

Department of Justice – Review of the level of statutory bereavement damages in Northern Ireland

November 2015

General comments

The Medical Protection Society (MPS) welcomes this opportunity to respond to the Department of Justice's review of the level of statutory bereavement damages in Northern Ireland.

MPS prides itself on taking an ethical, fair and straightforward approach to claims handling. MPS seeks to identify the issues of a case early, respond to them and move to the appropriate resolution. Where there is a good defence to a claim, we actively protect and promote the interests of members and the wider profession. We promote safer practice by running risk management and education programmes to reduce avoidable harm.

Fundamentally, a statutory level of bereavement damages needs to be consistent and have certainty. We outline our views in response to the specific consultation questions below.

Consultation questions

Do you think the level of bereavement damages should be increased in Northern Ireland?

MPS accepts the justification for an increase in the statutory level of bereavement damages in Northern Ireland, and recognises the comparative difference in the current level of bereavement damages elsewhere in the United Kingdom. The award level in England and Wales was increased in 2013 to £12,980. In Scotland, there is a system which provides for each case to be dealt with on its own facts. Accordingly, MPS does not see the same stagnation in England, Wales and Scotland, as is evident in Northern Ireland (where the level of award has remained at £11,800) in respect of the level of bereavement damages.

Option 1 – Do you think the level of bereavement damages should increase to the same level as England and Wales?

Whilst England and Wales and Northern Ireland are distinct legal jurisdictions, there is a significant degree of consistency in a number of areas.

This consistency is evident in the valuation of fatal accident/personal injury claims is concerned. In Northern Ireland, solicitors and counsel derive significant benefit from leading legal precedents set by the courts in England and Wales. So, given that consistency is evident in the process by which a claim is determined, it should also be sought in the level of award.

Adopting a consistent approach with England and Wales in relation to the level of bereavement damages would appear to be a logical approach. MPS is of the view that this would bring with it greater certainty when compared to an inflationary approach which is also discussed in this consultation.

Option 2 – Do you think the level of bereavement damages should increase in line with inflation as measured by the CPI?

This option would almost certainly give rise to an unhelpful degree of uncertainty and fluctuation, and because of this MPS does not support this proposal. A statutory review of the level of bereavement damages on, for instance, a five year basis, would be preferable to working on the basis of inflationary increases.

If you consider Option 1 and 2 to be inappropriate, do you think the level of bereavement damages should be increased by another method?

As noted, MPS is of the view that Option 1 is a satisfactory option.

About MPS

MPS is the world's leading protection organisation for doctors, dentists and healthcare professionals. We protect and support the professional interests of more than 300,000 members around the world. Our benefits include access to indemnity, expert advice and peace of mind. Highly qualified advisers are on hand to talk through a question or concern at any time.

Our in-house experts assist with the wide range of legal and ethical problems that arise from professional practice. This includes clinical negligence claims, complaints, medical and dental council inquiries, legal and ethical dilemmas, disciplinary procedures, inquests and fatal accident inquiries.

Our philosophy is to support safe practice in medicine and dentistry by helping to avert problems in the first place. We do this by promoting risk management through our workshops, E-learning, clinical risk assessments, publications, conferences, lectures and presentations.

MPS is not an insurance company. All the benefits of membership of MPS are discretionary as set out in the Memorandum and Articles of Association.

CONTACT

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