



Northern Ireland
Assembly

Committee for Justice

OFFICIAL REPORT (Hansard)

Damages (Process for Setting Rate of
Return) Regulations (Northern Ireland) 2024:
Department of Justice

16 May 2024

NORTHERN IRELAND ASSEMBLY

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Members present for all or part of the proceedings:

Ms Joanne Bunting (Chairperson)
Mr Doug Beattie
Mr Maurice Bradley
Mr Stewart Dickson
Mr Alex Easton
Mrs Ciara Ferguson
Mr Justin McNulty

Witnesses:

Mr Andrew Dawson	Department of Justice
Ms Jane Maguire	Department of Justice
Mr Martin Moore	Department of Justice

The Chairperson (Ms Bunting): I welcome to the meeting from the Department of Justice Andrew Dawson, head of the civil justice and judicial policy unit; Jane Maguire, head of the family justice policy branch; and Martin Moore, from the civil justice and judicial policy unit. Thank you so much for taking the time to come to the Committee.

This is fairly complex and technical legislation, so I will level with you: I understood it better before the briefings that we were given to clarify some of the issues that we had. *[Laughter.]* When you make your presentation — I will be the one to say where I am on it — I really need help to understand its outworkings. It seemed straightforward at the start, but now it appears not to be that way. What I am looking for in your presentation is pretty much a dummies' guide. I just want to be clear why. It is important that, before we agree to these things, we understand what we are agreeing to. If I could therefore ask you to be as simplistic as possible in your explanation, that would be helpful. Thank you. I am presuming that everybody is in the same boat as me.

Mr Andrew Dawson (Department of Justice): That is fine. I will therefore start with an apology. We have tried, but we are stumped when it comes to making it as accessible as possible. We are here anyway, and we will hopefully work through any of the issues that you may have.

In terms as simple as I can muster, we are here on foot of an intention to make a statutory rule (SR), and we will be calling it the damages (process for setting rate of return) regulations (Northern Ireland) 2024. It is subject to the draft affirmative resolution process in the Assembly, so there will be an opportunity for the Assembly to debate the SR and decide whether to affirm it.

We have provided our SL1 and the associated briefing note, as well as the further briefing note. We are happy to be here today to try to clarify things further for you. Essentially, there needs to be a personal injury discount rate. That is within the bounds of legislation that was passed by the Assembly in 2022. If a person suffers personal injuries that are caused by the negligence of another person, that person is entitled to be fully compensated by the negligent party. The personal injury discount rate seeks to make sure that the compensation is no more or no less than 100% of what that person deserves.

It is almost an equation that is applied, and that discount is then applied to a final award of personal damages. The current rate is -1.5%, so if you had a personal injuries award of £1 million, at the moment you would multiply that by -1.5%. If it were changed to a positive rate in the future — I appreciate that I am getting into technicalities already, but I will come to that — you would multiply the £1 million by 1.5%.

Why is it -1.5% at the moment? In 2022, when the primary legislation was passed in the Assembly, it specified what needed to be considered when the rate was being set. What we have done to date has been to review the parameters for the next review of the personal injury discount rate, which is carried out by the Government Actuary's Department (GAD) and must start by 1 July. We consulted on the factors at which we looked, and the outworkings of our consultation have been published. We had 23 responses from consultees. Each provided views on what we would input into the equation in order to set the parameters for the personal injury discount rate. They looked at, for example, the notional portfolio.

Essentially, it is a proxy. We are looking at an example case, as it were. If a sum of money were to be invested, how would it be invested? The first thing that we look at for the parameters is the notional portfolio. You may have seen this for other financial products, if you were going to invest money in shares, gilts or property, you would look at what the notional portfolio is going to look like when applied to the personal injury discount rate. We concluded that there will be no change to the balance of the notional portfolio for the upcoming review.

Do you want me to pause there, or shall I continue?

