



An executive agency of the
Department for
Transport

A CONSULTATION PAPER

**THE DRIVING INSTRUCTION
(SUSPENSION AND EXEMPTION
POWERS) ACT 2009**

COMPENSATION SCHEME



Awarded for excellence



INVESTOR IN PEOPLE

8 March 2010

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**THE DRIVING INSTRUCTION (SUSPENSION AND EXEMPTION POWERS) ACT
2009 - COMPENSATION SCHEME**

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Glossary

Item	Definition
ADI	Approved Driving Instructor
DSA	Driving Standards Agency
DfT	Department For Transport
IA	Impact Assessment
PDI	Potential Driving Instructor
Register	Register of Approved Driving Instructors
Registrar	Registrar of Approved Driving Instructors
The 2009 Act	The Driving Instruction (Suspension and Exemption Powers) Act 2009

THE DRIVING INSTRUCTION (SUSPENSION AND EXEMPTION POWERS) ACT 2009 - COMPENSATION SCHEME

1 INTRODUCTION

1.1 The Driving Instruction (Suspension and Exemption Powers) Act 2009 (the 2009 Act) received Royal Assent on 12 November 2009. When fully brought into force, this will give new powers to the Registrar of Approved Driving Instructors (the 'Registrar'), who is an official of the Driving Standards Agency (DSA) which is responsible for regulating driving instructors in Great Britain. Only Approved Driving Instructors (ADIs), or Potential Driving Instructors (PDIs) operating under a trainee licence, authorised by the Registrar are permitted to give paid instruction in car driving. Registration lasts for four years, a trainee licence for six months, although the latter can be extended. ADIs must have their names entered onto a Register which is administered by the Registrar. In order to gain entry to the Register, instructors must pass a series of examinations and be "fit and proper" persons. Under the new powers, the Registrar will be able to suspend the registration of an ADI, or the trainee licence of a PDI, with immediate effect in certain circumstances.

1.2 The 2009 Act introduced the suspension power because of provisions in Road Traffic Act 1988 which means that it can take a minimum of 45 days for an instructor to be prevented from providing instruction. The statutory timetable allows the instructor to make representations – up to 28 days after the initial notification that his approval to deliver driving instruction is to be withdrawn. It is a further 14 days before the decision can take effect – allowing for the postal service this means that it takes a minimum of 45 days in practice to prevent the instructor from providing instruction. This timescale applies even where the instructor has been convicted of a serious offence.

1.3 The aim of the suspension power is to prevent an instructor from being able to continue to deliver driving instruction during the removal period. The new powers can be used where DSA believes that a particular ADI or PDI poses a significant threat to the safety of members of the public. The suspension is designed to allow the Registrar to stop an ADI or PDI from giving paid driving instruction during the time it takes to exercise the existing powers to remove an ADI's name from the Register of Approved Driving Instructors (the Register), or to revoke a PDI's trainee licence.

1.4 We envisage that the Registrar might use these new powers where an ADI or PDI:

- has been convicted of a serious sexual or violent offence; or
- is found to be giving a dangerously low standard of instruction.

1.5 The 2009 Act requires regulations to be made under which suspended ADIs and PDIs are to be paid compensation in certain circumstances. Compensation will be payable where an instructor is suspended pending the removal of their name from the Register or the revocation of their trainee licence, but that revocation or removal does not take place. This could occur either because the Registrar decides, based on the evidence and representations, that removal or revocation is inappropriate, or because the ADI or PDI successfully appeals to a Tribunal (the First-tier Tribunal) against such a removal or revocation. Under the 2009 Act the regulations can provide for the compensation to cover income and non-income losses arising from the suspension. Non-income losses would be likely in practice to relate to any reduction in the value of the suspended person's business. Compensation can only be paid in respect of losses incurred during the period of suspension.

1.6 The 2009 Act requires the compensation scheme to be set out in regulations. The new suspension powers cannot be used until these regulations are in place.

