



Bob Neill MP
Chair
Justice Committee
House of Commons
London
SW1A 0AA

Dear Bob

15 July 2019

PERSONAL INJURY DISCOUNT RATE – OUTCOME OF FIRST REVIEW

I am writing to inform you that today I will be laying a Statutory Instrument in Parliament to change the discount rate applicable to personal injury lump sum compensation payments to minus 0.25%.

The new rate will come into force on 5 August 2019, in line with the statutory timetable set out by the Civil Liability Act 2018.

Under the Damages Act 1996, I, as Lord Chancellor, have the power to set a discount rate which courts must consider when awarding compensation for future financial losses in the form of a lump sum in personal injury cases. The legal framework was changed in the Civil Liability Act 2018.

The new framework makes clear that claimants must be treated as 'low risk' investors. Under the Act I, as Lord Chancellor, must conduct a review and determine whether the rate should be changed or kept unchanged within 140 days of beginning the review and including the day on which the review starts. I started the review on 19 March 2019, and in conducting this review, I consulted the Government Actuary and HM Treasury.

The Government Actuary provided an analysis of dual rates – this would involve a lower short-term rate and then a higher long term rate after a 'switchover' period. Although I consider their analysis interesting with some promising indications, I do not consider it appropriate, noting the lack of quantity and depth of evidence required to adopt a dual rate for this review. The potential of the dual rate to be appropriate for future reviews is one that I will consider in more detail.

I have sent a full statement of reasons, explaining how I have decided upon this rate, along with this letter.

I also wanted to provide an update for the Committee on the questions that it raised during the pre-legislative scrutiny of the Civil Liability Bill.

A number of the points raised in the Committee's report (published in November 2017) have been addressed subsequently – firstly in the Government's response to the Committee in March 2018. A number of others were then resolved in the finalised form of the Civil Liability Act 2018 – for example, that the expert panel would be established after the first review. Further points have been addressed in this first review – for example the convening of the Call for Evidence.

However, as a few points remain outstanding, I wanted to provide the Committee with brief updates on further work the Ministry has done and is planning.

- **100% compensation principle** – the Government provided a detailed explanation of its application of the principle to the setting of the discount rate in its March 2018 response. The statement of reasons (and the Government Actuary’s analysis) provides further clarification of the operation of the principle in this context.
- **Periodical Payment Orders (PPOs)** – the Master of the Rolls (as its Chair) has agreed that the Civil Justice Council will establish a working group to look at the usage of PPOs, and we will also ask this group to look at the issue of guidance for claimants on the choice between damages being paid via a lump sum and/or PPOs, and the current advice available to claimants.
- **Mechanism for measuring investment behaviour** – the Government will ask the expert panel, once established, to consider this suggestion further. The Government Actuary provided an analysis for the first review, which the call for evidence informed. We envisage that similar calls for evidence will precede future reviews

Yours ever
David

RT HON DAVID GAUKE MP