Ms Ferguson: I know that the lower that it is, the more compensation that is paid, and there has to be 100% compensation, but I do not know how the rate can be determined by the last piece of information that you gave, based on if it were invested. Has that always been the case?

Mr Dickson: Yes.

Ms Ferguson: That is done everywhere across —.

Mr Dawson: Yes. All the UK jurisdictions have a personal injury discount rate, and all those rates need to be reviewed regularly.

Ms Ferguson: I understand that, but, from the previous statement that you made, it is based on —.

Mr Martin Moore (Department of Justice): It is based on projections of how somebody's investment, if invested in that portfolio, would perform. If it is projected to perform well, the lump sum award of damages is adjusted to take into account the fact that that person would gain money, whereas, if it is not projected to perform well, the discount is reduced to take into account the fact that the person would not get enough money to meet their needs.

The Chairperson (Ms Bunting): There are a couple of things to say there. We all get that it has to be as close to 100% as you can make it, but I am struggling with the parameters. I cannot remember what it was that you have moved from to average weekly earnings.

Mr Dawson: From RPI to average weekly earnings.

The Chairperson (Ms Bunting): Is that the proposal?

Mr Dawson: That is the proposal as it relates to inflation.

The Chairperson (Ms Bunting): There are therefore two parts to the proposal. One part is to move to average weekly earnings and the other concerns about the parameters for the percentage —.

Mr Dawson: The deduction for taxation and investment, yes.

The Chairperson (Ms Bunting): Yes, and this is where it all gets a bit messy, certainly for me.

Mr Dawson: I have not even got there yet in my presentation.

The Chairperson (Ms Bunting): This is what I am trying to figure out. Some of the documentation that we received indicated that the approach to inflation is perhaps overly cautious — England and Wales have a different system — and I would like to know what consideration was given to using CPI plus x% so that we can satisfy ourselves that the parameters that have been selected, from which the actuary must choose, are reasonable and not overly cautious. What was the rationale behind that? How was it all worked through?

Mr Dawson: I can jump straight to that, if that would be helpful.

The Chairperson (Ms Bunting): Would members rather that you just work through your presentation?

Mr Dawson: It is probably better if —.

Ms Ferguson: You can jump to that point. On the forecasting issue, how many years do you look forward?

The Chairperson (Ms Bunting): Forty-three.

Ms Ferguson: Forty-three, is it?

Ms Jane Maguire (Department of Justice): That is the period over which it is assumed that the claimant will invest their lump sum award.

Ms Ferguson: Is a similar or the same period used in GB and elsewhere?

The Chairperson (Ms Bunting): Forty to 45 years.

Ms Maguire: Scotland uses an assumed investment period of 30 years, but it proposes to change that to 43 years, and the Lord Chancellor used 43 years in the previous review of the rate in England and Wales, based on evidence that 43 years is the average life expectancy of a claimant. That is from where that figure comes.

Ms Ferguson: Is that still the average life expectancy here? Does that be reviewed?

Mr Dawson: No, 43 years is the average time that people who sustain a personal injury of that nature will live. The award therefore needs to be projected over that average period to ensure that they are fully compensated, with, for example, the cost of their care being met.

Ms Ferguson: Is that reviewed annually, based on the statistics?

Mr Moore: No. In undertaking the regulations, we reviewed it and concluded that we do not want to change the 43-year period.

Ms Ferguson: What do you mean by saying that you do not want to change it? Does the evidence tell you —?

Mr Moore: There is no evidence to suggest that it ought to be changed.

Ms Ferguson: You have, however, checked the statistical review of this year, the census figures and population estimates and what they tell us.

Mr Dawson: We have not looked at the census. We take professional advice, which is detailed advice from the Government Actuary's Department. Its advice, after considering all the outworkings, is that 43 years remains suitable and appropriate.

Ms Ferguson: I would like to see more detail on that.