1.7 This paper explains proposals as to how the compensation scheme could work.

1.8 The following table sets out the main proposals on which we are seeking your views

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(B) fixed daily rates prescribed from time to time based on market rates.	
[Consultees are invited to express their preference between the two options]	
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3 EXECUTIVE SUMMARY

3.1 The proposals in this consultation paper relate to the introduction of a compensation scheme as a result of the 2009 Act. The Act introduces a power for the Registrar to suspend a driving instructor where he believes that instructor poses a threat to the public. It also provides that, before the suspension power can be used, a compensation scheme must be established in regulations which will apply to

situations where the instructor's permission to give paid instruction is not subsequently removed.

3.2 This paper makes a number of proposals on the administrative operation of the scheme. It proposes that there should be a two year time limit for claims, from the suspension ceasing to apply, that claims should be made in writing, including supporting documentation and that additional documentation may be sought where it is required to make an assessment of the claim. It also proposes that third parties may be approached to verify information made in the application and consent for this can be required for the claim to be processed.

3.3 The 2009 Act provides for payment for income losses and non-income losses. The paper proposes that income losses are assessed on actual losses incurred by the driving instructor during the period of suspension. It does, however, include an alternative option of fixed amounts. It proposes that non-income losses are also assessed on the basis of actual losses. In some cases, an external expert may be appointed to give advice in the assessment of the correct amount of compensation that should be paid to the claimant. It is intended that the Secretary of State for Transport will act through DSA when making decisions on compensation awards , and so this consultation refers to DSA making decisions on compensation.

3.4 Subject to consultation, we propose to commence the suspension power and introduce the compensation scheme in 2011.

4 IMPACT ASSESSMENT

4.1 We have prepared an initial Impact Assessment (IA), at **Annex A**. The IA will be developed in the light of comments received in response to this consultation paper.

5 HOW TO RESPOND

5.1 Please tell us what you think of the options in this paper by completing the reply form at: http://www.dsa.gov.uk/consultation/ADI_compensation/index.html

5.2 If you have difficulties downloading the consultation paper or reply form please e-mail us at

- consultations@dsa.gsi.gov.uk or contact DSA by telephone (0115) 936 6098, or by minicom (0115) 936 6660, and we will send you a hard copy.

5.3 If you are unable - or do not wish - to respond electronically, please reply by post, using the hard copy response form, to:

- DSA Policy Team, The Axis Building, 112 Upper Parliament Street, Nottingham, NG1 6LP.

5.4 The Consultation period will last for 12 weeks from 8 March 2010 to 31 May 2010, in accordance with the Government's guidelines¹.

¹ *Code of Practice on Consultation*. Issued by the Department for Business Innovation and Skills

5.5 Responses must arrive no later than 31 May although earlier receipt would help us. **Please note that we are unable to consider any comments received anonymously and only those responses received using the Reply Form will be accepted.** We will acknowledge each response.

5.6 If you are replying on behalf of an organisation, it would be helpful if you could tell us who you are representing, the nature of the organisation, how many individuals' views are included within the response and what steps you took to gather those views.

6 WHAT HAPPENS NEXT

6.1 We shall use the responses received to this consultation exercise to inform Ministers of the views of stakeholders. A report based on the responses will be produced and posted on the DSA website: www.dsa.gov.uk. We will contact everyone who sends us comments to tell them when the *Response to Consultation* Report is available.

7 THE CONSULTATION CRITERIA

7.1 We have produced this consultation paper in accordance with the principles of the *Code of Practice on Consultations* – the criteria are reproduced at **Annex B**. If you consider that this paper does not comply with the criteria, please write setting out the areas where you feel the paper departs from the criteria to:

- Graham Law, Consultation Co-ordinator, Driving Standards Agency, The Axis Building, 112 Parliament Street, Nottingham, NG1 6LP.
- Tel: (0115) 936 6090; fax (0115) 936 6573; e-mail: graham.law@dsa.gsi.gov.uk

7.2 A full version of the Code of Practice is available on the Better Regulation Executive web-site at:
<http://bre.berr.gov.uk/regulation/documents/consultation/pdf/code.pdf>

8 DISCLOSURE OF INFORMATION

8.1 DSA is an executive agency of the Department for Transport (DfT) (the data controller). Your personal data will be processed by DSA for the purpose of administering this consultation only.

