

<b>Title:</b> Court approval of compensation paid to children outside court proceedings	<b>Regulatory Impact Assessment (RIA)</b>		
	Date: May 2021		
	Type of measure: Primary Legislation		
<b>Lead department or agency:</b> Department of Justice	Stage: Initial		
	Source of intervention: Domestic NI		
<b>Other departments or agencies:</b> n/a	Contact details: Martin Moore		
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### Summary Intervention and Options

<b>What is the problem under consideration? Why is government intervention necessary? (7 lines maximum)</b>  Some compensation payments to children are not being submitted for court approval and protection (as this is presently a voluntary procedure where a settlement is agreed before any legal proceedings have issued) with the resultant risks that children may be under-compensated and that awards may not be used for the benefit of the child. Government intervention would be necessary to create a legal requirement for all compensation awards to children to be submitted for court approval. This would require primary legislation.	
<b>What are the policy objectives and the intended effects? (7 lines maximum)</b>  To ensure by proportionate means the proper compensation of children and the proper protection of compensation awards to children.	
<b>What policy options have been considered, including any alternatives to regulation? Please justify preferred option (further details in Evidence Base) (10 lines maximum)</b>  The options under consideration are: <ol style="list-style-type: none"> <li>1. Do nothing/Voluntary regulation</li> <li>2. Legislation – duty on claimant to submit all settlements for court approval</li> <li>3. Legislation – duty on claimant to submit all settlements for court approval, under a simplified court procedure</li> <li>4. Legislation – duty on compensator to submit all settlements for court approval, under a simplified court procedure</li> <li>5. Legislation – duty on claimant to submit all settlements of more than £3k for court approval, under a simplified court procedure</li> <li>6. Legislation – duty on compensator to submit all settlements of more than £3k for court approval, under a simplified court procedure</li> </ol> <p>There is no preferred option in advance of consultation.</p>	
<b>Will the policy be reviewed?</b> Yes	<b>If applicable, set review date:</b> 1 year after implementation.

Cost of Preferred (or more likely) Option		
Total outlay cost for business £m	Total net cost to business per year £m	Annual cost for implementation by Regulator £m

Does Implementation go beyond minimum EU requirements?	YES <input type="checkbox"/>	NO <input type="checkbox"/>		
Is this measure likely to impact on trade and investment?	YES <input type="checkbox"/>	NO <input type="checkbox"/>		
Are any of these organisations in scope?	<b>Micro</b> Yes <input type="checkbox"/> No <input type="checkbox"/>	<b>Small</b> Yes <input type="checkbox"/> No <input type="checkbox"/>	<b>Medium</b> Yes <input type="checkbox"/> No <input type="checkbox"/>	<b>Large</b> Yes <input type="checkbox"/> No <input type="checkbox"/>

The final RIA supporting legislation must be attached to the Explanatory Memorandum and published with it.

Approved by: \_\_\_\_\_ Date: \_\_\_\_\_

Description: Do nothing/voluntary regulation.

**ECONOMIC ASSESSMENT (Option 1)**

Costs (£m)	Total Transitional (Policy) (constant price) Years		Average Annual (recurring) (excl. transitional) (constant price)	Total Cost (Present Value)
Low	Optional	10	Optional	Optional
High	Optional		Optional	Optional
Best Estimate	Nil		£3,625,195	£31,204,542

**Description and scale of key monetised costs by ‘main affected groups’** Maximum 5 lines  
 These are status quo costs associated with existing court approvals of minor settlements and existing settlements reached without court approval. All costs (legal costs of claimants and compensators, cost of medical reports, and court fees) are borne by insurance companies.  
 The cost of the settlements is not included.

**Other key non-monetised costs by ‘main affected groups’** Maximum 5 lines  
 There is a time cost to claimants’ parents/guardians (to attend with child for medical examination and to attend court.