Mr Moore: We asked stakeholders to provide evidence. No new evidence came forward to suggest that we should move away from 43 years.

The Chairperson (Ms Bunting): Essentially, the findings from the consultation were that, naturally, the people defending the claims wanted everything to be a bit better for them, while the claimants wanted things to be a bit better for them, but the feeling was that everybody was satisfied with the 43 years. Is that a fair assessment?

Mr Dawson: That is fair to say.

Ms Maguire: I do not think that anyone has taken real issue with it.

The Chairperson (Ms Bunting): The part about 43 years is the least contentious issue in this whole thing.

Ms Ferguson: The "43 years" bit refers to the average age, based on the statistics.

Ms Maguire: It is based on the evidence from the call for evidence that went out in England and Wales prior to the last review of the rate, and it was used when it was prescribed in our legislation — the 2022 Act.

Ms Ferguson: I do not want to hog the discussion, but I will probably seek more clarity on that later. If it is based on age, that means that it needs to be applicable to here, and 43 years may not necessarily —.

The Chairperson (Ms Bunting): I do not think that it is age. It is about the length of time.

Ms Ferguson: Yes, but it is the average number of claimants based on figures from last year. It is done on an annual basis.

Ms Maguire: It is on average.

Ms Ferguson: Is that the average age of that number of claimants, if that is what it is based on, for here and not for England or Scotland?

Mr Dawson: It is not the average age.

The Chairperson (Ms Bunting): It is based on the length of time that they need the money.

Mr Dawson: It is the length of time that the average personal injury award claimant lives after the award was made.

The Chairperson (Ms Bunting): After the injury.

Ms Ferguson: Yes, but is it based on information from NI, or is it from GB, England or Scotland?

Mr Moore: It is UK-wide information. It is not specific to Northern Ireland.

Ms Ferguson: It is not specific to a region. That is what I was trying to get at. It needs to be looked at.

Mr McNulty: Further to what Ciara said, we all obviously support the principle of 100% compensation. To what extent does the Department dictate where the Government Actuary's Department goes in setting the personal injury discount rate? Why is the personal injury discount rate here the lowest in

the world? What are the implications of the personal injury discount rate for health trusts, public bodies, car owners and drivers?

We had a debate in the Assembly this week about insurance costs. What are the implications of the low revised personal injury discount rate for insurance costs? We are all struggling with insurance costs, but car drivers and business owners in particular are struggling. The Chair asked about CPI. Why is CPI plus x% not being pursued as a metric for consideration? Can you please explain why the personal injury discount rate here is lower than it is anywhere else in the world?

Mr Dawson: I will take the inflation point first. At the moment, the rate is measured and calculated by reference to the retail prices index. That has historically tended to be about 1% higher than the consumer prices index and is, therefore, closer to damages inflation. In other words, it has been a better reference point and a reasonable proxy for damages inflation. However, the way in which the RPI is calculated is due to change in 2030, so it will no longer be a reasonable proxy for damages inflation. Our starting point was that we needed an alternative to the retail prices index.

We could not have a CPI plus 1% measure, for example, instead of annual weekly earnings (AWE), because the legislation does not allow us to do that. We cannot prescribe an adjustment to an existing index. It has to be an index that exists, and CPI plus 1% is an adjustment to an existing index rather than an index that exists. Therefore, we could not do a measure that is based on CPI plus or minus x%, because the legislation does not allow us to do that.

Therefore, the choice had to be between a prices measure and an earnings measure. We came down on the side of choosing an earnings measure for the parameters of the review, because, having regard to the consultation responses, we took the view that, on balance, in high-value personal injury awards, more losses are likely to relate to earnings than prices; for example, loss of earnings or care costs. Having made the choice to move to an earnings measure, we then had a further choice to make between annual weekly earnings or the annual survey of hours and earnings (ASHE). We chose annual weekly earnings based on advice from the Government Actuary's Department. Historical changes to the methodology for ASHE mean that it is less reliable for long-term projections than the measure that we chose.

