

## Ministry of Justice Statement in Fee-paid Judicial Cases

### Update of 11 June 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

The tables below show progress in processing claims and payments by both the MOJ Judicial Claims Team and by XPS, the scheme administrator.

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 below shows that between 31 March 2021 and 31 May 2021 steady progress is being made by JCT to progress claims. Table 2 shows that between 31 March 2021 and 31 May 2021 a significant proportion of the claims that have now been received relate to active members. Table 2 includes a number of records at (8) - 'Records where queries pending with JCT, GAD, or other' - in which FPJPS service gives rise to a potential refund of JUPRA contributions without being eligible for FPJPS benefits because they have exceeded the 20 years' cap. This situation occurs because, although JUPRA service takes precedence for benefit accruals, it is the earliest service across FPJPS/JUPRA that gives rise to contributions liabilities.

We have added additional rows (2) and (3) in Table 1 with effect from this update to show the number of claims within the overall total received by the Judicial Claims Team that are found to be either ineligible or duplicate.

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

		31 Mar 21	31 May 21	Change
(1)	Estimated total number of claimant records	5,999	6,194	+195
(2)	Records assessed as ineligible/duplicate by JCT		949	
(3)	Estimated total number of valid claimant records to be processed		5,245	
(4)	Records agreed by JCT and sent to XPS	3,433	4,194	+761

(5)	Records not yet agreed by JCT	2,566	1,051	-1,515
	Check total of rows (4) and (5) to row (3)	5,999	5,245	

Notes for Table 1:

- (1) This is the current estimated total number of *O'Brien 2/Miller* claimant records and we do not expect this number to change significantly in future.
- (2) This is the number of records within the row (1) total that are found to be either ineligible, for example because they are out of time, or duplicate.
- (3) This is the total number of claimant records assessed as being eligible. It covers all outstanding claimants, including some *Miller* claims that might relate to service after 7 April 2000.
- (4) 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 Mar 21	31 May 21	Change
(6)	Active/deferred records processed by XPS in period	902	1113	+211
(7)	Records receiving interim payments via XPS	1,745	1881	+136
(8)	Records where queries pending with JCT, GAD or other.	369	529	+160
(9)	Records where queries pending with members	12	9	-3
(10)	Records pending completion with XPS	405	662	+257
	Check total to row (4) in Table 1	3,433	4194	+761

Notes for Table 2:

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

- (6) 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.

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

### **Delay in applying April 2021 inflation indexation for some fee-paid retirees**

During May 2021 XPS, the judicial pension scheme administrator notified us that inflation rate pension increases, due from 12 April 2021, had mistakenly not been applied for 778 fee-paid pension scheme members. XPS say this arose because of a miscommunication between project and payroll teams and they are putting in place safeguards against a repetition.

The amounts involved (around £1 in each case) are low because the April 2021 increase for public service schemes was only 0.5% and pensions which have been in payment for less than a year (which applied in these cases) receive a pro-rata increase.

XPS have confirmed that the next payment to the members concerned will be adjusted to include the increase and arrears, and XPS will write to members with an apology.

### **Improvement to PiLs calculation where there is pre-31 March 1995 fee-paid service**

We have commissioned the Government Actuary's Department (GAD) to improve the PiLs calculation process currently used by XPS so that, where applicable, reckonable fee-paid service before 31 March 1995 that is credited into post-95 provisions, will be subject to a 1.25 multiplier. This applies when the pre-95 service of a relevant salaried judge was in a 15-year accruals arrangement under the Judicial Pensions Act 1981.

When this update is implemented, it will be applied retroactively to cases where PiLs have previously been paid without the multiplier. Additional PiLs may be paid to some members as a result.

We will provide a further update on progress on the recalculation in the next update.

### **Next update**

We will provide a further update on interim payments by 13 August 2021.

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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>