

Date: <Date>

Our ref: <Member ID>

Private & Confidential

<Title> <Initial> <Surname>

<Address 1>

<Address 2>

<Address 3>

<Address 4>

<Address 5>

<Post Code>

Dear <Title> <Surname>

Judicial Pension Schemes -

Interim payments for O'Brien 2 and Miller claims for pension benefit for Fee-Paid service

Background

Following the *O'Brien 2*¹ and *Miller*² judgments, XPS Administration (XPS) have been instructed by the Ministry of Justice (MoJ) to make interim payments in lieu of pension to eligible retired claimants for their Fee-Paid service.

Interim payments are being made in respect of your fee-paid service that:

- a) does not currently entitle you to pension benefits under the existing Fee-Paid Judicial Pension Scheme (FPJPS); and
- b) should now entitle you to benefits, following the *O'Brien 2* and *Miller* judgments.

Interim payments are being made while the MoJ take forward proposals to provide a long-term pension remedy by extending the FPJPS to cover the service detailed above.

You should note that all amounts in this letter are our current best estimate of the benefits you are entitled to. As further details of the MoJ's long-term pension remedy are finalised the amounts we estimate you are due may change. Your final entitlement will not be certain until the FPJPS is formally amended (expected to be in 2022). We will write again to confirm the final amounts you are due at that time.

If the interim payments set out in this letter are subsequently found to result in an under or overpayment position for any reason (for example, due to changes in the MoJ's proposed remedy), we will correct the position by adjusting subsequent pension payments to you accordingly. We will write to you again if this situation applies to you. In the event there is an overpayment, it would most likely be recovered by way of a deduction from future pension payments. In the event there is an underpayment, it would most likely be paid to you by way of an additional one-off lump sum (including an amount for compensation of an interest like nature in respect of late payment) and an addition to your future pension payments.

This letter relates to interim payments for your service as a <Fee-Paid Office>. Payments for claims relating to other offices continue to be processed and you will be contacted in due course under separate cover if you have additional claims.

¹ Judgment of the Court of Justice of the European Union in the case of *O'Brien v Ministry of Justice* (Case C-432/17).

² Supreme Court - *Miller and others v Ministry of Justice* [2019] UKSC 60.

Results

Your results and details of the calculations we've carried out are set out in the following annexes to this letter:

Annex A	Methodology details
Annex B	Your revised benefit entitlement at the time you retired
Annex C	Your interim payments

All amounts shown in this letter have been calculated using data you have agreed with the MoJ Judicial Claims Team (JCT) in respect of your fee-paid roles and a retirement date of <DATE>.

Other queries / Change of details

If you have any queries relating to this letter (and not related to any other pension payments), please get in touch at the address shown on page 1, or by email at MOJProject@xpsgroup.com. Please note that due to the large volume of claims we are working through there may be a delay in providing responses to queries, however we aim to get back to you within <xxx working days>.

If you change your address or bank account, please remember to let us know. If you do not tell us straight away, this could result in payments being suspended until you have given us the new details.

For queries about your ongoing payments please contact our Payroll team by phoning 0191 341 0673 or by emailing MoJPayroll@xpsgroup.com.

Yours sincerely

Jordan Watkins
Client Relationship Manager
For XPS Administration Limited
On behalf of the Judicial Pension Schemes

Annex A: Methodology

We have calculated your interim payments in line with our understanding of the MoJ's proposed amendments to the FPJPS, which are set out in the Consultation Document available online here: <https://www.gov.uk/government/consultations/fee-paid-judicial-pension-scheme-amendments>

The proposed amendments specify different calculations depending on:

1. The date on which you were first appointed to an eligible fee-paid judicial role
2. The date on which you were appointed to any subsequent judicial role
3. The pension scheme to which a relevant salaried judge would have belonged

Your circumstances mean that your benefits have been calculated in line with <<Section 1>> of the Consultation Document referred to above.

The actual calculations needed to determine benefit entitlements vary depending on individual circumstances and can be very complex. If you would like to get a better understanding of the calculations that apply to your particular circumstances, we suggest looking at <<

[If Section 1] the example on p10 of the FPJPS scheme guide, which can be found at www.mypension.com/moj, under the 'documents' section

[If Section 2] worked example 1 in the Consultation Document referred to above.

[If Section 3] worked example 4 in the Consultation Document referred to above.

[If Section 4] worked example 5 in the Consultation Document referred to above.

[If Section 5] worked examples 2, 3 and 6 in the Consultation Document referred to above.>>

<<The proposed amendments to the FPJPS set out in the Consultation Document specify that members with your circumstances will be given a choice over the eventual benefits that they receive. However, for the purpose of making interim payments MOJ have instructed us to automatically pay benefits based on the choice that results in the highest revised annual pension. Should you wish to make a different choice, you will be given additional information and an opportunity to do so when the FPJPS is formally amended (expected to be in 2022).>>

You should note that all amounts in this letter are our current best estimate of the benefits you are entitled to. As further details of the MoJ's long-term pension remedy are finalised the amounts we estimate you are due may change. Your final entitlement will not be certain until the FPJPS is formally amended (expected to be in 2022). We will write again to confirm the final amounts you are due at that time.