The Chairperson (Ms Bunting): Andrew, can I take you back one step?

Mr Dawson: Sure.

The Chairperson (Ms Bunting): You said that losses are more likely to relate to earnings than to —.

Mr Moore: Prices.

Mr Dawson: Prices.

The Chairperson (Ms Bunting): Thank you. I want to check another point with you. Legislation does not permit you to do it because it has to be a measure that exists rather than —.

Mr Dawson: A measure that is then adjusted in some way. CPI is a measure that exists; however, we cannot use CPI plus 1%, which can be used for other purposes, because it is an adjusted measure and is not permitted by the primary legislation.

Mr Moore: We have committed to reviewing the legislation before the next review of the discount rate to see whether it is possible to provide more flexibility on what the legislation says about inflation.

The Chairperson (Ms Bunting): That is helpful to know.

Mr McNulty: The regulations propose to increase the standard adjustment from 0.75% to 1.25%. Will that not lead to over-prudence in compensation?

Mr Dawson: Again, we have been governed by the principle of 100% compensation. Our thinking on the deduction for taxation and management expenses was that returns on investment are offset by the cost of tax that is due on those returns and by the investment advice and management expenses. The current adjustment for that is 0.75%, based on an analysis of the tax system at the time. We updated that analysis and found that there is an increased tax burden.

Ms Maguire: Yes. It is to reflect the advice from GAD on the increased tax burden on plaintiffs, which, according to GAD's advice, has increased by around 0.5% per annum on average.

Mr McNulty: Going back to my original question, to what extent have you informed GAD's approach on this?

Mr Dawson: We have informed GAD's approach to the extent that we have now recommended the parameters for its review, so in other words —.

Mr McNulty: So, when the Justice Minister says that her Department does not play any role in setting the personal injury discount rate, is that the reality?

Ms Maguire: The parameters by which the Government Actuary's Department sets the rate are prescribed in legislation, which, obviously, was enacted by —

Mr McNulty: The Department of Justice.

Ms Maguire: — the Assembly. The measure is updating those parameters and reflecting updated economic conditions and forecasts in order to take account of them. The power to amend those parameter sits with the Department, but, obviously, the regulations are subject to draft affirmative procedures so are subject to the approval of the Assembly.

The Chairperson (Ms Bunting): It is important to note that the Minister recused herself from this because her husband is a member of one of the bodies. She recused herself and gave the authority to the permanent secretary.

Mr Moore: We did not give GAD any direction on the review of the parameters. We asked it to advise on each parameter and on whether they should change or stay the same. No direction was given to GAD.

Ms Maguire: We shared consultation responses as well. Responses were provided to us from stakeholders, to whom we asked a series of questions about whether they felt the parameters required to be changed.

Mr McNulty: What are the implications of the new personal injury discount rate on public bodies such as health trusts and on consumers who are paying for insurance policies, including car insurance?

Mr Dawson: We do not have the new rate yet. These rates are the parameters for the review. Insurance is not within our remit, nor can we take into account what the costs of insurance will be. That is outside the scope of the setting of the parameters of the review.

The Chairperson (Ms Bunting): The charge is that you have been overcautious. Do you consider that you have been?

Mr Dawson: No. We have taken a balanced approach, and our judgement is that we have come down on taking the best approach for the review while maintaining the 100% compensation principle. Some have accused us of being overcautious, but, equally, we have been accused of being —.

Mr Moore: It depends on who the accuser is.

Mr Dawson: It depends on who the accuser is, yes.

The Chairperson (Ms Bunting): We got a lot of feedback about that in correspondence. It is interesting, and there were issues, but I suspect that the people who have written to us will take some comfort from the fact that you are going to review the factors that can be taken into consideration in order to afford some flexibility to allow for CPI and so on.

Mr Dawson: Yes, we certainly felt that that was necessary.