Freedom of Information – Publication of Responses

8.2 In line with our policy on openness, it is our intention to make available the responses we receive. They will be published on the DSA website – www.dsa.gov.uk - at the end of the consultation period, unless you specifically ask us not to do so. You should also be aware that we might have to disclose your response if asked to do so as part of a request for information made under the Freedom of Information Act 2000. You may ask that your response is kept confidential, but we will only be able to do this if withholding the information is consistent with the obligations under that legislation. Please note that a confidentiality disclaimer generated by an IT system in e-mail responses will not be regarded as a

confidentiality request. If third parties ask for hard copies of responses, we will make a reasonable charge for processing and copying.

8.3 Personal data is not disclosed to, or shared with any third parties, other than in accordance with the Data Protection Act 1998. For further information, please see our privacy notice on our website – www.dsa.gov.uk. Details of the DfT's / DSA's registration with the Information Commissioner can be viewed on the Data Protection Public Register on the Commissioner's website – www.ico.gov.uk. DfT's registration number is Z7122992.

9 APPLICATION WITHIN THE UNITED KINGDOM

9.1 The proposals in this consultation paper extend to Great Britain.

10 PROPOSALS EXPLAINED

Background

10.1 The proposals relate to the establishment and operation of the compensation scheme required by the 2009 Act. ADIs whose registrations have been suspended pending removal of their name from the Register, but whose names are not subsequently removed, and PDIs whose trainee licences have been suspended pending revocation but are not subsequently revoked, will be eligible to make an application for compensation. Compensation will be payable for:

- income losses – lost driving instruction income during suspension.
- non-income losses – other losses sustained as a result of suspension (e.g. reasonable interest charged on a loan necessarily incurred as a consequence of suspension or the loss in value of the claimant's business).

10.2 We anticipate the volume of suspension cases to be very low, probably in the low single figures per annum. Of these we would expect even fewer to result in the initial view that an instructor should be prevented from giving tuition being altered and therefore a previously suspended person becoming entitled to compensation.

10.3 The 2009 Act includes provision for appeal to the First-tier Tribunal (which, under the Tribunals, Courts and Enforcement Act 2007 replaced the Transport Tribunal), where an affected driving instructor disputes a decision that compensation is not payable or the amount awarded. The Tribunal will be able to:

- refer the case back to DSA for reconsideration – where new evidence has been presented to the Tribunal.
- reject the appeal.
- uphold the appeal.
- increase or decrease the amount of compensation to be paid.

10.4 The general arrangements for obtaining compensation following a suspension that does not lead either to the permanent removal of an ADI's name from the Register or to the revocation of a trainee licence

General provisions

- Time limit for making claims (see proposal 1) - We consider that it is reasonable to require claims for compensation to be submitted within two years of (a)

suspension ceasing to apply or (b) notification by the First-tier Tribunal of a decision to uphold a relevant appeal [i.e. against removal from the register, or revocation of a trainee licence or exemption, where the suspension power had been used] – whichever is later.

- Documentation (see proposal 2) – DSA should be entitled to require claims for compensation to be submitted in a standard format with relevant supporting documentation.
- Further information (see proposal 3) - DSA should also be able to require the submission of reasonable further information or documentation to facilitate the calculation of any sum due and its payment.
- Approach to third parties (see proposal 4) – DSA should be entitled to seek the consent of claimants to reasonable enquiries being made of third parties. Where such consent is not given, this may prevent DSA from continuing to process the claim for compensation.
- Determining the amount of compensation due (see proposals 5 and 6) – DSA will determine the amount of compensation due, taking account of the available evidence. In respect of income losses, two options for determining the amount due are offered for comment.

Monetary Losses

10.5. The proposals in this paper are considered individually in paragraph 12. However, given the issues involved with the calculation of monetary losses, the options available in both income and non-income losses are described below.

Income losses (see proposal 5)

Determining the amount of compensation due

10.6 This Consultation Paper considers two options for establishing the amount of compensation due for income losses:

- Option A would provide for the reimbursement of actual income losses incurred during the period of suspension that were directly attributable to the suspension. **This is our preferred option.**
- Option B would provide for reimbursement based on a system of set amounts related to the length of the period of suspension.

