Summary: Intervention and Options

<table>
<thead>
<tr>
<th>Cost of Preferred (or more likely) Option</th>
</tr>
</thead>
<tbody>
<tr>
<td>Total Net Present Value</td>
</tr>
<tr>
<td>-------------------------</td>
</tr>
<tr>
<td>£1.1bn</td>
</tr>
</tbody>
</table>

**What is the problem under consideration? Why is government intervention necessary?**

The Civil Liability Bill underpins vital reforms to the justice system in two key areas: road traffic accident related whiplash claims and the setting of the Personal Injury Discount Rate (PIDR) used to calculate lump sum payments in personal injury cases. Individual impact assessments (IA) have been prepared for both reforms which provide greater detail on the nature of each of the problems under consideration, why intervention is necessary and the impact of each provision. A summary of the main impacts associated with each of these legislative measures has been included in this overarching IA.

**What are the policy objectives and the intended effects?**

The whiplash reform programme will tackle the high number and cost of minor, fraudulent and exaggerated claims so reducing the cost of premiums to motor insurance policy holders and help to counteract the wider ‘claims culture’ associated with such claims. The reforms to the legal framework for setting the PIDR will reduce the levels of over-compensation that unLawfully injured victims currently receive and better balance the interests of claimants, defendants and wider society. By specifying the principles by which the PIDR is to be set in legislation, it will be easier to understand the review process and to anticipate the size of any prospective changes while regular reviews will provide greater certainty to both claimants and defendants. Requiring the Lord Chancellor to give reasons and publish information will ensure that a clear, transparent and objective approach is adopted which provides certainty and predictability for those involved in litigation.

**What policy options have been considered, including any alternatives to regulation? Please justify preferred option (further details in Evidence Base)**

The following options are assessed in this Impact Assessment:

- Option 0 – Do nothing. Retain the current legislative position concerning the setting of the PIDR, the payment of compensation for road traffic accident (RTA) related whiplash injuries and the current Small Claims Track (SCT) limits for both RTA related personal injury (PI) claims and non-RTA PI claims.
- Option 1 – Introduce the legislative measures included in the Civil Liability Bill.

Option 1 is the preferred option as it best meets the policy objectives.

**Will the policy be reviewed?** Please refer to the individual Impact Assessments for details.

<table>
<thead>
<tr>
<th>Does implementation go beyond minimum EU requirements?</th>
<th>N/A</th>
</tr>
</thead>
<tbody>
<tr>
<td>Are any of these organisations in scope?</td>
<td>Micro</td>
</tr>
<tr>
<td>--------------------------------------------------------</td>
<td>------</td>
</tr>
<tr>
<td>What is the CO₂ equivalent change in greenhouse gas emissions? (Million tonnes CO₂ equivalent)</td>
<td>Traded: N/A</td>
</tr>
</tbody>
</table>

I have read the Impact Assessment and I am satisfied that, given the available evidence, it represents a reasonable view of the likely costs, benefits and impact of the leading options.

Signed by the responsible Minister:  

Date: 27/06/2018
Summary: Analysis & Evidence

Policy Option 1

FULL ECONOMIC ASSESSMENT

<table>
<thead>
<tr>
<th>Price Base Year 2014</th>
<th>PV Base Year 2019</th>
<th>Time Period Years</th>
<th>Net Benefit (Present Value (PV)) (£m)</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td>10</td>
<td>Low: Optional</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>High: Optional</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>Best Estimate: £1.1bn</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>COSTS (£m)</th>
<th>Total Transition (Constant Price) Years</th>
<th>Average Annual (excl. Transition) (Constant Price)</th>
<th>Total Cost (Present Value)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Low</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>High</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Best Estimate</td>
<td>N/A</td>
<td>£1.3bn</td>
<td>£10.6bn</td>
</tr>
</tbody>
</table>

Description and scale of key monetised costs by 'main affected groups'
The monetised costs are detailed in the individual IAs for each legislative measure. Other than those associated with establishing and supporting the independent expert panel and with future reviews of the rate, there are no quantified costs for the proposed legal framework for setting the PIDR as these can only be determined when the rate is next set. The Whiplash reforms will have monetised costs for claimants as a result of them receiving reduced damages payments and from having to pay their own legal costs. Motor insurance policy holders may incur costs due to increases in the Before the Event (BTE) Insurance Premiums and from increased premiums due to defendant insurers passing on the increased costs of the requirement for all claims to have medical reports.