Mr Moore: That means just that particular inflationary one.

Mr Beattie: This is horrible. I remember doing this in 2022 and how difficult it was to come up with something. I just want to get my head around this. We are now just setting the parameters, and the Government Actuary's Department will set the rate in July this year. When it does that in July, the rate will cover the next five years. Am I correct so far?

Mr Dawson: The review begins in July, and GAD has to deliver the outcome of the review in 90 days. It will then deliver the report to the Department, and the new rate will come into effect the day after the Department lays the report before the Assembly. We are probably looking at the autumn before a new rate would come into effect.

Mr Beattie: If we do not agree this SL1 — in other words, if we do not agree to the change in the parameters — the review will still go ahead but will use the old parameters. Am I correct in saying that?

Mr Dawson: That is correct, yes.

Mr Beattie: Right. You are the subject-matter experts, and I get that. What evidence base have you used to say that we need to go from the RPI to the AWE? It is great that I am using those words as if I know what I am talking about, but I do not. I am literally reading stuff out here. What is the evidence base to say that that is the best way to go with the measure?

Mr Dawson: Again, we deliberated long and hard about it. We went through a number of steps. We knew that we had to move away from RPI, because it was no longer going to be suitable. Once that step was taken, the next choice was whether we used a prices measure like RPI or whether we used an earnings measure. The decision was to have an earnings measure, and the reason for that was that, having regard to the consultation responses, we thought that losses that needed to be covered for the long term were more likely to relate to earnings than prices; for example, the claimant's loss of earnings or the care costs that are associated with their care.

Having decided that we needed to use an earnings measure rather than a prices measure, we needed to decide what earnings measure that would be. We went with AWE — average weekly earnings — and we also considered ASHE — annual survey of hours and earnings. Based on advice from GAD, we found that historical changes to the methodology for ASHE mean that it is less reliable for long-term projections than the one that we chose, which was AWE. Annual weekly earnings are, in our view, better for long-term projections, and we are looking at having the investment period over 43 years. That was the measure of our thinking. We deliberated long and hard. I do not know whether Martin or Jane want to add anything further.

Ms Maguire: Martin made the point that, for future reviews, we are going to look at how the legislation provides for the effective inflation to be taken into account. That would require an amendment to the legislation, so it would require primary legislation if, after that, we felt that that was appropriate.

Mr Moore: It is not really a matter of the evidence in this case; it is a matter of selecting the most appropriate measure from those that are available for use for this purpose. We have taken professional advice from the Government Actuary's Department on what we think the most appropriate measure is.

Mr Dawson: Having stepped it through that thought process.

Mr Beattie: If we agree the standard adjustment of going from 0.75% to 1.25% in this SL1 as well, that is what we will be assessed on come July. We are not in line with the rest of the UK on this. England, Scotland and Wales are all on a different level. What happens if they go in a different direction? Do we end up with ours being well out of sync?

Mr Dawson: Scotland has the same timetable as Northern Ireland. Scotland has taken a very similar approach to setting the parameters for the review there as that taken here. In addition to the changes on inflation and the deduction for management and taxation, it is also changing its assumed investment period from 30 to 43 years. It is making those further changes. Northern Ireland and Scotland should be fairly well aligned.

The process for setting the rate in England is different, but any of the parameters that we have decided on for the review have taken account of expert and professional advice.

Mr Beattie: Thank you.

Mr McNulty: Why is the CPI plus x% approach OK in Wales and England and not OK here? Have you taken into consideration the DAC Beachcroft response to the consultation, which says that they support the position, as we all do, that for the personal injury discount rate:

"plaintiffs should receive full compensation. That must however mean exactly that – not under- nor over-compensation. The mechanism for setting the PIDR in Northern Ireland is set out in Schedule C1 to the Damages Act 1996. We are concerned that the outcome of the consultation and the changes proposed to Schedule C1 will lead to significant over-compensation of plaintiffs."

