

**Ministry of Justice Response to the Central London Employment Tribunal:
CJEU judgment in O'Brien v Ministry of Justice (Case C-432/17)**

We provide this update responding to queries received by these offices and the Tribunal requesting clarification of the Respondent's position regarding Claimants in this litigation pursuant to the Court of Justice of the European Union (CJEU) judgment in O'Brien v Ministry of Justice (Case C-432/17).

We confirm in the light of the CJEU judgment:

1. The Respondent accepts that eligible claimants who have already established under the Part Time Workers Regulations 2000 (PTWR), a successful claim for a pension remedy in respect of a fee paid appointment, would be entitled to further remedy in respect of claimed pre 7 April 2000 service in that appointment provided that, the pre 7 April 2000 service was continuous with the service from 7 April 2000 and that appointment was held up to retirement at age 65. MoJ is currently considering how such service should be credited given that the appropriate method may depend on, amongst other things, the jurisdiction in which the appointment was held, the year of first appointment and whether a PTWR compliant remedy requires a Judicial Pensions Act 1981 style measure, a Judicial Pensions and Retirement Act 1993 style measure or something else. The Respondent intends to further update the Employment Tribunal in the week commencing 11 March 2019 as to how it intends to deal with remedy issues.
2. Where relevant claimants' claimed fee paid service was accrued over different appointments both pre and post 7 April 2000, whether the pre (and post) 7 April 2000 service should be credited for a pension remedy depends on whether the claim for such service is in time pursuant to the PTWR. The pending Miller appeal before the Supreme Court has been listed for 11 July 2019 to determine this. In the circumstances the Respondent is not currently able to confirm whether and how such service will be used in the calculation of a pension remedy.

14 February 2019