Other key non-monetised costs by ‘main affected groups’
There are no non-monetised costs associated with changing the legal framework for setting the PIDR although it is likely that the rate under the new legal framework will be higher than it would otherwise be. This will reduce lump sum payments to claimants who may also need to assume a higher level of investment risk.

<table>
<thead>
<tr>
<th>BENEFITS (£m)</th>
<th>Total Transition (Constant Price) Years</th>
<th>Average Annual (excl. Transition) (Constant Price)</th>
<th>Total Benefit (Present Value)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Low</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>High</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Best Estimate</td>
<td>N/A</td>
<td>£1.4bn</td>
<td>£11.6bn</td>
</tr>
</tbody>
</table>

Description and scale of key monetised benefits by 'main affected groups'
Full details of the key monetised benefits are detailed in individual IAs for each legislative measure. There are no quantified benefits for the reforms to the legal framework for setting the PIDR as these can only be determined when the rate is next set. The Whiplash reforms will create benefits for defendants from reductions in damages payments, the costs of claims with medical reports and non-recoverable legal costs. It has been assumed that 85 per cent of these savings will be passed to insurance policy holders in the form of reduced premiums. Policy holders will also benefit from lower Insurance Premium Tax. The net benefit to motor insurance premium holders is expected to be around £1.2bn per annum, inclusive of the reduction in Insurance Premium Tax.

Other key non-monetised benefits by ‘main affected groups’
Non-monetised benefits by the main affected groups are detailed in the individual IAs for each legislative measure and summarised in this IA. The reforms to the legal framework for setting the PIDR will give claimants and defendants greater certainty concerning future changes in the rate and benefit society through the additional expertise available to the Lord Chancellor when setting the rate. Raising the SCT limit, as part of the Whiplash reforms, should reduce the cost to insurers of recoverable legal expenses in PI claims. The Whiplash reforms will also contribute to action to tackle the wider ‘claims culture’ which surrounds such claims at present.

Key assumptions/sensitivities/risks
Discount rate (%) 3.5

The monetised and non-monetised costs and benefits are based on the key assumptions outlined in the individual IAs which also contain a breakdown of the costs and benefits of each measure in further detail. The NPV each measure, where estimated, is presented in Tables 1 and 2 below. Each of these estimates are subject to risks and uncertainties which are described and, where possible, quantified in the individual IAs.

BUSINESS ASSESSMENT (Option 1)

<table>
<thead>
<tr>
<th>Direct impact on business (Equivalent Annual) £m:</th>
<th>Score for Business Impact Target (qualifying provisions only) £m:</th>
</tr>
</thead>
<tbody>
<tr>
<td>Costs: £110m</td>
<td>Benefits: £730m</td>
</tr>
</tbody>
</table>
Overarching Impact Assessment

Civil Liability Bill

June 2018
A. Summary

Introduction

1. The Civil Liability Bill underpins vital reforms to the justice system in two key areas: whiplash related road traffic accident (RTA) claims, alongside wider reforms to the small claims track (SCT) limit for personal injury (PI) claims; and the setting of the Personal Injury Discount Rate used to calculate lump sum payments in PI cases.

2. The Bill delivers key priorities for the Ministry of Justice and for the Government and enables delivery of key manifesto commitments. It formed the centrepiece of the Queen’s Speech in 2017.

3. The Bill will deliver savings for people who hold insurance policies, with the whiplash measures expected to reduce motorists’ insurance premiums by £1.1bn in total or an average of about £35 a year per policy. The changes to the legal framework for setting the Personal Injury Discount Rate will ensure that the process is fairer to both claimants and defendants and, by so doing, further reduce pressure to increase motor insurance premiums while delivering savings to the taxpayer.