Mr Dawson: You can have an unadjusted rate in England but not here, because our primary legislation is different. We are restricted by what our primary legislation allows us to do in Northern Ireland. We have taken account of all the consultation responses, including the one that you quoted, and it remains our judgement that the parameters that we have chosen have the best chance of achieving 100% compensation and no more or no less. Others will have different judgements on that. That is to be expected. We appreciate all the views that we have had, and we have taken account of them all in coming to our conclusions.

Ms Maguire: Under the current legal framework, CPI plus 1% or adjusted in any way is not an available option.

Mr McNulty: Can you give a view about what the impact of the personal injury discount rate will be on insurance premiums across here?

Mr Dawson: No, because that is, again, outside the remit of our Department's work on the matter. It could go up, down or stay the same. We cannot say at this stage. We cannot prejudge the outcome of the review that the GAD will do for us.

The Chairperson (Ms Bunting): You are working on the basis that your parameters need to be adjusted, because, if they are not, people will not receive as close to 100% as possible. That is why there must be a change of some description, and —

Mr Dawson: They will not adequately reflect —. Sorry.

The Chairperson (Ms Bunting): — my other question is this: when do you plan to lay the regulations?

Mr Dawson: On the first point, if we do not change the parameters, they will not adequately reflect the projected economic conditions for the next period of five years, to which this applies. If it does not adequately reflect the current economic conditions, there is a danger that we could depart from the 100% compensation principle.

We will lay the regulations as soon as possible after hearing the Committee's view.

The Chairperson (Ms Bunting): OK. Thank you. Doug, do you want in again?

Ms Maguire: Changes to the regulations need to be made. Sorry, I was just going to say that, because the review has to start under the legislation on 1 July, if the parameters are to be changed, obviously the regulations have to be made so that they can come into operation for that next review. So there is a time pressure in that regard.

The Chairperson (Ms Bunting): I understand. I just wanted to get clear in my head the length of time we have if we were to have anything further. Does anybody have any further questions, queries or anything that they need to know? Now is your time to ask.

Mr Dickson: We have to be blind to everything except the fact that it must deliver 100%. That is the reality, regardless of those who are arguing various other things outside of all this. We have to be blind to all that.

Doug said that he dealt with the issue in the last Justice Committee. I dealt with it in the one prior to that. This is the third time that I have sat through this conversation. We have agreed with you every time, because the bottom line is that, since day 1, you have always achieved 100%.

Mr Dawson: I appreciate that. I apologise that this is your hat-trick. It is my debut. I can only apologise for the subject matter and the complexity in trying to explain it.

Mr McNulty: Just to clarify for my own mind, why has the standard adjustment increased by 0.5% from 0.75% to 1.25%?

Mr Dawson: The key point is that it reflects the increased tax burden or tax drag. Martin or Jane are probably better able to explain the detail of that.

Ms Maguire: It is based on advice from GAD that, on average, the tax costs that claimants will pay will increase by 0.5%.

Mr McNulty: It is a complex business, folks.

Mr Moore: Mr McNulty asked why we have a lower rate than elsewhere, and I do not think that that question was quite answered. If the Assembly agrees to make the changes that we are proposing now and if the Scottish Parliament does the same for Scotland, Northern Ireland and Scotland will be aligned, because the review in Scotland happens at the same time as the review for Northern Ireland. We cannot speak about England and Wales, because they are under a different legislative regime, but at least Northern Ireland and Scotland should align.

Mr McNulty: Why is it lower here than anywhere else in the world?

Mr Moore: I do not know about the rest of the world, but, in the UK, that is largely because of the timing. The Northern Ireland review took place in 2022, whereas, in Scotland, it was set in 2019, and, in England and Wales, it was in 2018. In all three jurisdictions, the review will take place this year. While we can say that, assuming that the regulations are made in both jurisdictions, Northern Ireland and Scotland will be the same, we cannot say that they will be the same as those in England and Wales. It is possible that they will draw closer together. The time at which the review takes place is important, because that is when projections about the future are made. Projections about the future that are made now may be different from those that were made earlier or from those that are made in future.

