

Statement to Parliament: Justice update

Earlier today, I notified the market via the London Stock Exchange group that I would today lay a Statutory Instrument to change the discount rate applicable to personal injury lump sum compensation payments, to minus 0.75%.

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 current legal framework makes clear that claimants must be treated as risk averse investors, reflecting the fact that they may be financially dependent on this lump sum, often for long periods or the duration of their life.

The discount rate was last set in 2001, when the then-Lord Chancellor, Lord Irvine of Lairg, set the rate at 2.5%. This was based on a three year average of real yields on index-linked gilts.

Since 2001, the real yields on index-linked gilts has fallen, so I have decided to take action.

Having completed the process of statutory consultation, I am satisfied that the rate should be based on a three year average of real returns on index-linked gilts. Therefore I am setting it at minus 0.75%. A full statement of reasons, explaining how I have decided upon this rate, will be placed in the Libraries of both Houses. The Statutory Instrument to effect this change has been laid today, and will become effective on 20 March 2017.

There will clearly be significant implications across the public and private sector. The government has committed to ensuring that the NHS Litigation Authority has appropriate funding to cover changes to hospitals' clinical negligence costs. The Department of Health will also work closely with General Practitioners (GPs) and Medical Defence Organisations to ensure that appropriate funding is available to meet additional costs to GPs, recognising the crucial role they play in the delivery of NHS care.

The government will review the framework under which I have set the rate today to ensure that it remains fit for purpose in the future. I will bring forward a consultation before Easter that will consider options for reform including: whether the rate should in future be set by an independent body; whether more frequent reviews would improve predictability and certainty for all parties; and whether the methodology – which in effect assumes that claimants would invest only in index-linked gilts – is appropriate for the future. Following the consultation, which will consider whether there is a better or fairer framework for claimants and defendants, the government will bring forward any necessary legislation at an early stage.

I recognise the impacts this decision will have on the insurance industry. My Rt. Hon. Friend the Chancellor will meet with insurance industry representatives to discuss the situation.