Option A – Reimbursement of actual losses resulting from and occurring during suspension

10.7 Under this option, any claim for compensation would need to be supported by appropriate documentary evidence. This could, for example, include copies of business records showing the level of activity and income prior to suspension. It is not possible to be prescriptive in terms of how income losses must be calculated as the circumstances of each case will differ. However, the claimant will need to clearly demonstrate the basis of the claim and produce supporting evidence.

10.8 There would be a need for an administration of the process. This could be undertaken by employees of DSA and we estimate that the cost for two days is likely

to be around £870 (based on a daily rate of £276 for a DSA senior manager and £159 per day for a DSA middle manager). Where appropriate, DSA may also make use of the services of an external expert, such as an accountant, who will provide advice on evaluating losses. This cost of appointing the expert would be met by DSA. The decision on the amount paid would however remain with the Secretary of State acting through DSA.

10.9 This method of determining the amount of compensation due in respect of lost income takes into account the specific circumstances of each case, e.g. the hours worked and training fees charged by claimants. It could therefore be regarded as fairer than a daily rate of reimbursement. However, it would be more time-consuming and costly to administer than compensation based on standard daily rates (option B).

10.10 It is also possible that this method of calculating compensation for income losses will generate more complaints from dissatisfied claimants than the daily rate option – resulting in appeals to the First-tier Tribunal. However, non-income losses will always be quantified in this manner.

Option B – Compensation based on daily amounts

10.11 Under this arrangement, income loss compensation would be based on daily rates, which could be multiplied by the period of suspension. We have used as a model the daily payments made by Her Majesty's Courts Service (HMCS) to jurors. These are, based on current HMCS rates:

- £63.12 per day for the first 10 days
- £126.25 per day from 11th day onwards

10.12 We have taken the view that it is appropriate to tailor the amounts payable under the compensation scheme to rates which are typical in the driving instruction industry. Discussions with the industry indicate that average charges range between £18 and £25 per hour and that ranges of hours worked vary widely. The following figures have been used for illustrative purposes:

- £20 as an hourly rate. A fee of £22 could be seen as typical but this is reduced to £20 for the purposes of illustration as it takes into account that there will have been no costs for petrol or wear and tear of the vehicle during the suspension.
- 28 hours worked per week, based on the working patterns of driving instruction professionals across the board.
- One standard rate of £80 for each continuous day of the suspension period, based on a four hour day multiplied by £20. But we would keep this amount under review to ensure that the amount of compensation awarded was reasonable in the circumstances.

10.13 Again, there would be a need for administration of the process. This could be undertaken by an employee of DSA and, compared with calculating actual losses, the hours required to complete the task of applying fixed amounts should be slightly less. We estimate that, unless the case was particularly complicated, or contained unusual factors, this task could be undertaken in around a day at a cost of some £435 (again based on a daily rate of £276 for a DSA senior manager and £159 per day for a DSA middle manager). This cost would be met by DSA.

10.14 The advantage of this method of calculating income losses is that it is

objective and easily understood. Successful claimants could anticipate, with a degree of certainty, the amount of compensation they would receive. As a consequence, there would be less likelihood of disagreements over the amount awarded. It would also be simpler and quicker to administer than Option A.

10.15 However, this system would not take account of different circumstances. The amount of compensation due would not be directly related to the actual amount of income lost. This would be unfair to those instructors who, prior to the suspension, worked long hours and commanded good fees, whilst possibly being over generous to those who worked part-time.

Recommendation

10.16 Option A is our preferred option. It is a fairer approach, which enables the actual earnings of each claimant to be taken into account when establishing income losses.

Non-income losses (see proposal 6)

10.17 These are significantly different to income losses. Rather than reimbursing an instructor for actual monies lost, it takes account of the wider financial impact that suspension may have on a person or his business. This can include items such as interest on a loan necessarily taken out during the period of suspension or the longer term effect of suspension on the value of the business.