Benefits (£m)	Total Transitional (Policy) (constant price) Years		Average Annual (recurring) (excl. transitional) (constant price)	Total Benefit (Present Value)
Low	Optional	10	Optional	Optional
High	Optional		Optional	Optional
Best Estimate	Nil		Nil	Nil

**Description and scale of key monetised benefits by ‘main affected groups’** Maximum 5 lines  
 n/a

**Other key non-monetised benefits by ‘main affected groups’** Maximum 5 lines  
 The status quo allows parents/guardians of claimants to seek court approval of a compensation settlement if they wish.

**Key Assumptions, Sensitivities, Risks** Maximum 5 lines  
 For detailed assumptions, see ‘Policy Option 1’ under ‘Evidence Base’ below. Assumptions were made about the current volume of minor settlements approved by the court (i.e. settlements reached before legal proceedings have been issued) and not approved by the court, the value of those settlements, the legal costs incurred in reaching those settlements and bringing them to court for approval, and the cost of medical reports and court fees.  
 The risk of this option is that settlements not approved by the court may involve under-compensation and may not be used for the benefit of the child.

**BUSINESS ASSESSMENT (Option 1)**

<b>Direct Impact on business (Equivalent Annual) £3,625,195</b>		
Costs:£3,625,195	Benefits:Nil	Net:£3,625,195

**Cross Border Issues (Option 1)**

**How does this option compare to other UK regions and to other EU Member States (particularly Republic of Ireland)** Maximum 3 lines  
 There is no equivalent policy in other UK regions or Republic of Ireland.

**ECONOMIC ASSESSMENT (Option 2)**

Costs (£m)	Total Transitional (Policy)		Average Annual (recurring) (excl. transitional) (constant price)	Total Cost (Present Value)
	(constant price)	Years		
Low	Optional	10	Optional	Optional
High	Optional		Optional	Optional
Best Estimate	Nil		£3,715,821	£31,984,622

**Description and scale of key monetised costs by ‘main affected groups’** Maximum 5 lines  
 All costs (legal costs of claimants and compensators, cost of medical reports, and court fees) would be borne by insurance companies.  
 There would be increased costs created by additional court approvals.  
 The cost of the settlements is not included.

**Other key non-monetised costs by ‘main affected groups’** Maximum 5 lines  
 There would be a time cost to claimants’ parents/guardians (to attend with child for medical examination and to attend court. The requirement for all settlements to be brought into court would increase the number of court appearances.

Benefits (£m)	Total Transitional (Policy)		Average Annual (recurring) (excl. transitional) (constant price)	Total Benefit (Present Value)
	(constant price)	Years		
Low	Optional	10	Optional	Optional
High	Optional		Optional	Optional
Best Estimate	Nil		Nil	Nil

**Description and scale of key monetised benefits by ‘main affected groups’** Maximum 5 lines  
 n/a

**Other key non-monetised benefits by ‘main affected groups’** Maximum 5 lines  
 Children would benefit from the requirement for all settlements to be approved, removing the risk of under-compensation of children and facilitating the court protection of awards.  
 More cases obtaining court approval would be a benefit to barristers and solicitors in terms of increased chargeable work.

**Key Assumptions, Sensitivities, Risks** Maximum 5 lines  
 It is assumed that the relatively low overall cost to insurance companies would be insufficient to result in any increase to insurance premiums for consumers.  
 For detailed assumptions, see ‘Policy Option 2’ under ‘Evidence Base’ below. In addition to the assumptions for Option 1, further assumptions were made about the volume of minor settlements currently not approved by the court and the value of those settlements.  
 No risks were identified for this option.

**BUSINESS ASSESSMENT (Option 2)**

<b>Direct Impact on business (Equivalent Annual) £3,715,821</b>			
<b>Costs:£3,715,821</b>	<b>Benefits:Nil</b>	<b>Net:£3,715,821</b>	

**Cross Border Issues (Option 2)**

**How does this option compare to other UK regions and to other EU Member States (particularly Republic of Ireland)** Maximum 3 lines  
 There is no equivalent policy in other UK regions or Republic of Ireland.