4. The reforms to RTA related whiplash claims and raising the SCT limits for PI claims to £5,000 for RTA related PI claims and to £2,000 for all other PI claims will also make a substantial contribution to meeting the Government’s target of reducing the regulatory burden on business.

5. The rest of this overarching Impact Assessment (IA) explains the policy rationale and objectives which underpin each specific legislative measure and describes the key stakeholders who would be affected. It then provides an overview of the impact of each of the proposals on society, focusing on the monetised and non-monetised impacts. Further detailed discussion of each proposal is set out in the individual IAs.
B. Background

Whiplash Reform Programme

6. The Government consulted on measures to tackle the continuing high number and cost of minor RTA whiplash related claims, between 17 November 2016 and 6 January 2017.

7. Following consideration of the responses received we will legislate to:
   - Set a fixed tariff of compensation for ‘pain, suffering and loss of amenity’ (PSLA) for claims with an injury duration of between 0 and 2 years.
   - Ban the practice of offering to settle such claims without first seeking medical evidence.

8. The whiplash reform programme also includes secondary legislative measures to the Civil Procedure Rules to raise the SCT limit to £5,000 (from £1,000) for RTA related PI claims and to £2,000 (from £1,000) for all other PI claims.

Personal Injury Discount Rate

9. Following the change in the Personal Injury Discount Rate from 2.5 per cent to -0.75 per cent in March 2017, the Ministry of Justice consulted on how, when and by whom the discount rate should be set in future. This consultation closed on the 11 May 2017.

10. Following a consideration of the responses received, the Government decided to legislate to:
   - Change the methodology governing how the discount rate was set to provide for the assumed claimant investment risk profile to be low risk rather than very low risk as at present. This was to establish a sound legal basis for setting the rate in future which would better reflect actual claimant investment behaviour and create a system which balances the interests of claimants, defendants and wider society more fairly;
   - Provide for the rate to be reviewed on a regular basis (at least every five years). This was to provide greater predictability and certainty and, also, reduce the extent of the impact of any future change in the rate; and
   - Establish an independent expert panel to advise the Lord Chancellor on the issues to consider when setting the rate. This was to ensure that a clear, transparent and objective approach is adopted which provides certainty for those involved in litigation.

11. Draft legislation to implement these proposals was published for pre-legislative scrutiny by the Justice Select Committee (“JSC”) in September 2017. The Government’s response to the JSC’s report was published alongside the introduction of the Civil Liability Bill into the House of Lords on 20 March 2018. The Bill moved to the House of Commons on 28 June.
C. Overall Policy Rationale and Objectives

12. The conventional economic approaches to Government intervention rest on efficiency or equity arguments. Governments may consider intervening if there are strong enough failures in the way markets operate (e.g. monopolies overcharging consumers) or similar failures in existing Government interventions (e.g. waste generated by misdirected rules) where the proposed new interventions avoid creating further disproportionate costs and distortions. The Government may also intervene for equity (fairness) and distributional reasons (e.g. to reallocate goods and services to more needy groups in society).

Whiplash Reform Programme

13. The rationale for the reforms to RTA related whiplash claims and the process for all PI claims is efficiency. The continuing high number and cost of minor RTA related whiplash claims (described in detail in the individual IA for this legislative measure) is due to various interrelated market failures and the current levels of compensation, which the Government believes is out of all proportion to the level of injury suffered. These factors, when combined, create incentives to make exaggerated or fraudulent claims and for defendants to settle them, sometimes without the appropriate medical evidence.

14. The Government also believes that this has created a wider 'claims culture' in which it has become acceptable to make such claims. This culture imposes wider costs on the insurance sector and the holders of motor insurance policies as the costs of exaggerated or fraudulent claims are passed to all policy holders in the form of higher premiums.