10.18 As each case will differ, it would not be sensible to apply fixed amounts to this type of loss. Therefore, compensation payments for non-income losses will always be based on the individual circumstances of the affected instructor. We do not propose either to specify particular categories of loss in advance in regulations, as it will be difficult to capture all the different circumstances that might arise and we would wish to meet all reasonable claims necessarily incurred. We would expect any claim to be for non-income losses that have been reasonably incurred and so excessive claims where the loss could have been avoided or mitigated may be disallowed.

10.19 Again, DSA may, where it considers it would helpful, decide to employ a professional person to give advice in evaluating the level of the award for non-income losses, but with the decision on the amount payable remaining with the Secretary of State, acting through DSA. We estimate that appointing an expert may cost around £1000 (two days at a rate of around £500 per day). DSA would again meet the cost.

11. PROPOSALS

Proposal No.1 – Time limit

What will this mean?

11.1 We propose a time limit of two years for making an application for compensation.

Why are we proposing this?

11.2 To help ensure that claims are treated equitably, we believe it is important that they are submitted as soon as possible after the period of suspension ends. This helps to ensure that the circumstances are fresh in the mind and that evidence

to support the claim is still available. However, this needs to be tempered by an acknowledgement that it may take the instructor some time to collate the claim and, in some cases, it may be weeks after the period covered by the claim has expired before the suspended instructor is entitled to lodge a claim (e.g. where the First-tier Tribunal upholds an appeal against removal). In the circumstances, we think it is reasonable to allow two years following the end of the period of suspension or the upholding of an appeal to the First-tier Tribunal (whichever is latest) in which to submit a claim for compensation.

How will the proposal be implemented?

11.3 We propose that claims will need to be submitted within a maximum period of two years of (a) the suspension ceasing to apply, (b) notification by the First-tier Tribunal of a decision to uphold an appeal against removal from the register (or revocation of a trainee licence or exemption) where suspension had been used or (c) notification by the First-tier Tribunal to refuse an appeal by DSA – whichever was later.

11.4 Checking that a claim had been submitted within the time limit would be part of the routine processing procedure.

11.5 We plan to introduce this provision by regulation.

Are there any costs?

11.6 There should be no costs associated with this proposal.

Question 1

Do you agree with the proposal to include a time limit of two years for claims to be made?

Proposal No. 2 – Standard claim form and supporting documentation

What will this mean?

11.7 We propose that claims for compensation must be submitted in writing and be supported by relevant documentation. DSA will provide a standard form for making claims.

Why are we proposing this?

11.8 This is a convenient and consistent way in which to make a claim. The use of a standard form, supported by relevant documentation, will facilitate validation and processing of the claim. It will also make it easier for instructors to understand what information they need to submit.

How will the proposal be implemented?

11.9 DSA will provide copies of the claim form and guidance on the claims procedure. Instructors should provide documentation that is relevant to their claim, such as a copy business accounts. The documents should clearly support the claim. DSA may need to see original documents in certain cases.

Are there any costs?

11.10 There will be some small administrative cost to the claimant in copying the documentation and in postage, but account can be taken of this in the overall assessment of the claim.

Question 2

Do you agree with the proposal to require claims to be submitted in writing with relevant supporting documentation?

Proposal No.3 – Additional information/documentation

What will this mean?

11.11 DSA may request such further information or documentation from claimants as may reasonably be required whilst validating or processing a claim.

Why are we proposing this?

11.12 There will be occasions when DSA will need information or documentation beyond that already submitted in order to make a decision on the claim or to facilitate its processing. In those circumstances, DSA should be entitled to request that the claimant supplies the additional material within a reasonable period of time. The time allowed will reflect the degree of difficulty that the claimant may encounter in obtaining the information or documentation. Where the claimant does not provide the additional material, this may prejudice consideration of the claim – unless DSA is satisfied that the claimant is simply unable to supply it.

How will the proposal be implemented?

11.13 DSA will contact the claimant and request (in writing) the additional information or documentation.

11.14 We plan to introduce by regulations.

Are there any costs?

11.15 There will be no extra costs – other than the minor expense of copying and postage – from requiring the additional documentation. As for Q2 above, account can be taken of this in the overall assessment of the claim.

