Committee for Justice

OFFICIAL REPORT (Hansard)

Damages (Return on Investment) Bill: Committee Consideration

9 September 2021

NORTHERN IRELAND ASSEMBLY

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Members present for all or part of the proceedings:
Mr Mervyn Storey (Chairperson)
Mr Doug Beattie
Ms Sinéad Bradley
Ms Jemma Dolan
Mr Peter Weir
Miss Rachel Woods

Witnesses:

Ms Jane Maguire	Department of Justice
Ms Laurene McAlpine	Department of Justice
Mr Martin Moore	Department of Justice

The Chairperson (Mr Storey): I welcome to the meeting officials from the Department of Justice: Laurene McAlpine, deputy director, civil justice policy; Jane Maguire, head of family justice policy branch; and Martin Moore, policy adviser. I advise the officials that the session will be reported by Hansard, and the transcript will be published on the Committee's web page. I also advise members and officials that it is my intention to take the clauses and the schedule to the Bill in turn, as set out in the evidence table, grouping them where appropriate or where a few issues have been raised. There will be an opportunity at the end for any other questions or general comments. Officials will be given an opportunity at the start of a clause or group of clauses to make brief remarks, including any additional comments that they want to draw to the attention of the Committee that have not been covered in the written responses. There will then be an opportunity for members to ask questions and explore issues before we move on to the next clause. I am endeavouring, with your help, to do this in an orderly way, and I trust that we will be able to progress on that basis.

I invite Laurene to make some brief remarks on clauses 1 to 6, please. Thank you very much.

Ms Laurene McAlpine (Department of Justice): Thank you very much, Chair, for the opportunity to assist with the Committee's consideration as required this afternoon. We do not have any detailed remarks to make on the clauses. It might be better to assist the Committee as it goes through the Bill and to address any questions that arise. As we have indicated, the Bill is fairly technical Bill, so I think that it is better to focus on its principles and overriding objectives and to address any points that members might have following previous evidence that we have given.

The Chairperson (Mr Storey): OK. May I start by asking why, in the Department's view, most of the organisations that represent defendants believe that the English and Welsh model is preferable, even though it has indicated that both models are intended to deliver 100% compensation and that the Scottish model is more transparent?

Ms McAlpine: Chair, I think, if I am being cynical, that defendants might think that there could be more scope to influence the outcome of the England and Wales model, because it is less clear, and there is a lot more room for the exercise of discretion. They might think that there is more opportunity to make representations to the Minister, or, perhaps, to lobby and bring other pressures to bear. There is no scope for that with the Scottish model. The Scottish model also still provides for political accountability, because the portfolio and the deductions to be made are prescribed in the Bill and subject to review before any rate is set. That gives the Minister and the Assembly the necessary oversight of and political accountability for the framework, but it removes any opportunity for what might be inappropriate attempts to influence the outcome of setting the rate.

The Chairperson (Mr Storey): I noticed a comment from the Department in the summary of key issues:

> *"By its nature, a single discount rate cannot ensure 100% compensation for every claimant. The further margin reflects the risk that is inherent in any investment and the sensitivity of the rate to the prescribed parameters. It shifts the balance of risk between under and overcompensation towards defendants/compensators. The latter tend to be corporate organisations, who are in a better position to bear that risk than individuals who will be dependent on their damages".*

Is that a shift from the Department's previous view on the issue of 100% compensation?

Ms McAlpine: No. The Department's objective is still 100% compensation. That is the objective in England and Wales as well. We have to recognise that one rate will not fit all circumstances, because every case is different. Without the application of the further margin, there was a risk that, I think, 50% of claimants might be undercompensated, and that risk is reduced by the application of the further margin. As we said from the start, there is no perfect science to this, because one rate is to be applied to a very wide range of cases. It will not bring 100% compensation in every case, but that is still the objective, and we think that the further margin helps to reduce the risk of undercompensation. Unfortunately, in reducing the risk of undercompensation, there is a risk of overcompensation. There is, therefore, still a bit of a balancing exercise with those risks, but it is against the backdrop of achieving 100% compensation.

