

Ministry of Justice Statement in Fee-paid Judicial Cases

Update of 16 October 2020

This statement from the Ministry of Justice (MoJ) provides a further update on the work the department is doing to provide pension benefits to eligible judges for fee-paid service following the Court of Justice of the European Union's judgment of 7 November 2018 in O'Brien No.2 and the Supreme Court's judgment in Miller, handed down on 16 December 2019.

It should be read in conjunction with previous communications published on the GOV.UK website, links to which can be found below.

Progress report on interim payments

Background

In our statement of 18 September 2020, we set out that, as at 31 August 2020, we:

- had agreed 1,312 service records with retired and non-retired O'Brien 2 and Miller claimants;
- had agreed service records for 865 out of 1,030 retirees and dependants; and
- were making interim payments to 662 out of the 865 retirees and dependants where service records have been agreed (approximately 77%).

Update on level of payments to retirees

As at 30 September we:

- had agreed 1,596 service records with retired and non-retired O'Brien 2 and Miller claimants;
- had agreed service records for 900 out of 1,030 retirees and dependants; and
- were making interim payments to 823 out of the 900 retirees and dependants where service records have been agreed (approximately 91%).

Interim payments notification letter

In our September update we said that we were considering how we could improve the template letter that notifies claimants of their interim payments in lieu of pension. Following comments received from Mr Platt and others on the content of the letter, we have now completed a review and include a copy of the amended template letter with this update.

The changes we have introduced are intended make the content easier to understand for recipients. We have concentrated on providing clear explanations for why payments are being made, what amounts will be paid, and how those amounts have been calculated.

We have also included more detail on the tax treatment of interim payments, so that recipients can better understand the amounts they are paid.

The new template letter has been structured to include general information on the interim payments process in the main letter and member specific results in a series of Annexes. The letter is intended to provide results for a single fee-paid role only. Separate letters will be sent to claimants due to receive interim payments for more than one fee-paid role.

We can also now confirm that the functionality for producing tax year breakdowns of the arrears component of interim payments is now in place and members who have requested these breakdowns have now started to receive them.

Update on fee rates for years before 2000-01 used in interim payment calculations

In our September update we said that we expected to start using updated fee rates for years before 2000-01 to assess contribution rates and quantify sittings (where records are incomplete) for interim payment calculations on or after 1 November 2020. We remain on track to achieve this.

The updated fee-rates are average values derived using available data on actual rates paid and extrapolated values where actual rates are not available. We have included a list of the average fee rate values with this update.

Next update

We will provide a further update on interim payments progress during October and November by 11 December 2020.

Previous MOJ statements on this subject:

February 2019

<https://www.gov.uk/government/publications/ministry-of-justice-statement-in-fee-paid-judicial-litigation-february-2019>

March 2019

<https://www.gov.uk/government/publications/ministry-of-justice-statement-in-fee-paid-judicial-litigation-march-2019>

May 2019

<https://www.gov.uk/government/publications/ministry-of-justice-statement-in-fee-paid-judicial-litigation-may-2019>

July 2019

<https://www.gov.uk/government/publications/ministry-of-justice-statement-in-fee-paid-judicial-litigation-july-2019>

August 2019

<https://www.gov.uk/government/publications/ministry-of-justice-statement-in-fee-paid-judicial-litigation-august-2019>

October 2019

<https://www.gov.uk/government/publications/ministry-of-justice-statement-in-fee-paid-judicial-litigation-october-2019>

December 2019

<https://www.gov.uk/government/publications/ministry-of-justice-statement-in-fee-paid-judicial-litigation-december-2019>

January 2020

<https://www.gov.uk/government/publications/ministry-of-justice-statement-in-fee-paid-judicial-litigation-february-2020>

8 April 2020

<https://www.gov.uk/government/publications/ministry-of-justice-statement-in-fee-paid-judicial-litigation-april-2020>

30 April 2020

<https://www.gov.uk/government/publications/ministry-of-justice-statements-in-fee-paid-judicial-litigation-30-april-2020>

29 May 2020

<https://www.gov.uk/government/publications/ministry-of-justice-statements-in-fee-paid-judicial-litigation-may-2020>

24 June 2020

<https://www.gov.uk/government/publications/ministry-of-justice-statement-in-fee-paid-judicial-litigation-june-2020>

31 July 2020

<https://www.gov.uk/government/publications/ministry-of-justice-statement-in-fee-paid-judicial-litigation-july-2020>

18 September 2020

<https://www.gov.uk/government/publications/ministry-of-justice-statement-in-fee-paid-judicial-litigation-september-2020>