



Personal Injury Discount Rate (PIDR)

Expert Panel Meeting Minutes

Friday 21 July 2023 10:00 - 13:00

10 South Colonnade, London, E14 5EA

Present:

Expert Panel members

Martin Clarke CB (Chair), Government Actuary

Charl Cronje, member with experience as an actuary

Donald Taylor, member with experience of managing investments

Dr Rebecca Driver, member with experience as an economist

Edward Tomlinson, member with experience in consumer matters as relating to investments

Additional attendees

Rachel Powell, Policy Lead, Ministry of Justice

Scott Tubbritt, Senior Policy Advisor, Ministry of Justice

Leanne McAughey, Senior Policy Advisor, Ministry of Justice

Andrew Meads, Deputy Chief Economist, Ministry of Justice

Charles Smulian, Economic Advisor, Ministry of Justice

Paul Butcher, Government Actuary's Department

Steve Humphrey, Government Actuary's Department

Welcome and introductions

1.1. The Chair welcomed all to the meeting and thanked them for giving up their time and expertise to be part of the Personal Injury Discount Rate Expert Panel.

1.2. Introductions were given by the attendees.

Personal Injury Discount Rate (PIDR)

2.1. Rachel Powell (RP) provided a summary of the background and history of the PIDR, outlining the key legislative changes introduced by the Civil Liability Act (CLA) 2018 as well as how the first review under the CLA in 2019 worked.

2.2. RP noted key stakeholders with interest in this area.

2.3. As Panel members are appointed by the Lord Chancellor, a question asked how the work of the Panel would be affected in the context of a general election or

change in Lord Chancellor. RP clarified that the review is a statutory process, and so the work and membership of the Expert Panel will continue as normal.

2019 Review: analytical overview

3.1. Paul Butcher (PB) facilitated a high-level discussion of the analytical approach taken by the Government Actuary's Department (GAD) in the 2019 review, and provided an overview of the key high level methodology considerations, highlighting that it is a balance of risk and cost between stakeholders.

3.2. A brief discussion took place on the availability of Periodical Payment Orders (PPOs) and how these work in practice, and whether any retrospective analysis was done to consider the impact in claimant outcomes. It was noted that there wasn't the evidence available to undertake meaningful retrospective analysis and that the Terms of Reference and CLA state that it should be assumed that the damages are paid via lump sum.

3.3. PB noted the availability of PPOs was considered alongside the potential for other features or risks, which are not explicitly mentioned in the legislation, to influence the discount rate. Ultimately the availability of PPOs didn't influence the analysis but did provide some justification for not allowing for other risks, as these could be mitigated by the adoption of a PPO.

3.4. Discussions then centred around the Lord Chancellor's decision to set the rate at -0.25% (as set out in the statement of reasons); and what is meant by "low risk" and how this is measured.

2024 Review

4.1. RP provided an overview of the 2024 review process and statutory timetable. RP confirmed that the review must commence no later than 15 July 2024, which is five years from when the last review was completed. HM Treasury and the Expert Panel, the statutory consultees, must respond within 90 days of the Lord Chancellor's request.

4.2. RP noted that the commissioning of any analytical work and timescales associated with that can be determined by the Panel, which may range in complexity depending on the Panel's needs. RP noted that the Panel may wish to consider what has been conducted previously, such as a public call for evidence which can be facilitated by Ministry of Justice (MoJ). It was noted that commissioning work and timescales associated with that are to be determined by the Panel. The group discussed timescales associated with the Panel commissioning work.

4.3. Clarity was sought on the Panel's interaction with HM Treasury as a statutory consultee. RP confirmed that it is Ministry of Justice's view that statutory consultees should proceed independently and separately. However, the MoJ will continue to

maintain relationships with both HMT and the Expert Panel and can facilitate sharing of relevant information as required.

Expert Panel and ways of working

5.1. RP gave an overview of the role of the Expert Panel and the Terms of Reference, noting that the Panel reflects different interests, will convene only for the duration of the review, and set out the expectations of individuals holding public appointments.

5.2. The Chair proposed that, at the beginning of each subsequent Expert Panel meeting conflicts are to be disclosed. The Chair added that the Government Actuary (or Deputy Government Actuary, if required to step in for the Government Actuary) will also recuse themselves from any GAD discussions involving client matters that are affected or may be potentially affected by the PIDR.

5.3. The group discussed information management and suggested different options to securely store information. Clarity was sought as to how disclosure under FOIA would work in practice in relation to individual Panel members.

AP1. MoJ Policy to explore most appropriate solution for secure information storing, ensuring compliance with IT security requirements.

AP2. MoJ Policy to discuss with MoJ Disclosure team how disclosure under FOIA will work in relation to individual Panel members and confirm with the Panel.

DP1: The Panel approved the Terms of Reference.

5.4. A discussion then took place around general meeting and discussion principles.

DP2: The Panel agreed to approve meeting minutes outside of meetings.

AP3. MoJ Policy to circulate meeting minutes for approval to Expert Panel ahead of the next meeting.

Next agenda and forward look

6.1. A discussion took place around the work programme for the next 3 months. The group also asked to see in further detail a summary of the dual/multiple rate call for evidence responses ahead of the September meeting.

AP4. MoJ Policy to arrange an interim meeting of the Expert Panel to convene and discuss analytical approach prior to September meeting.

AP5. MoJ Policy to explore feasibility of producing a more detailed summary of consultation responses ahead of September meeting, earlier than originally planned.

6.2. The meeting concluded.