15. The associated policy objective is to create a new simplified system which will ensure that where PSLA compensation is paid following an RTA resulting in a whiplash related injury claim the amount paid to the claimant is proportionate to the injury suffered and only for genuine injuries, supported by good quality medical evidence from a properly accredited medical expert. The more specific policy objectives are:

- To create a balanced, predictable and proportionate system for the payment of compensation for PSLA for whiplash related claims.
- To reduce the incentives to bring forward minor, exaggerated and fraudulent whiplash related claims and therefore reduce the overall cost to motorists through lower motor insurance premiums.

16. The reforms to whiplash related claims and raising the SCT limits will make a substantial contribution to the Government's target of reducing the regulatory burden on business.

Personal Injury Discount Rate

17. In serious personal injury cases, claimants, including children, with serious injuries caused by the fault or negligence of others require compensation to meet their on-going financial needs, often over long periods of time and sometimes the rest of their lives. These financial needs can relate to the costs of obtaining personal care and to any loss of income resulting from the injury. Personal injury damages are intended to compensate the claimant for all such losses, past and future, caused by the injury ("the 100% rule"). Future financial loss (e.g. those associated with loss of income and on-going costs of care) can be paid by a lump sum or a stream of future payments under a Periodical Payments Order (PPO). Typically, large awards will include both.
18. The calculation of a lump sum includes applying a discount rate which represents the rate of return that claimants are expected to earn when investing it. This Personal Injury Discount Rate is intended to ensure that the opportunity to invest does not result in either over or under-compensation. The Damages Act 1996 gave the Lord Chancellor power to set a Personal Injury Discount Rate (or rates) for the courts to apply.

19. Because of their dependence on their award, claimants in serious personal injury cases differ from other investors in that they have less choice as to whether and how to invest. Under the current legal framework, the rate is calculated on the basis that the claimant is a very risk averse investor (as per the House of Lords ruling in the 1998 case of Wells v Wells). The rate has therefore been set by reference to yields on Index Linked Gilts (ILGS) since 1998. The Lord Chancellor is under a continuing legal duty to ensure that the rate prescribed is not inappropriate by reference to the requirements of the law.

20. Applying the current law, the then Lord Chancellor set the rate at 2.5% real in June 2001 and at minus 0.75% in March 2017. Following the change in March 2017 (the first review for 16 years) the cost to insurers was estimated at around £2bn a year with an increase of £50-£75 on an average comprehensive motor insurance policy; whilst the Government has set aside £1.2bn a year to meet the expected additional costs to the public sector.

21. The Ministry of Justice subsequently consulted on how, when and by whom the rate should be set in future. The consultation evidence suggested PI claimants are advised and do invest in a range of portfolios including those of low risk and medium risk (none invested in ILGS alone). By investing in portfolios of low or medium risk, claimants expose themselves to higher levels of investment risk than assumed under the current legal framework but are, on average, likely to achieve returns considerably higher than the current discount rate; that is, they are likely to be over-compensated, on average.

22. In summary, the primary rationale for intervention to reform the legal framework for the setting the Personal Injury Discount Rate is equity (fairness). While continuing to recognise and respect the circumstances in which they find themselves, the Government has concluded that the present law requires the Personal Injury Discount Rate to be set by reference to unrealistic assumptions about the way that claimants invest their awards. This leads to systemic over-compensation of claimants who chose to take their damages for future financial loss as a lump sum rather than a stream of future payments. The Government’s preferred option also includes legislative measures to increase the levels of transparency and predictability in setting the Personal Injury Discount Rate in future.

23. The associated policy objective is, by setting the Personal Injury Discount Rate with reference to a low risk investment portfolio rather than a very low risk one, to reduce the overall level of over-compensation. This over-compensation is paid by the taxpayer, for example in funding the compensation payments made by the NHS, and consumers, both business and individual, who have to pay more for insurance policies.