Question 3

Do you agree with the proposal to allow DSA to request reasonable further information or documentation from the claimant to facilitate validation or processing of the claim and to make payment of compensation conditional upon its provision?

Proposal No.4 – Approaches to third parties

What will this mean?

11.16 We propose that DSA may seek the consent of the claimant for reasonable enquiries to be made of third parties to assist in validating or processing the claim.

Why are we proposing this?

11.17 There will be occasions when DSA will need to approach a third party to verify information provided by the claimant (eg that a copy document supplied in support of a claim – possibly a loan agreement - is a true copy). In such circumstances, third parties usually require evidence that the person concerned has given written consent for the enquiry to be made. Where the claimant does not provide the necessary consent, this may prejudice consideration of the claim – unless DSA is satisfied that the grounds for refusal are justified.

How will the proposal be implemented?

11.18 DSA would contact the claimant in writing, seeking permission to approach a third party.

11.19 We plan to introduce by regulations.

Are there any costs?

11.20 There may be minimal costs to the instructor from this change. However, there may be benefits in terms of minimising delays in validating or processing claims. Account can be taken of this in the overall assessment of the claim.

Question 4

Do you agree with the proposal to allow DSA to seek the consent of the claimant for reasonable enquiries to be made of third parties to assist in validation or processing of the claim and for payment of compensation to be conditional on such consent being given?

Proposal No. 5 – Reimbursement of income losses

We seek the views of consultees as to which of the following two options they prefer:

Option A - Reimbursement of actual losses

What will this mean?

11.21 Under this proposal the reimbursement of income losses would reflect the actual amount lost by the instructor.

Why are we proposing this?

11.22 This appears to be an equitable way of reimbursing income losses.

How will the proposal be implemented?

11.23 Eligible instructors will be able to submit a claim for the amount of income from driving instruction lost during the period of suspension. They will need to show how the loss has been calculated and submit supporting documentation to substantiate the claim. DSA, after making such enquiries as it considers necessary, will determine whether the claimant is eligible to claim compensation and, if eligible, the amount of income lost. If the claimant disagrees with DSA's decision on eligibility or the amount of compensation due, he will be able to lodge an appeal with the First-tier Tribunal.

11.24 We plan to introduce by regulation.

Are there any costs?

11.25 There will be administrative costs to DSA in assessing income losses. These are outlined in the attached Impact Assessment. We expect the cost to be around £870 per case. There will also be the cost of the award of the compensation payment at whatever amount it is assessed at.

Option B – Compensation based on daily amounts

What will this mean?

11.26 Under this proposal income losses would be reimbursed on the basis of fixed daily amounts.

Why are we proposing this?

11.27 This is a simple and transparent way of reimbursing income losses.

How will the proposal be implemented?

11.28 Eligible instructors will be able to submit a claim for lost income based upon the number of days they were suspended. DSA would determine whether the instructor was eligible to claim compensation and, if eligible, the amount of compensation due. If the claimant disagreed with DSA's decision on eligibility or the amount of compensation due, he would be able to lodge an appeal with the First-tier Tribunal.

11.29 As an example, the compensation could be set at a standard rate of £80 per day for every day of the suspension period, based on average amount of £20 per hour multiplied by 4 hours.

11.30 We plan to introduce by regulations.

Are there any costs?

11.31 There will be administrative costs to DSA in assessing income losses. These are outlined in the attached Impact Assessment. We expect the cost to be around £435 per case. There will also be the cost of the award of the compensation payment at whatever amount it is assessed at.

Question 5

Do you agree with the proposal for the amount of compensation to be paid in respect of income lost, to be based upon either:

- (A) the actual amount lost; or
- (B) fixed daily rates

Consultees are invited to express their preference between the two options.

Proposal No. 6 – Non-income losses

What will this mean?

11.32 We propose that reimbursement should reflect reasonably and necessarily incurred non-income losses and that, subject to this, should reflect actual amounts lost by the instructor rather than a fixed amount or amounts..

Why are we proposing this?

11.33 This appears to be an equitable and transparent way of calculating non-income losses and takes into account the unique elements of each case.