Annex B: Your revised benefit entitlements at retirement

In order to calculate the interim payments you are due, we have first calculated your revised total benefit entitlements at the time you retired. Your revised entitlement includes all the fee-paid service for this office which should now (as a result of the *O'Brien 2* and *Miller* judgements) entitle you to benefits.

We have calculated your revised benefit entitlements, at retirement, to be:

Annual scheme pension, before tax	£<<>> per annum
Retirement lump sum, before tax and before deduction of contributions owed	£<<>>
Less contribution deficit at retirement	£<<>>
Retirement lump sum, before tax	£<<>>
Tax due on retirement lump sum	£<<>>
Service award, after tax	£<<>>

All amounts shown have been calculated using data you have agreed with the MoJ Judicial Claims Team (JCT) in respect of your fee-paid roles and a retirement date of <DATE>.

<<>>

Annex C: Your interim payments

The interim payments you will receive cover the difference between your revised benefits at retirement (as shown in Annex B) and the retirement benefits you have already received.

You will receive 3 sets of interim payments:

Payment 1	A one-off payment in respect of pension arrears
Payment 2	A one-off payment in respect of lump sum arrears, service award arrears and compensation of an interest like nature for late payment
Payment 3	A series of ongoing monthly payments which act to "top-up" any existing pension you already receive

Details of the amounts you will be paid are set out below.

Payment 1 – One-off payment in respect of pension arrears

Payment 1 covers the arrears of pension you should have received between your retirement date of <<DATE>> and <<CALCULATION MONTH>>. The amount you are due includes an allowance for any pension increases that have occurred between these dates, in line with the provisions of the Pensions (Increase) Act 1971.

We have calculated the amount owed to you under Payment 1 as:

Pension arrears due, before tax³	£<<>>
--	--------------------------

Tax will be deducted at your marginal tax rate and will be paid to HM Revenue & Customs (HMRC) under Pay As You Earn (PAYE) rules.

The amount due (after tax) will be paid to you by XPS on or around <<>>. It will be paid into the same bank or building society account that your existing pension is paid to.

Payment 2 – One-off payment in respect of lump sum arrears, service award arrears and compensation for late payment

Payment 2 covers the additional benefits you should have received at retirement, on top of any payments you already received from the existing FPJPS. Payment 2 also includes an additional amount of compensation of an interest like nature relating to the delay in payment of your benefits.

³ Payment 1 will be taxed at your marginal tax rate. At the time of writing this letter we are not able to specify how much tax will be deducted, nor how much you will receive after tax. These amounts will be included in the payslip you receive in respect of Payment 1.

We have calculated the amount owed to you under Payment 2 as:

Retirement lump sum arrears due <u>less</u> outstanding contribution deficit, before tax	£ <<>>
<u>Plus</u> , service award arrears due, before tax	£ <<>>
<u>Plus</u> , compensation of an interest like nature for late payment	£ <<>>
Equals total due, before tax	£ <<>>
Equals total due, after tax at <<45%>>	£ <<>>

Tax has been deducted at the fixed rate of <<45%>> and will be paid to HM Revenue & Customs (HMRC) under arrangements agreed with HMRC.

The amount due after tax will be paid to you by XPS on or around <<>>. It will be paid into the same bank or building society account your existing pension is paid to.

Payment 3 – Ongoing monthly payments in respect of your revised pension entitlement

Payments 1 and 2 provide you with payment for the benefits you should have already received. Payment 3 is to provide you with the future benefits that you are entitled to. This is done by paying an interim payment to you each month in addition to any existing pension payments you receive.

We have calculated the additional ongoing payment owed to you under Payment 3 as:

Current annual pension at <<NEXT MONTH>>, before tax	£ <<>>
Revised annual pension at <<NEXT MONTH>>, before tax	£ <<>>
Difference in annual pension entitlements, before tax	£ <<>>
Difference in monthly pension entitlements, before tax⁴	£ <<>>

This amount will be paid to you monthly, starting <<NEXT MONTH>> and ending when the FPJPS is formally extended and you begin to receive the full pension you are entitled to (currently expected to be 2022). It will be shown on your payslip as a separate entry to any existing pension payments you receive.

Tax will be deducted at your marginal tax rate and will be paid to HM Revenue & Customs (HMRC) under Pay As You Earn (PAYE) rules. The amount you receive will increase each year in line with the Pensions (Increase) Act 1971.

Payments will be made on the last working day of the month into your nominated bank or building society account.

⁴ Payment 3 will be taxed at your marginal tax rate. At the time of writing this letter we are not able to specify how much tax will be deducted, nor how much you will receive after tax. These amounts will be included in the payslip you receive in respect of Payment 3.

Taxation of interim payments

The tax due on payments 1 and 3 will be deducted under the PAYE system in line with HMRC requirements and based on your tax code. The correct amount of tax may not be deducted from your initial payment, but this should be corrected in subsequent months as HMRC will automatically notify the XPS payroll team of any adjustments to your tax code. XPS can only adjust your tax code on instruction from HMRC. If you have a query about your tax code, you will need to contact:-

HM Revenue & Customs
PO Box 1970
Liverpool
L75 1WX

Telephone number: 0300 200 3300

In any correspondence with HMRC, you should quote the tax office reference 120/GB58247, your payroll number (from your pay slip) and your National Insurance number.

If you require a breakdown of payments 1 and 2 into the tax year to which they relate, please get in touch using the information provided on page 2 of this letter.