

Ministry of Justice Statement in Fee-paid Judicial Cases Update of 29 May 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

There are approximately 1,800 *O'Brien 2* claimants of whom around 700 are retired.

Update on level of payments to retirees

We have agreed service records for 468 of the 700 and are now making interim payments to 249 retirees (approximately 53% of the agreed service record total).

Background

In our statement of 30 April 2020, we said that, as at 29 April, there were 656 agreed service records, including non-retirees with 371 relating to retirees and that we had made interim payments to 142 of these (an increase of 107 from our update on 8 April).

We also said that we aimed to make interim payments to the majority of retirees, for whom service records have been agreed by the end of May 2020.

At 22 May 2020, there were 853 agreed service records of retired and non-retired claimants, including an increased total of 468 relating to retirees. As noted above, 249 of these are now in receipt of interim payments.

Miller claims

We are recruiting and training additional staff for our Judicial Claims team to address the significant number of *O'Brien 2* claims, including *Miller* claims, now being received.

We are working with the Government Actuary's Department (GAD) and the pension scheme administrators (XPS) to develop automated processes to calculate pension benefits due to *Miller* claimants.

We are identifying and manually processing priority cases, for example where claimants have referred to ill health or financial hardship.

Update on substantive remedy proposals

We expect to publish our consultation on a substantive remedy for *O'Brien 2* and *Miller* claimants by the end of June 2020. We will set out proposals to amend the

Judicial Pensions (Fee-Paid Judges) Regulations 2017 to provide pension benefits and associated options for fee-paid service before 7 April 2000.

Next update

We propose to provide a further update on interim payments progress before the end of July 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

[Appended - publication link pending]

Appendix to Ministry of Justice Statement in Fee-paid Judicial Cases Update of 29 May 2020

Ministry of Justice Statement in Fee-paid Judicial Cases Update of 30 April 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

In our statement of 8 April 2020 we explained that it was our intention to make interim payments by the end of May to the majority of retired claimants for whom a service record has been agreed.

As at 8 April, the Judicial Claims Team had agreed service records with around 475 judges, including 282 retirees. This is against a total cohort of approximately 1,800 O'Brien 2 claimants of whom around 700 are retired.

As at 29 April, the number of agreed service records had risen to 656, of which 371 relate to retirees. We have now made interim payments to 142 of these retirees, i.e. we have made 107 further payments since our update on 8 April. We aim to pay the majority of the remaining retirees for whom service records have been agreed by the end of May, at which point we will return to the tribunal with a progress report. We continue to explore alternative options for making interim payments to ensure that we have the facility to increase the number of payments made should we encounter any further issues in bringing members' revised retirement benefits into payment.