The Chairperson (Mr Storey): Maybe an assessment is not possible, because it depends on the number of claims, but have we tried to assess what the magnitude of the range and cost of overcompensation might be?

Ms McAlpine: Can you answer that? *[Inaudible.]* Was it 70% of cases that were fully compensated?

Mr Martin Moore (Department of Justice): That question is really about the further margin, and the Government Actuary's Department (GAD) estimated that applying a margin of 0·5 would shift the risk from a 50:50 risk of undercompensation to roughly a 35:65 one.

Mr Weir: The Chair touched on some of the stuff that I was going to raise. You mentioned in your response to the Chair why the English and Welsh model — we are talking about the broad principle of this — has not been followed. I am trying to remember your exact phrase. You said that there might be inappropriate lobbying or influence in relation to that. Will you expand on your particular fears about that? How do you see them playing out?

Ms McAlpine: There is a lot to be said for having within the legislation both the notional portfolio and the particular margins to be applied, so that everybody knows where they stand. Conferring discretion on the Minister means that the Minister may come under some pressure to have a more risky portfolio or a less risky one. It might be argued that margins should be higher or lower. In England and Wales, the scheme involves an expert panel, which, necessarily, adds to the length of time that it takes to fix the rate. Previous experience of expert panels, in the context of the statutory discount rate, have not been particularly helpful because the experts cannot agree.

Our view is that this is an actuarial exercise: it is about achieving 100% compensation, so there is no role for political judgement. As an actuarial exercise, it is better carried out by the Government Actuary in accordance with the parameters set by the Assembly. It would be naive to imagine that, if you were to move outside that sort of framework, the Minister would not receive letters, applications or threats of judicial review from insurance companies that may prefer a different shape to the portfolio or different

margins to be applied. Taking it out of that space — putting it in the legislative space and in the hands of the Government Actuary — removes that risk of challenge.

Mr Weir: There is a balance to be struck between that certainty and trying to remove some of the pressures. There is some circumscribing of the Government Actuary. There is reference, for instance, to the Actuary's being able to draw on expert advice, although it is not specified where that will come from. To some extent, are we are tying the hands of the Minister, maybe rightly so, but leaving the Government Actuary without any clear-cut position as to what they can get? Similarly, we are saying that there is no flexibility for the Minister but that, if there is decision to be taken by the courts, they will have some flexibility. I am trying to square off in my mind what is the appropriate balance between flexibility and prescription.

Ms McAlpine: Once the discount rate is fixed, I am not sure that the court has a lot of flexibility. I know that clause C1(2) allows the court to take a different rate into account, if it shows that it is more appropriate. However, case law from the Court of Appeal in England and Wales heavily circumscribes that power so that it is possible for the court to apply a different rate only where the party to the proceedings can show that the particular circumstances of their particular case were not considered or dealt with in the context of setting the statutory discount rate. I cannot even imagine what those sorts of circumstances would be. I do not think that the courts in Northern Ireland have ever set a different rate from the one prescribed.

Mr Weir: Is it just to cover some unforeseen cases? I wonder about the logic of saying that the court has a power to do something when we cannot envisage it ever doing so, and it has never happened in the past. It seems to leave open a door that seems unlikely to be gone through. Is there a rationale for wanting to leave that door ajar?

Ms McAlpine: That provision is in the Damages Act 1996; we are just retaining it. We cannot rule out that there may be some very particular case in which the court thinks, "Yes, the statutory discount rate really should not pertain here". I could not describe that case. It may be one of those things that you know when you see it. The power does not do any harm. If it is sitting there and the court cannot exercise it, so be it, but, if a case comes along and a court finds the power useful, it would be a shame not to have it.

