

Ministry of Justice Statement in Fee-paid Judicial Cases

Update of 10 December 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 16 October 2020, we set out that, as at 30 September 2020, 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.

Update on level of payments to retirees

As at 30 November 2020 we:

- had agreed 2,265 service records with retired and non-retired O'Brien 2 and Miller claimants;
- had agreed service records for 1,195 out of 1,277 retirees and dependants; and
- are making interim payments to 1,100 out of the 1,195 retirees and dependants where service records have been agreed.

The figure of 1,195 retiree cases referred to above relates to the number of cases that have been referred to the scheme administrator by the MoJ judicial claims team. We estimate the total number of retirees to be around 2,200 at this time.

For our next update in February 2021 we will provide a breakdown of the total figures in a table to provide information on progress in a format that is easier to follow.

Government response to consultation on Amendments to the Fee-Paid Judicial Pension Scheme

In June we published a consultation on proposed amendments to the Fee-Paid Judicial Pension Scheme (FPJPS) to provide a remedy for O'Brien 2 and Miller.

We received over 100 responses from judges and judicial associations. These were broadly supportive of our proposed approach to amending FPJPS and we therefore intend to proceed on the basis of the proposals set out in the consultation document.

We also received representations from respondents concerning office eligibility, service limitation dates, and service credit values for pre-limitation date service (where applicable). We will carefully consider these in the context of the O'Brien 2 judgment.

We provide further detail on these issues in the formal government response to the consultation which was published on 10 December and can be accessed here:

<https://www.gov.uk/government/consultations/fee-paid-judicial-pension-scheme-amendments>

Next update

We will provide a further update on interim payments by 12 February 2021.

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>

16 October 2020

https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/928776/moj-statement-fee-paid-judicial-litigation-october-2020.pdf