

Department of Justice,
Block B,
Castle Buildings,
Stormont Estate,
Belfast
BT4 3SG

29 July 2020

Re: The personal injury discount rate: How should it be set?

Dear sir/madam,

The British Medical Association (BMA) is an apolitical independent trade union and professional association representing doctors and medical students from all branches of medicine across the UK. Our mission is we look after doctors so they can look after you.

BMA Northern Ireland welcomes the opportunity to respond to this consultation on the “*personal injury discount rate how should it be set.*” Our response comes from the Northern Ireland General Practitioners Committee (NIGPC) and is informed by their discussions on this important subject. Our comments will be limited to the discount rate itself and the impact of it on the continuing functioning of general practice in Northern Ireland.

Whilst we do not believe it is our place to comment on the most appropriate model used to set the discount rate, we understand the department’s motivation to review the rate given the changes in other areas of the United Kingdom. We believe irrespective of the methodology used to set the discount rate it must balance the interests of claimants and the impact on public services.

We believe, whichever methodology is used to set it, a reduction in the discount rate to around -1.75% would be devastating for general practice in Northern Ireland. This is because the level of the discount rate impacts heavily on the cost of GP indemnity. As the consultation document itself notes in section 3.2 “*the cost of insurance against personal injury claims increases when the discount rate reduces.*”

When the discount rate changed in England from 2.5% to -0.25% GP indemnity costs were predicted to rise fivefold from around £13,000 per GP per annum to around £65,000 per GP per annum. This triggered the introduction of a state backed indemnity scheme which has not been extended to cover GPs in

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Northern Ireland. This means general practitioners in Northern Ireland are now the only medical professional in the UK who have to purchase their own indemnity. Conversations with Medical Defence Unions (MDUs) who currently provide GP indemnity have indicated that a change to the discount rate of this size would result in GP indemnity rates rising so high that they would be unaffordable for GPs. Without indemnity GPs would be unable to practice.

Should such a change to the discount rate be made in Northern Ireland it would be essential that simultaneously a state backed GP indemnity scheme be introduced. As such we have sent a copy of this response to the Department of Health NI.

It is not a stretch to say that changing the discount rate in Northern Ireland to -1.75% could prevent GPs from continuing to practice and also divert much needed funds from the HSC and patient services at a time when the healthcare system is under increasing pressure and those working within it face unprecedented workloads. We would hope no such change would be made until conversations could be held with the Department of Health NI in relation to a GP indemnity scheme.

The impact on the HSC system in Northern Ireland goes further than just the immediate impact on general practice. For context, when the discount rate changed in England in March 2017, the government provided an additional £5.9billion for the NHS to be spent on claims for just the three years up to 2020. Increased costs to our HSC as a result of changes to the discount rate diverts money that could be spent on frontline care. Given the wider pressures on the healthcare system, the rising cost of clinical negligence is already impacting on what the HCS can provide, a change of this magnitude to the discount rate is likely to further significantly impact this.

We fully accept that there must be compensation for patients harmed through clinical negligence, but this must be balanced against society's ability to pay.

Once again we would like to thank you for the opportunity to respond to this consultation, should you have any questions relating to the content of our response please do not hesitate to contact Jenna Maghie, senior policy executive, in the first instance via jmaghie@bma.org.uk

Yours sincerely

Dr Alan Stout
Chair, NIGPC