Mr Weir: I understand having a fallback position of some description. I am just saying that it is not a convincing argument to say, effectively, "This has always been in there". I would like to see a stronger rationale than that.

Ms S Bradley: At the outset, within the parameters in which we are considering this, the Committee was clearly told that it must not concern itself with the consequences or the costs and that we must aim for the target of 100%. I understand that, but I also understand that, when the proposal was brought to the Scottish Government, it had with it estimates of what the financial cost to the NHS would be.

On 31 May, the interim rate was set. Is that still considered an interim rate? I ask that specifically in a Northern Ireland context. If politics were to become unstable, would the Department consider revisiting that rate, or would it carry that rate on indefinitely? The markets are, no doubt, looking on to see what the next step for them is.

I will move on to the detail of the Bill. There are two discounts. It has been suggested to us that that is double counting and that we are looking at the same discount twice. What does the Department think of that charge? Is it double counting and, if not, why not? Thank you.

Ms McAlpine: I will take the question about what is described as the "interim rate" first. Describing it as an "interim rate" is a bit of a misnomer, because it is interim only until it is replaced. It is the actual rate, and it will remain in place until such times as a new rate is set. At the minute, the Department has no power to fix the rate, except under the Wells v Wells criteria, which, at the time, led to a rate of -1·75%. I suspect that, if we were to fix another rate under Wells v Wells, it would go even lower. Under Wells v Wells, we will be under a duty to keep the rate under review, if the Bill is not enacted. There is nothing that we can do about the -1.75% except keep it under review, but that is in the context of the Wells v Wells framework, where it might go down — I do not know — to -2%, if we were to look at it again. The difficulties with Wells v Wells are why the Department was so keen to have the new framework put in place as soon as possible.

The other question was about whether two discounts mean double counting. There is a discount specifically for the cost of management advice and tax, and that is 0·75%. Another discount of 0·5% — the further margin discount — is described in Scotland as a margin of prudence, and that is to take into account the fact that this is not an exact science. In the balance between under- and overcompensation, we are, I suppose, more concerned that personal injury claimants should not be undercompensated. I think that, with regard to GAD, there was an argument that the discount of 0·75% should have been higher and that the cost of management and advice is actually more than that. Therefore, to some extent, in fixing that deduction at 0·75%, some regard was given to the further margin deduction of 0·5%.

On the cost issue — sorry, that was your first question; I have taken them in reverse order — the cost of this for the Department of Health is a matter for that Department. In May 2020, there were something like 138 high-value cases. I expect that Department of Health officials have put a cost on those. However, the risk here is that, if the Department gathers much information on the cost of the new scheme or the discount rate, it looks very much as though we are taking matters into account that we should not be taking into account: if the law requires 100% compensation, why would we gather information about the cost of that? We set that out in our reply to the Justice Committee. I could not have put it better than Ms Justice Irvine in the Irish Court of Appeal when she explained that the economic cost to defendants, the insurance industry or public finances is a consequence of the loss that has been sustained by a plaintiff who was the unwilling victim of the defendant's wrongdoing.

Ms S Bradley: Thank you. I accept your point about the plaintiff and that the cost is the cost. However, from a departmental perspective, the fact is that we are working on legislation that has the potential to have not only a significant cost to the Department of Health but an effect across all Departments and the private sector. Are you telling me that, for fear of being seen to be motivated by the cost, the Department has carried out absolutely no work on the effect of this and that, in that case, the Department of Health, it is fair to assume, will not have made any representations to Treasury to say that the cost might be significant and that it would need extra help? I appreciate that we, as the Committee, are being told to focus on the target, but I seek reassurance that somebody, somewhere is looking at the bigger picture and saying, "This is significant", and that the Department of Finance is on the ball. Thank you.

