

Ministry of Justice Statement in Fee-paid Judicial Cases

Update of 16 February 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

Background

In our statement of 10 December 2020, we set out that, 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
- were making interim payments to 1,100 out of the 1,195 retirees and dependants where service records have been agreed.

Update on level of payments to retirees

As noted in our statement of 10 December, going forward we will provide a breakdown of progress figures in table formats that are more complete and easier to follow.

In Tables 1 and 2 below, 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)

		30 Nov 20	31 Jan 21	Change
(1)	Estimated total number of claimant records	5,377	5,706	+329
(2)	Records agreed by JCT and sent to XPS	2,160	2,573	+413
(3)	Records not yet agreed by JCT	3,217	3,133	-84
	Check total of rows (2) and (3) to row (1)	5,377	5,706	

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)

		30 Nov 20	31 Jan 21	Change
(4)	Active/deferred records processed by XPS in period	777	615	-162
(5)	Records receiving interim payments via XPS	1,100	1,235	+135
(6)	Records where queries pending with JCT, GAD or other.	165	129	-24
(7)	Records where queries pending with members		12	
(8)	Records pending completion with XPS	118	582	+464
	Check total to row (2) in Table 1	2,160	2,573	

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.

- (8) Figure for 31 Jan 21 includes approximately 200 records ready to be processed in the next bulk cycle.

Next update

We will provide a further update on interim payments by 16 April 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>