24. The Civil Liability Bill as introduced aimed to achieve these policy objectives. During its passage through the House of Lords the discount rate provisions in the Bill were amended to achieve the completion of the first review of the rate under the new legislation more quickly. In particular, the requirement to consult the expert panel was replaced with a requirement to consult the Government Actuary; and the maximum period for the completion of the review was reduced from 180 days to 140 days; and the maximum period between reviews of the rate was increased from three to five years.
25. The Government’s revised approach to these issues is explained in section E and in the updated individual IA for this measure.
D. Affected Stakeholder Groups, Organisations and Sectors

26. A list of the main groups and stakeholders who would be affected by the proposals described in this IA is shown below:

- Claimants in PI and RTA related whiplash cases and, in some cases, their personal representatives.
- Defendants in PI and RTA related whiplash cases, including public sector bodies, such NHS Resolution, other businesses, and insurers.
- Experts, including medical experts in RTA related whiplash cases and the members of an expert panel appointed to advice the Lord Chancellor on setting the Personal Injury Discount Rate.
- Legal services providers, Claims Management Companies, financial advisers, wealth managers and professional deputies.
- Providers of Before the Event insurance.
- Her Majesty’s Courts and Tribunals Service (HMCTS) and the judiciary.
- Government departments, including the Ministry of Justice (MoJ) and HM Revenue and Customs (HMRC), and other public bodies.
- Third sector organisations who provide advice to claimants in PI cases;
- Providers of rehabilitation services to claimants in RTA related whiplash claims;
- Other organisations involved in RTA related whiplash claims such as Medco and the Claims Portal Ltd;
- Taxpayers, who ultimately meet the costs of the NHS; and
- Wider society, either as those with views concerning equity and fairness, and as individuals (both in their roles as those currently paying insurance premiums and taxation but also as potential claimants in future RTA related whiplash and PI cases).
E. Description of Legislative Measures

Base Case

27. In accordance with Impact Assessment guidance, the policy and legislative proposals have been assessed against a defined ‘base case’. These are set out below.

Whiplash Reform

- The current arrangements for compensating whiplash/soft tissue injuries and the current SCT limits would remain in place.

Personal Injury Discount Rate

- The current legal framework for setting the Personal Injury Discount Rate would remain unchanged.

Legislative proposals

Claims for whiplash related injuries

28. To tackle the issues related to such minor claims we will introduce a tariff of predictable damages for all RTA related whiplash PSLA claims with an injury duration of between 0 and 24 months. The tariff will provide a single figure setting out the value of the claim, based on injury duration. Claimants will be able to identify the amount of compensation due based on the prognosis period data contained within their medical report.

29. Medical reports will continue to be sourced through MedCo, to ensure the reports are provided by accredited, independent experts and meet minimum standards. In addition, in exceptional circumstances and upon application by the claimant, the judiciary will be able to apply a discretionary uplift of up to 20% to the amount set out in the tariff.

30. The Bill will introduce a prohibition on the ability to offer, solicit or accept offers to settle RTA related soft tissue injury claims without medical evidence. The Bill also provide for enforcement of this ban through the relevant regulators.

The process for all PI claims

31. The SCT limit will be raised to £5,000 (from £1,000) for RTA related PI claims and to £2,000 (from £1,000) for all other PI claims.

Personal Injury Discount Rate

32. The Bill focuses on changing the methodology governing how the Personal Injury Discount Rate is set to provide for a less risk averse investment risk profile to apply, so as to better reflect actual claimant investment behaviour and to create a system which balances the interests of claimants, defendants and wider society more fairly. The principles on which the rate is to be set will be specified in the legislation. This clarity will make it easier for persons affected to understand the review process and to anticipate the size of any prospective change in the rate.
33. The first review of the Personal Injury Discount Rate under the new methodology will commence soon after the new legislation comes into force. For this review, the Lord Chancellor will consult the Government Actuary and HM Treasury.

34. Provision is also made for regular reviews to reduce the extent of the impact of any future change in the rate and to increase the predictability of when future reviews will occur. An independent expert panel to advise the Lord Chancellor on the factors to consider when setting the rate in these subsequent reviews will also be established at each review.