The Chairperson (Ms Bunting): It is getting better and better, Justin, is it not?

Ms Ferguson: You have just said that it is based on a moment in time and on your projections about the future. Obviously, there is a timing issue, which accounts for the variance. Are there any thoughts on what England may go for? Could it be different from what you are proposing and from what happens in Scotland?

Ms Maguire: We cannot say, because of the legislative framework. Unlike here, where the detail of the methodology is prescribed in legislation, in England and Wales, much of the detail is left to the Lord Chancellor's discretion. For example, the make-up of the investment portfolio that a claimant is assumed to invest in includes the amount of the appropriate deduction for tax and investment management expenses and so on. Until the Lord Chancellor conducts his review, we will not know what specific assumptions have been made in order to arrive at the rate.

Mr Moore: The methodology that was used in the last review for England and Wales was broadly similar to what we used. Ours is set out in statute and theirs is not, so we cannot be sure that they will follow the same methodology, but, based on past experience, it is perhaps not likely to be hugely different.

The Chairperson (Ms Bunting): It means that all regions are likely to be more closely aligned than they currently are.

Ms Maguire: It is about timing. The review in England and Wales is to begin, roughly, in mid-July. They have a bit longer to carry out their review, so it may be a bit later. However, there was a

difference of years previously between us and the other jurisdictions, so that will not be there. As I said, depending on whether the Scottish Government approve their equivalent draft regulations, we could align with Scotland.

The Chairperson (Ms Bunting): Does anybody have any further questions, or are we content to allow the officials to go? *[Pause.]* Yes? Or we —.

Mr McNulty: They can come back.

Ms Ferguson: What do they use in the South?

Mr Dawson: In Ireland, they have a Personal Injuries Assessment Board. It is a different system entirely.

Ms Maguire: The rate there is set by the courts.

Mr Dawson: Yes. There is the Personal Injuries Assessment Board, but the courts set the rate. Their rate is currently 1.5%, but that takes account of the fact that they have a different system entirely.

Ms Maguire: They have 1.1% for future care costs and 1.5% for all other future financial losses. The Irish Court of Appeal determined that rate. There is a power in legislation for the Minister there to set a rate, but we are not aware of its ever having been exercised.

Ms Ferguson: So, they separated the care and future earnings, whilst we are doing just future earnings?

Ms Maguire: Yes, they set that out. That does not apply to care costs.

Mr Moore: We are doing one rate for all.

Ms Ferguson: One rate for all?

Mr Dawson: We are doing losses.

Ms Maguire: Yes.

Mr Dawson: They do a split of future losses, and there is a separate rate for future care costs.

Ms Ferguson: Do they use ASHE or a monthly or weekly average or anything?

Mr Dawson: I think that you have exhausted our knowledge of that, unfortunately. I am not sure how they approach it, but they certainly take a very different approach.

Mr Moore: I do not think that it is quite as transparent how they came to that rate. It was a court judgement rather than a government exercise.

Ms Ferguson: Rather than being statutory? Right.

The Chairperson (Ms Bunting): We have exhausted not just your knowledge but your patience. *[Laughter.]*

Mr Dawson: Not at all.

Ms Maguire: It is very technical, to be fair.

The Chairperson (Ms Bunting): It is. I have certainly struggled to get my head around it. I think that I am there, and then I realise that I am not quite there. We appreciate, however, that a decision has to be made. Thank you very much for taking the time and for your patience in explaining that to us over and over again.

Mr Dawson: That is why I did not go into teaching. I cannot get things across very easily.

The Chairperson (Ms Bunting): That was really helpful. Thank you very much. If there is anything further, we will get in touch, but thank you for your help.