Ms McAlpine: Let me try to help. The Department of Finance is on the ball. It has put in a paper to Treasury highlighting that. I should also say, though, that the cost of this legislation is likely to be less — possibly significantly less — than the cost of the rate that we were obliged to set under Wells v Wells. If anything, the Bill will represent a saving compared with the -1·75% rate that currently applies under Wells v Wells. We have been engaging with the Department of Finance, and it has put a paper to Treasury. It is not the case that wider government is not aware of the cost implications of this.

Mr Moore: I understand that Department of Finance officials have done some modelling on the impact of various rates, but we are not exposed to the detail of that.

Ms Jane Maguire (Department of Justice): They are the ones who are engaging with the Department of Health and then with Treasury.

The Chairperson (Mr Storey): I want to give a wee bit of advice or guidance to members. It is always a challenge for us, but can we try to stay within the structure of looking at clauses 1 to 6 and then schedule C1? Do members have any other questions on clauses 1 to 6? Rachel?

Miss Woods: No, it is OK, Chair. My questions are on schedule 1 and beyond.

The Chairperson (Mr Storey): Thank you.

I have one more query on clauses 1 to 6, and, to a degree, it has been answered. Does the Department believe that the proposed framework provides sufficient flexibility to change the portfolio or make adjustments quickly if necessary, given that secondary legislation will be required to do so?

Ms McAlpine: The secondary legislation gives the Assembly its oversight and provides the framework. There will be a review of the portfolio before any new rate is set. The first review, after the initial review, will be in July 2024. That will be a couple of years after the first rate is set. Yes, we think that the framework is sufficiently flexible.

Mr Moore: There is also provision for an extra review to take place within the five-year review period, if the circumstances arise to merit that. There is flexibility in that we are not stuck rigidly to a review every five years.

The Chairperson (Mr Storey): OK. That takes us to schedule C1, which sets the rate. How do the proposed review periods align with the cycle in England and Wales?

Ms McAlpine: They align with the Scottish cycle.

The Chairperson (Mr Storey): Not with the cycle in England and Wales?

Ms Maguire: No. They align with the Scottish cycle. The rate in England and Wales was set at a different time from the rate in Scotland, though there is a similar cycle of regular reviews.

Mr Moore: There could be efficiencies in aligning with Scotland because the model there is so similar. There are efficiencies for GAD when it does its exercise. There can be cost efficiencies for the Department as well as for the Government Actuary.

The Chairperson (Mr Storey): Do members have any questions? If there are no questions, we will move to schedule C1(7) to C1(9). Re the discount rate, what is the effect of adopting the 43-year investment period rather than the 30-year investment period?

Ms McAlpine: The Government Actuary advised that, in practice, the difference between an assumed investment period of 30 years and one of 43 years is likely to make only a very small difference of 0·1% or 0·2% in the rate calculation, if everything else was equal. Since the discount rate is rounded to the nearest 0·25%, the material effect on the rate will be nil or 0·25%. For example, if an investment period of 30 years produced a return of 1·9%, and an investment period of 43 years produced a return of 2·1%, both figures would be rounded to 2%, so there would be no difference.

If, on the other hand, a 30-year investment produced a return of 2%, and a 43-year investment produced a return of 2·2%, the 30-year figure would remain at 2%, but the 43-year figure would be rounded to 2·25%. Obviously, I am making those numbers up. If you apply a difference of 0·25% to a random example of a 30-year-old man with a £50,000 annual requirement, a rate of -0·25% would equate to damages of £2·9 million, and a rate of 0% would equate to £2·773 million. That is an illustration of how that might work out, but it is hard to know, and that is just one example. In this forum, we cannot apply that to any individual case.

Mr Moore: Rather than asking what the outcome of a 30-year or 43-year period will be, the question should really ask whether 43 years is a reasonable period to assume. We should be looking at it from that point of view, rather than at what the outcome of applying it would be.

Ms Maguire: It is evidence-based, which is the reason we opted for that as opposed to the 30-year period that is in the Scottish legislation.

The Chairperson (Mr Storey): OK. Does the Department intend to gather the data on the average investment period for claimants in Northern Ireland in order to inform any further consideration or to find out whether any change is required to the assumed period for investment?

