¹⁰ <https://www.iicsa.org.uk/key-documents/14231/view/accountability-reparations-report-19-sep-2019.pdf>

¹¹ This is a legal principle which may make institutions liable for their employees’ actions, even where the institution itself is not at fault.

42. In its response to the Inquiry in April 2020, the Government indicated that it would explore further whether it would be helpful to amend the Compensation Act or take alternative action to clarify its applicability in the circumstances identified by the Inquiry.
43. It is also important to note that the wider issue of whether vicarious liability applies in specific historic child sexual abuse claims is one that has been subject to complex litigation, involving successive Supreme Court judgments.¹²
44. However, for the purposes of this consultation paper, the issue is simply whether the Compensation Act provision on apologies should be specifically extended to include vicarious liability cases.

Some criticisms

45. While apologies are useful in promoting social healing and are a powerful form of conflict resolution, they are not a panacea. It is acknowledged by practitioners and others that in many cases a full apology can serve to heal the rift between the parties and preclude litigation.
46. A further issue is the position of the courts. If a full apology cannot be used in support of actual liability, it raises the question of the court's role and the public's faith in the civil justice system. Furthermore, it increases the potential to offer insincere apologies or may lead to poor settlement offers. This does have to be balanced against the fact that the courts are still able to find tortious liability *despite* a "protected" apology having been made.

The Case for and against new Primary Legislation

47. The main arguments supporting legislation to bring the position in England and Wales in line with that in Scotland were set out by John Howell MP in introducing his Private Member's Bill:¹³

¹² For example, *Barclays Bank Plc v Various Claimants* [2020] UKSC 13 (<https://www.supremecourt.uk/cases/uksc-2018-0164.html>)

¹³ <https://hansard.parliament.uk/commons/2020-12-01/debates/1B5DAE62-69B1-4EF3-8C5B-1A2CAB41A519/Apologies>

“...an apology that does not create a legal liability will often settle a dispute, rather than being seen as a way to take the accused for every penny they have. It should be the mark of a mature democratic society and of its dispute resolution system that an apology, whether made publicly or privately, can and should be allowed to be meaningful and helpful rather than simply a necessary yet tokenistic gesture.

An apology can truly change atmospheres, the nature of conversations and outcomes. Used appropriately, it can help to avoid a dispute going to court. Equally, it can assist the resolution of a case by changing the approach being taken. apologies can often unlock disputes and lead to settlements without recourse to formal legal action.

Since parties may be reluctant to do anything that may be construed as an admission of liability, apologies have to date seemingly been sparse, except in cases of NHS clinical negligence. A culture has emerged of people and organisations not wanting to offer an apology in case it is detrimental to their legal position or deemed to be a weakness.”

48. In addition, in the specific context of child sexual abuse, the Inquiry emphasised the importance for victims of abuse of receiving genuine and meaningful apologies, in terms of helping them to cope with the impacts of the abuse they have suffered. This would also provide assurance that lessons had been learned by the institutions involved and that action would be taken to prevent any reoccurrence.
49. Set against these arguments, it should be recognised that it may be the case whatever encouragement is provided through legislation to defendants to offer apologies, the effectiveness in practice of such provisions may be limited. This is because the significance of litigation and its outcomes still drives parties to employ a considerable degree of caution. Even in the context of a more comprehensive revision of section 2 along the lines of the Scottish legislation, the benefits may be doubtful.
50. In addition, save with respect to the issue of vicarious liability, legislating purely for the purpose of clarifying the existing law, being without clear evidence the changes will have an impact, may not represent a worthwhile use of the legislative programme. Especially given the competing demands on Parliamentary time that exist.

Impacts on claimants and defendants

51. If the Government takes forward the consultation proposals, there may be some impacts on those giving and receiving apologies. It is important to note that the aim of any possible legislative reform to the Compensation Act is to provide legal certainty to the status of an apology, including in relation to child sexual abuse claims, and potentially remove any barriers, perceived or real, to the making of an apology.

In doing so, this may promote a culture of making apologies at an earlier stage and thus negate the need for issuing formal legal proceedings.

52. That said, any changes to the Compensation Act will still reserve the defendant's legal rights to offer an apology and it will not compel them to do so any more than they currently are. The proposals will not alter the current position of offering liability-free apologies, which would remain unable of themselves to amount to an admission of liability. Similarly, the proposals would not prevent any individual or organisation from taking forward a complaint or civil litigation if they wish, for example, to pursue claims for compensation.

Alternatives to legislation

53. Given the potential difficulties in securing Parliamentary time for primary legislation and the questions over its potential effectiveness, it may be worth considering alternative approaches involving secondary legislation or guidance. As well as providing a potential alternative, in the event that primary legislation is considered viable these could still serve as supplementary measures to support and encourage a pro-active approach.
54. One option may be to extend the apology provisions in the Pre-Action Protocol for the Resolution of Clinical Disputes¹⁴ to cover more claims of tortious liability via other pre-action protocols.
55. As part of a 'duty of candour'¹⁵ on health service bodies, regulations provide that where something has gone wrong the NHS should inform the person(s) affected of what happened, what further enquiries are taking place and to make an apology.¹⁶ This is also reinforced through publications such as NHS Resolution's *Saying Sorry* leaflet.¹⁷
56. Consideration could therefore be given to whether general guidance on the use of apologies would be useful in relation to other civil proceedings. There is, of course, a risk that formal guidance may itself be a focus of disagreement and even satellite litigation.

¹⁴ Pre-Action Protocol for the Resolution of Clinical Disputes - Civil Procedure Rules (justice.gov.uk) (see paragraph 2.2(l)).