35. Taken together, the Government believes that these reforms will ensure that the Personal Injury Discount Rate is set using a clear, transparent and objective approach, which better protects the interests of claimants and defendants, while providing greater certainty and predictability for those involved in litigation.
F. Cost and Benefit Summary

36. This overarching IA summarises the main monetised and non-monetised impacts of the above legislative measures on individuals and groups in the England and Wales. The costs and benefits of each legislative measure are compared to the “do nothing” option. IAs place a strong emphasis on valuing costs and benefits in monetary terms. However, there are often important aspects of a policy that cannot readily be monetised – e.g. the effects on particular groups in society or changes in equity and fairness.

37. More detailed analysis of the costs and benefits for the whiplash and the Personal Injury Discount Rate measures, as well as the more specific policy objectives, can be found in the individual IA for each legislative measure. These are based on our modelling, analysis conducted on behalf of the Ministry of Justice by the Government Actuary’s Department, data from the Claims Management Regulator and HMCTS and responses received to the consultations referred to above. The expected impacts of these measures are summarised in tables 1 and 2 below.

38. These impacts have been assessed using HM Treasury guidance. To make our estimates for each measure comparable, we have adopted the following conventions:
   
   - Monetised costs and benefits are stated in 2014-15 prices;

   - The Net Present Value (NPV) of each measure has been calculated for a ten-year period from the expected implementation date using a 3.5 per cent discount rate; the implementation date assumed for whiplash reforms in the final stage IA is 2019.

   - Where appropriate, optimism bias has been applied. The rationale for the chosen levels can be found in the IAs for the individual measures;

   - Unless otherwise stated, the annualised costs or savings are those which would be achieved in ‘steady state’ (i.e. when the measure is fully in operation).

39. Our assessment of the impacts of reforming the setting the Personal Injury Discount Rate are largely qualitative at this stage. This is because the proposed framework only changes the legal framework in which the Lord Chancellor will make this decision and does not, of itself, lead to a determinate level for the rate. Having said this, it is likely that under the proposed framework, the discount rate would be higher than at present.

40. Likewise, it is standard practice in IAs to ignore transfers of income between different groups in society and only assess the impact of changes in real resource use. In the case of the Personal Injury Discount Rate all of the main impacts of the proposed reforms are likely to arise as a result of changes in such transfers. However, given the scale of these transfers and the likely interest in our proposals for reform, we have nonetheless included an assessment of these impacts in the IA for this measure.

41. An IA which quantifies the impacts any subsequent change in the Personal Injury Discount Rate will be produced when the Lord Chancellor makes a decision on this under the proposed legal framework.
Net Impact: Whiplash Reform

42. Table 1 summarises the net impact of the preferred options concerning whiplash related claims and the process for all PI claims.

<table>
<thead>
<tr>
<th>Table 1: Summary of Main Impacts, Best Estimates, Whiplash Reform</th>
</tr>
</thead>
<tbody>
<tr>
<td>Costs</td>
</tr>
<tr>
<td>-------</td>
</tr>
<tr>
<td><strong>Monetised</strong></td>
</tr>
<tr>
<td>Whiplash Reform</td>
</tr>
<tr>
<td></td>
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<td></td>
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<tr>
<td></td>
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<tr>
<td></td>
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<tr>
<td></td>
</tr>
<tr>
<td>Non-Monetised</td>
</tr>
<tr>
<td></td>
</tr>
<tr>
<td></td>
</tr>
<tr>
<td>Net Impact</td>
</tr>
</tbody>
</table>
Net Impact: Personal Injury Discount Rate

43. Table 2 summarises the net impact of the preferred options concerning the Personal Injury Discount Rate.

<table>
<thead>
<tr>
<th>Options Described</th>
<th>Costs</th>
<th>Benefits</th>
<th>NPV</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Monetised</strong></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Set the PIDR with reference to a ‘low risk’ mixed portfolio</td>
<td>• Setting the PIDR with reference to a low risk mixed portfolio will result in reduced lump sum settlements for claimants in personal injury cases.</td>
<td>• Setting the PIDR with reference to a low risk mixed portfolio will result in reduced settlements paid by businesses and public sector bodies (compared to the settlements that would have been paid had the present law continued) so reducing any over-compensation.</td>
<td>N/A</td>
</tr>
<tr>
<td>Non-Monetised</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>reviewed at least once every five years</td>
<td>• Setting the PIDR with reference to a low risk mixed portfolio will result in reduced lump sum settlements for claimants in personal injury cases.</td>
<td>• Setting the PIDR with reference to a low risk mixed portfolio will result in reduced settlements paid by businesses and public sector bodies (compared to the settlements that would have been paid had the present law continued) so reducing any over-compensation.</td>
<td>N/A</td>
</tr>
</tbody>
</table>