Ms McAlpine: Data gathering is very difficult. These people are private individuals who will invest their money, or, in some cases, may not invest their money, in whatever way they think fit. It could be quite intrusive for the Department to say, "You suffered a serious injury and have a large amount of compensation from an insurance company or the health service. From here on in, we want you to tell us how you invest it and over what period." It would be a huge exercise, and I am not quite sure what we might do with that information. It is really about an individual's life expectancy, so trying to run it and gather the data now to see whether that person would still be relying on the investment in 43 years would be a huge exercise. We have no plans to undertake that, and I am not quite sure of its value, certainly relative to its invasiveness to individuals and the resource that would be required to gather it.

The Chairperson (Mr Storey): OK. Thank you. There are no other questions from members on C1(7) to C1(9). We will move on to C1(10) and C1(11). To some degree, we have asked about those, but what level of risk of overcompensation does the Department believe is acceptable? It is one thing to

have a sense of what it is likely to be; however, what does the Department believe is an acceptable overcompensation amount?

Ms McAlpine: I suppose the answer is that no level of overcompensation is acceptable in the same way that no level of undercompensation is acceptable. However, we need to be realistic about what is achievable. In Scotland and in England and Wales, a margin of 0·5% was applied in order to reduce the risk of undercompensation to 30% or 35%. That still means that 30% or 35% of people will be undercompensated, others will be fully compensated and a few may be overcompensated. The risk of undercompensation brings in the question of periodical payment orders (PPOs). If a claimant was so concerned about undercompensation, they could consider that avenue.

Undercompensation or overcompensation can apply in any case if a claimant died shortly after receiving the lump-sum settlement or long outlived his life expectancy. In those situations, there would be questions of overcompensation and undercompensation. However, we think the 0·5% margin gives us a sort of reasonable balance.

The Chairperson (Mr Storey): This is another issue that has been raised with us. Will you give us a sense of the Department's view on the proposal to remove the standard adjustment and allow defendants to pay the cost of future financial advice as a separate head of claim through the negotiation or award at the time of settlement?

Ms McAlpine: It is up to claimants and defendants to settle their cases on the best terms they can. That is up to them in consultation with their legal advisers.

Mr Moore: That goes to the point about why we have a single discount rate in the first place that applies to all cases. Its purpose is to reduce the work of, the cost to and the time involved for parties to negotiate between themselves very complicated calculations that will cause delay and increase costs for claimants. The discount rate removes that from the whole negotiation process. The same argument applies here: if you took the standard adjustment out of the legislation, you are adding it to the negotiation that would have to be done between parties.

The Chairperson (Mr Storey): We will move on to paragraphs C1(12) to C1(15) of schedule 1. Some of these points have been raised. What is the difference between the notional portfolio in the Bill and the one that is used in England and Wales?

Ms McAlpine: We do not have the detail of the one that is used in England and Wales in front of us. We think it may have been slightly more risky, but, in any event, there is no assurance at all that the same portfolio will be used in England and Wales next time round. That is part of the problem with the England and Wales portfolio not being set down anywhere. You do not know what it will be.

Ms Maguire: If that approach was adopted here, you would not know what a Minister of Justice here would decide about the composition of the portfolio. It could be different from the portfolio the Lord Chancellor decided on in the last review in England and Wales.

The Chairperson (Mr Storey): We are going back to the longer investment period, which is 43 years at 0·5%. Is the 0·5% further margin necessary, then, if you take it over 43 years?

Ms McAlpine: Yes. If you did not apply it, you are still have only 50:50 of people getting their full compensation. It is instructive that, even though England and Wales and Scotland approached it differently, both applied a 0·5% margin. Who knows? The next time England runs the exercise, it may apply a lower or higher margin. I think there is recognition that it is not an exact science and that the claimants are most at risk. Ultimately, if their settlement does not meet their needs for their lifetime, they will fall back on the health and social care system. It is appropriate to try to manage that so that fewer people are undercompensated than are overcompensated. However, it is recognised that, even in doing that, you run a risk of overcompensating as well.

