

Ministry of Justice Statement in Fee-paid Judicial Cases

Update of 4 May 2021

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

In our statement of 16 February 2021 we instigated a tabular reporting format to show progress in processing claims and payments by both the MOJ Judicial Claims Team and by XPS, the scheme administrator. Tables 1 and 2 below show the further progress that has been made between 16 February 2021 and 31 March 2021.

In these tables we refer to 'records' rather than individuals, with a record relating to a pension entitlement associated with a judicial office. An individual might therefore have more than one record to be processed.

Table 1 – Processing of records by the MoJ Judicial Claims Team (JCT)

		31 Jan 21	31 Mar 21	Change
(1)	Estimated total number of claimant records	5,706	5,999	+293
(2)	Records agreed by JCT and sent to XPS	2,573	3,433	+860
(3)	Records not yet agreed by JCT	3,133	2,566	-567
	Check total of rows (2) and (3) to row (1)	5,706	5,999	

Notes for Table 1:

- (1) This is the estimated total number of *O'Brien 2/Miller* claimant records and we do not expect this number to change significantly in future. It covers all outstanding claimants, including some *Miller* claims that might relate to service after 7 April 2000.
- (2) In processing claims, the JCT uses a prioritisation framework that takes account of retiree status and vulnerability factors.

Table 2 – Processing of records by the Scheme Administrator (XPS)

		31 Jan 21	31 Mar 21	Change
(4)	Active/deferred records processed by XPS in period	615	902	+287
(5)	Records receiving interim payments via XPS	1,235	1,745	+510
(6)	Records where queries pending with JCT, GAD or other.	129	369	+240
(7)	Records where queries pending with members	12	12	-
(8)	Records pending completion with XPS	582	405	-177
	Check total to row (2) in Table 1	2,573	3,433	

Notes for Table 2:

All records in Table 2 have had their sitting days agreed.

(4) Active records relate to individuals still holding the office concerned.

Deferred records relate to individuals who have left the office concerned but have not yet reached pension age.

(6) Records pending completion with XPS will include some active and deferred records.

Miller claimants

Some *Miller*¹ claimants have eligible fee-paid judicial service for periods on or after 7 April 2000. We consider these judges are eligible for membership of the existing Fee-Paid Judicial Pension Scheme under Regulation 8 of the Judicial Pensions (Fee-Paid Judges) Regulations 2017 in respect of that service and we will process their pension claims accordingly.

Next update

We will provide a further update on interim payments by 11 June 2021.

Previous MOJ statements on this subject can be accessed from the following web page:

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

¹ Miller and others v Ministry of Justice [2019] UKSC 60.