¹⁵ Duty of candour - GOV.UK (www.gov.uk)

¹⁶ <https://www.legislation.gov.uk/ukdsi/2014/9780111117613/regulation/20>

¹⁷ NHS-Resolution-Saying-Sorry.pdf

Questionnaire

We would welcome responses to the following questions set out in this consultation paper.

Q1: Do you consider that there would be merit in the Government introducing primary legislation to reform the law on apologies in civil proceedings? Please provide reasons for your answer.

Q2: Do you agree that this legislation should broadly reflect the approach taken in the Scotland Apologies Act 2016? Please provide reasons for your answer.

Q3: What do you believe the impacts and potential consequences would be on claimants or defendants should a Scottish style Apologies Act be introduced in England and Wales?

Q4: Should the legislation provide a definition of an apology? Please provide reasons for your answer.

Q5: Should the legislation apply to all types of civil proceeding, apart from defamation and public inquiries? If not, what other types of civil proceeding should be excluded? Please provide reasons for your answer.

Q6: Would there be any merit in the legislation making specific reference to vicarious liability (on the basis it would clarify the position on apologies in historic child sexual abuse claims)?

Q7: Should the legislation be clear that it would not be retrospective?

Q8: Are there any non-legislative steps, e.g., Pre-Action Protocols, that the Government should take to improve awareness of the law in this area? If so, what should these be, and should they be instead of – or in addition to – primary legislation?

Q9: Do you have any evidence or data to support how widely the existing legislative provisions in the Compensation Act are used?

Q10: What is your assessment of the likely financial implications (if any) of the proposals to you or your organisation?

Q11: What do you consider to be the equalities impacts on individuals with protected characteristics of each of the proposed options for reform? Please give reasons.

Q12: Do you agree that we have correctly identified the range and extent of the equalities impacts under each of these proposals set out in this consultation? Please give reasons and supply evidence of further equalities impacts as appropriate.

Thank you for participating in this consultation exercise.

About you

Please use this section to tell us about yourself.

Full name	
Job title or capacity in which you are responding to this consultation exercise (e.g. member of the public etc.)	
Date	
Company name/organisation (if applicable):	
Address	
Postcode	
If you would like us to acknowledge receipt of your response, please tick this box	<input type="checkbox"/> (please tick box)
Address to which the acknowledgement should be sent, if different from above	

If you are a representative of a group, please tell us the name of the group and give a summary of the people or organisations that you represent.

Contact details/How to respond

Please send your response by 03-06-2024 to:

Zalwa Alasow
Ministry of Justice
Post Point 5.25
102 Petty France
London SW1H 9AJ

Email: zalwa.alasow@justice.gov.uk

Complaints or comments

If you have any complaints or comments about the consultation process, you should contact the Ministry of Justice at the above address.

Extra copies

Further paper copies of this consultation can be obtained from this address and it is also available on-line at <https://www.gov.uk/government/consultations/reforming-the-law-of-apologies-in-civil-proceedings>

Alternative format versions of this publication can be requested from Zalwa.Alasow@justice.gov.uk

Publication of response

A paper summarising the responses to this consultation will be available on-line at <https://consult.justice.gov.uk/>.

Representative groups

Representative groups are asked to give a summary of the people and organisations they represent when they respond.

Confidentiality

Information provided in response to this consultation, including personal information, may be published or disclosed in accordance with the access to information regimes (these are primarily the Freedom of Information Act 2000 (FOIA), the Data Protection Act 2018 (DPA), the United Kingdom General Data Protection Regulation (UK GDPR) and the Environmental Information Regulations 2004).

If you want the information that you provide to be treated as confidential, please be aware that, under the FOIA, there is a statutory Code of Practice with which public authorities must comply and which deals, amongst other things, with obligations of confidence. In view of this it would be helpful if you could explain to us why you regard the information you have provided as confidential. If we receive a request for disclosure of the information we will take full account of your explanation, but we cannot give an assurance that confidentiality can be maintained in all circumstances. An automatic confidentiality disclaimer generated by your IT system will not, of itself, be regarded as binding on the Ministry.

The Ministry will process your personal data in accordance with the DPA and in the majority of circumstances, this will mean that your personal data will not be disclosed to third parties.

Impact Assessment, Equalities and Welsh Language

Impact assessment

Due to the limited evidence concerning the impacts of the proposals, a formal Impact Assessment (IA) has not been prepared at this stage. This consultation is seeking evidence from a wide range of stakeholders, including the legal profession and the insurance industry, on the estimated impacts on the business sector. These responses will help to inform whether the likely monetised and non-monetised costs and benefits associated with the proposals are sufficient to be included in any response IA.

The Government will provide further details when it publishes its response paper.

Equalities

An Equalities Statement has been prepared for this proposal and can be found at <https://www.gov.uk/government/consultations/reforming-the-law-of-apologies-in-civil-proceedings>.

This consultation has considered the equality impacts in which the proposed changes to the Compensation Act could have on users. However, since the proposals will remain as an encouraging measure, designed to benefit all civil court users, we do not consider it to likely to result in any unlawful direct or indirect discrimination.

The combined effect of the proposals, if enacted, are not designed to create any differential treatment between the different classes of claimants and defendants, or between those who share one or more of the protected characteristics and those who do not. The proposals would apply equally to all people.

Equality related questions are listed at question 11 and 12 above.

Welsh Language Impact Test

This proposal, if implemented, would also impact those who speak the Welsh Language.

A Welsh version of this document can be found at: <https://www.gov.uk/government/consultations/reforming-the-law-of-apologies-in-civil-proceedings>

A Welsh language copy of the Equalities Statement will be provided on request.

Consultation principles

The principles that Government departments and other public bodies should adopt for engaging stakeholders when developing policy and legislation are set out in the Cabinet Office Consultation Principles 2018 that can be found here:

https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/691383/Consultation_Principles__1_.pdf



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