The Chairperson (Mr Storey): When the Government Actuary's Department reviewed the notional portfolio for the Bill, was account taken of the longer investment period being adopted? If so, were any adjustments made to the portfolio?

Mr Moore: We asked the GAD whether using a 43-year period would change its opinion of the content of the notional portfolio. The answer was that it was still satisfied that it was a reasonable portfolio to use whether there was a 43-year or 30-year investment period.

The Chairperson (Mr Storey): Does any member have any questions? If not, I will turn to schedule C1(16) to C1(18). Does the Department intend to hold a full public consultation on whether the notional portfolio remains suitable to enable all interested stakeholders to submit views when reviewing it?

Ms McAlpine: Sorry, Chair, will you repeat that? I did not quite hear.

The Chairperson (Mr Storey): Is it the Department's intention to hold a full public consultation on whether the notional portfolio remains suitable to enable all interested stakeholders to submit views when reviewing it?

Ms McAlpine: We will certainly not do that before the Bill is enacted. The next review is required in July 2024. I cannot bind a future Department or Minister, but I imagine we will certainly want to consult GAD, and it may want to take other views. I cannot speak for what a future Minister might do.

The Chairperson (Mr Storey): OK. Are there any other questions, members, on that section? If not, we will move to paragraphs (19) to (34). Given that provision has been made for paragraphs (19) to (34), does the Department intend to consider a dual-rate approach in the near future?

Ms McAlpine: We have no plans to set a dual rate. We are trying to get the new framework established, and that is the immediate priority. That is not to say that we will not want to consult at some point on whether a dual rate is a better model. We are just not doing it this time round, when the priority is getting the new framework in place and replacing Wells v Wells.

The Chairperson (Mr Storey): Members, are there any other questions on the Bill? I want to make sure that I have got them all. Is anybody online? Rachel, do you have any questions? I cannot see the screen. Rachel, are you there? *[Pause.]*

Miss Woods: Thanks, Chair. Sorry; I was waiting to get into the spotlight. Thank you very much for that. You have answered a lot of questions on that point. I will pick up on the interim rate that was struck in May. Some questions and concerns were raised about it at the time. Have there been any issues raised with the Department since that rate was struck? Have there been any cases settled, and has there been any analysis on any cases being settled since the -1·75% rate was introduced?

Ms McAlpine: I would be surprised if many cases were settled. Our impression from the Lord Chief Justice's evidence to the Committee is that cases are being delayed. Why would a defendant settle at a -1·75% rate when there is an expectation that a different rate will be set under the Bill? The Department does not have knowledge of cases settling or not settling, because they are between private parties. We do not know how many cases would have been close to settling or that have been delayed. We have no insight into cases that are settling. We received at least one letter about the impact the -1·75% rate is having — or will have, if it continues.

Miss Woods: Thank you. There was a lot of concern at the time, so it is interesting to know what has happened since then. There were a number of submissions, and we took evidence during the last couple of months on periodical payment orders. Do you have any information or analysis on why you think the number of PPOs that are entered into are low?

Ms McAlpine: No. The evidence to the Committee on that was interesting. Defendants and claimants both seem to have their own reasons, and, in some cases —

Mr Moore: They both seem to blame the other side.

Ms McAlpine: — they both attribute the difficulty to the other side. You can maybe see the attractiveness for the insurance companies of getting the thing off their books and for claimants to feel they have charge of their future with the lump-sum payment. As we pointed out in our correspondence, it is already possible for a court to impose a periodical payment order without the agreement of the parties. However, I do not know that that happens very often. Where there are injury

at birth cases, there may be more periodical payments and you may get mixed orders of periodical payments combined with lump sums.