| Review the PIDR at least once every five years | • The research and analysis in relation to the factors which might be considered when setting the rate are estimated at between £250k and £320k per review. The overall cost for the review (excluding the costs of the expert panel) is estimated to be between £285k and £355k. | • None | c. £285k-£355k per review |

15
G. Assumptions and Risks

44. All of the above estimates are based on assumptions and are therefore subject to an element of risk. The individual IAs for each legislative measure provide further information on these for each specific issue.

45. Many of our proposals rely on positive engagement with key partners across the justice system, wider Government and industry. These include the judiciary, the legal profession and the insurance sector. We have engagement strategies in place but, in some areas the MoJ is nevertheless dependent on the co-operation of others.

H. Wider Impacts

46. The Equality Statements have been prepared for each of the measures described in this document consider the wider impact of the proposals in light of the MoJ’s duty to pay due regard to the Public Sector Equality Duty. The following paragraphs provide our overall conclusions.

Equalities
47. In line with our Public Sector Equality Duty ("PSED") responsibilities under section 149 of the Equality Act 2010, we have paid due regard to the need to:

(a) eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under the Equality Act 2010;

(b) advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it;

(c) foster good relations between persons who share a relevant protected characteristic and persons who do not share it.

48. We have discharged our duty through early and ongoing consideration of the equality impacts of the policy development and final proposals contained in the Civil Liabilities Bill. We have used the best available data and evidence in proportionately undertaking the Equality Statements that accompany the Bill to assess the likely impacts on defendants and claimants with protected characteristics for whiplash claims and the setting of the Personal Injury Discount Rate.

49. The Equality Statements can be found with the Bill documents.

50. Our overall assessment of the equalities impacts based on the limited available data and evidence is as follows.

Direct discrimination

51. We hold the view that none of the Bill measures are likely to be directly discriminatory within the meaning of the Equality Act 2010 as they apply equally to all claimants and defendants in personal injury cases, including whiplash; we do not consider that the proposals would result in people being treated less favourably on account of any protected characteristic.

Indirect discrimination

52. Overall, as indicated in the accompanying equality statements, we recognise that some personal injury claimants with protected characteristics are likely to be over-represented when compared to the general population. We do not, however, consider that the reforms will amount to indirect discrimination within the meaning of the Act, since the resulting changes are unlikely to result in anyone sharing a protected characteristic being put at a particular disadvantage. To the extent that the reforms could be considered to result in a particular disadvantage, our assessment is that such impacts would be justified as a proportionate means of achieving the legitimate aims of these reforms (as given in the policy objectives summary above).

Discrimination arising from disability and duty to make reasonable adjustments

53. We recognise that it remains important to continue to make reasonable adjustments for claimants, defendants, court staff, the judiciary, and other courts and tribunals users with disabilities to help ensure that appropriate support is given to enable fair access to justice.

Advancing equality of opportunity
54. We have considered this limb of the duty and our overall assessment is that there will be some measures within the Bill that are likely to advance equality of opportunity for claimants with protected characteristics.

Fostering good relations

55. We consider it unlikely that there will be any implications on fostering good relations from these proposals.

Welsh language

56. We have considered the implications for Welsh language in the development of the Bill and published a summary of our proposals on the Government’s website.

I. Implementation

57. The IAs for each of the specific options described in this document provide more information about how the preferred options would be implemented.

J. Monitoring & Evaluation

58. The IAs for each of the specific options described in this document provide more information about how the preferred options would be monitored and evaluated.