11.34 In some ways, non-income losses are more difficult to quantify than income losses (eg the reduction in value of the claimant's business). Eligible instructors will be able to submit a claim for non-income losses incurred during the period of suspension. They will need to show how the loss has been calculated and submit supporting documentation to substantiate the claim. DSA, after making such enquiries as it considers necessary, will determine whether the instructor is eligible to claim compensation and, if eligible, the amount of the reasonably and necessarily incurred non-income loss. If the claimant disagrees with DSA's decision on eligibility or the amount of compensation due, he will be able to lodge an appeal with the First-tier Tribunal.

How will the proposal be implemented?

11.35 We plan to introduce by regulations.

Are there any costs?

11.36 There may, where it is considered necessary, be administrative costs to DSA in employing an external expert to provide advice in evaluating the claim. These are outlined in the attached Impact Assessment. We expect the cost to be around £1000. There will also be the cost of the award of the compensation payment at whatever amount it is assessed at.

Question 6

Do you agree with the proposal for amount of compensation to be paid in respect of reasonable and necessarily incurred non-income losses to be based upon the actual losses incurred by the claimant?

12 SUMMARY OF CONSULTATION QUESTIONS

12.1 The following are the questions on which we are seeking views.

Proposals

1. Do you agree with the proposal to include a time limit of two years for claims?
2. Do you agree with the proposal to require claims to be submitted in writing with relevant supporting documentation?
3. Do you agree with the proposal to allow DSA to request reasonable further information or documentation from the claimant to facilitate validation or processing of the claim and to make payment of compensation conditional upon its provision?
4. Do you agree with the proposal to allow DSA to seek the consent of the claimant for reasonable enquiries to be made of third parties to assist in validation or processing of the claim and for payment of compensation to be conditional on such consent being given?
5. Do you agree with the proposal for the amount of compensation to be paid in respect of income lost, to be based upon either:
 - (A) the actual amount lost; or
 - (B) fixed daily rates.

Consultees are invited to express their preference between the two options.

6. Do you agree with the proposal for amount of compensation to be paid in respect of non-income losses to be based upon the actual losses incurred by the claimant?

General comments

Do you have any general comments about the proposals in this paper?

Initial Impact Assessment

If you think any of the estimated costs referred to in the initial IA is incorrect please state why you think this is so and supply alternatives.

Do you have further comments about the initial IA?

Consultation criteria

Do you feel that this consultation paper meets the consultation criteria at **Annex B**?

Consultation Paper

Is there anything you particularly liked or disliked about the format of this consultation paper?

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IMPACT ASSESSMENT

1. If you are accessing the Impact Assessment online, it has been uploaded separately on our website: www.dsa.gov.uk.
2. You will then need to follow the links – *Consultations – Current Consultations - The Driving Instruction (Suspension And Exemption Powers) Act 2009 - Compensation Scheme.*

DEPARTMENT FOR BUSINESS INNOVATION AND SKILLS: CODE OF PRACTICE ON CONSULTATION

The Seven Consultation Criteria

1. **When to consult:** Formal consultation should take place at a stage when there is scope to influence the policy outcome.
2. **Duration of consultation exercises:** Consultations should normally last for at least 12 weeks with consideration given to longer timescales where feasible and sensible.
3. **Clarity of scope and impact:** Consultation documents should be clear about the consultation process, what is being proposed, the scope to influence and the expected costs and benefits of the proposals.
4. **Accessibility of consultation exercises:** Consultation exercises should be designed to be accessible to, and clearly targeted at, those people the exercise is intended to reach.
5. **The burden of consultation:** Keeping the burden of consultation to a minimum is essential if consultations are to be effective and if consultees' buy-in to the process is to be obtained.
6. **Responsiveness of consultation exercises:** Consultation responses should be analysed carefully and clear feedback should be provided to participants following the consultation.
7. **Capacity to consult:** Officials running consultations should seek guidance in how to run an effective consultation exercise and share what they have learned from the experience.

A copy of the Code of Practice can be downloaded at the Department for Business Innovation and Skills website:

<http://www.berr.gov.uk/whatwedo/bre/consultation-guidance/page44420.html>