Miss Woods: OK. Thank you, again, for your attendance today.

Ms Dolan: I am assuming we have moved on to other issues now.

The Chairperson (Mr Storey): Sorry?

Ms Dolan: Have we moved on to other issues now?

The Chairperson (Mr Storey): Yes, sorry.

Ms Dolan: I am sorry; I did not want to mix up the whole process.

I have just one question. Given the huge concerns about the current interim rate and how it, as well as the anticipated new rate, is the lowest in these islands, does the Department have any idea of how much higher the new rate will be? Have you done any work to assess the impact of that rate?

Ms McAlpine: We have no way of knowing what the new rate will be. If the Bill is enacted, the Government Actuary's Department will run the portfolio and will tell us what the rate is. Under the Bill, the Government Actuary's Department has 90 days to do that. That is the point at which we will know what the rate will be. There is no way that we in the Department would be able to work it out; that would be an inadvisable approach. We simply would not have the expertise for it, and it would be odd to ask GAD to do it now, since it is going to have to do it when the Bill is enacted. In fact, in 90 days' time, the rate could even be different from what it would be if it was set today.

I expect that the rate to go up from -1·75%, purely on the basis that that is a calculation on the assumption of investments solely in index-linked gilts (ILGs), where the portfolio allows for investments in other investment products, which should provide a better rate of return than index-linked gilts. Inevitably, the rate will go up, but we are just not in a position to say by how much.

Mr Moore: The only thing we could say with certainty is that a rate set under the framework in the Bill would be higher than a rate set under the existing framework at the same time. When the rate is set plays a part in determining what it is.

Ms Dolan: OK. Thank you.

The Chairperson (Mr Storey): On that, are we saying, then, that the regulatory impact assessment did not give us any indication of the cost?

Mr Moore: Yes. We do not have the data available to be able to work out the cost, even if we knew what the rate was. There are a number of factors that mean we were not able to work out a cost, not least know what the rate would be. All the regulatory impact assessment was able to do was determine the cost under one framework relative to another.

The Chairperson (Mr Storey): In conclusion, there has been an issue that we have noticed, or that has been raised, which is that the damages for pain and suffering are higher in Northern Ireland than in other UK jurisdictions. Would it be the intention of the Department to consider any legislative reforms similar to those that took place in England and Wales and in the Republic that were designed to lower claim costs?

Ms McAlpine: That is outside the immediate scope of this Bill, but we will help as best we can. General damages for pain and suffering are higher in Northern Ireland than in England and Wales because damages in this jurisdiction were set for longer by juries, which were maybe more generous in deciding what the damages should be. Even when we abolished juries in civil cases, the courts tended to continue to apply the precedent for the rate of damages that had been set by juries. 'The Green Book' on damages, published by the Judicial Studies Board, I think, indicates broadly what you would get for any particular type of injury. That is a matter for the judge in the case.

It would be difficult to legislate to cover the damages in every set of circumstances. Ireland has the personal injuries board — that might not be its exact title — which is a forum for the resolution of personal injury claims, and claims in Ireland have to be submitted through that board before they can go to court. I do not think the parties are obliged to accept the outcome of that process, so when it works, it is probably very good, but, when it does not work, it causes delay, because after going through the board, if you do not accept the outcome, you still have to go to court. I am not in a position to say an awful lot more about the level of general damages in Northern Ireland, except to say that there is a legacy of juries fixing those damages in this jurisdiction for longer than in other jurisdictions.

The Chairperson (Mr Storey): Finally, for the purposes of the Committee about progress on this, does the Department intend to table amendments to the Bill at Consideration Stage?

Ms McAlpine: No.

Mr Moore: No.

The Chairperson (Mr Storey): That makes it very simple. Thank you. There are no other questions, and no one has their hand up. I thank the officials for their attendance. We will see the further progress of the Bill at Consideration Stage. Thank you again for your help and for the information that you previously provided; it is much appreciated.