## Summary: Analysis and Evidence

## Policy Option 3

Description: Legislation – duty on claimant to submit all settlements for court approval, under a simplified court procedure

### ECONOMIC ASSESSMENT (Option 3)

Costs (£m)	Total Transitional (Policy) (constant price) Years		Average Annual (recurring) (excl. transitional) (constant price)	Total Cost (Present Value)
Low	Optional	10	Optional	Optional
High	Optional		Optional	Optional
Best Estimate	Nil		£3,426,439	£29,493,713

**Description and scale of key monetised costs by 'main affected groups'** Maximum 5 lines  
 All costs (legal costs of claimants and compensators, cost of medical reports, and court fees) would be borne by insurance companies.  
 Increased costs of additional approvals would be offset by the reduced cost of a simplified procedure.  
 The cost of the settlements is not included.

**Other key non-monetised costs by 'main affected groups'** Maximum 5 lines  
 There would be a time cost to claimants' parents/guardians (to attend with child for medical examination and to attend court. While the requirement for all settlements to be brought into court would increase the potential number of court appearances, this would be offset by a simplified procedure that would remove the requirement for a court appearance in every case.

Benefits (£m)	Total Transitional (Policy) (constant price) Years		Average Annual (recurring) (excl. transitional) (constant price)	Total Benefit (Present Value)
Low	Optional	10	Optional	Optional
High	Optional		Optional	Optional
Best Estimate	Nil		Nil	Nil

**Description and scale of key monetised benefits by 'main affected groups'** Maximum 5 lines  
 n/a

**Other key non-monetised benefits by 'main affected groups'** Maximum 5 lines  
 Children would benefit from the requirement for all settlements to be approved, removing the risk of under-compensation of children and facilitate the court protection of awards.  
 More cases obtaining court approval would be a benefit to barristers and solicitors in terms of increased chargeable work, but this would be partially offset by fewer cases requiring a court hearing.

**Key Assumptions, Sensitivities, Risks** Maximum 5 lines  
 It is assumed that the relatively low overall savings to insurance companies would be insufficient to result in any reduction to insurance premiums for consumers.  
 For detailed assumptions, see 'Policy Option 3' under 'Evidence Base' below. In addition to the assumptions for Option 1, further assumptions were made about the volume of minor settlements currently not approved by the court and the value of those settlements, and about the proportion of settlements not requiring a hearing under the simplified procedure.  
 The risk of this option is that settlements not called for hearing may otherwise have been increased.

### BUSINESS ASSESSMENT (Option 3)

<b>Direct Impact on business (Equivalent Annual) £3,426,439</b>		
<b>Costs: £3,426,439</b>	<b>Benefits: Nil</b>	<b>Net: £3,426,439</b>

### Cross Border Issues (Option 3)

**How does this option compare to other UK regions and to other EU Member States (particularly Republic of Ireland)** Maximum 3 lines  
 There is no equivalent policy in other UK regions or Republic of Ireland.

## Summary: Analysis and Evidence

## Policy Option 4

Description: Legislation – duty on compensator to submit all settlements for court approval, under a simplified court procedure.

### ECONOMIC ASSESSMENT (Option 4)

Costs (£m)	Total Transitional (Policy)		Average Annual (recurring)	Total Cost
	(constant price)	Years	(excl. transitional) (constant price)	(Present Value)
Low	Optional	10	Optional	Optional
High	Optional		Optional	Optional
Best Estimate	Nil		£3,799,736	£32,706,936

**Description and scale of key monetised costs by 'main affected groups'** Maximum 5 lines  
 All costs (legal costs of claimants and compensators, cost of medical reports, and court fees) would be borne by insurance companies.  
 Increased costs of additional approvals would be offset by the reduced cost of a simplified procedure.  
 Placing the duty on the compensator would incur additional legal costs for the compensator.  
 The cost of the settlements is not included.

**Other key non-monetised costs by 'main affected groups'** Maximum 5 lines  
 There would be a time cost to claimants' parents/guardians (to attend with child for medical examination and to attend court. While the requirement for all settlements to be brought into court would increase the potential number of court appearances, this would be offset by a simplified procedure that would remove the requirement for a court appearance in every case.

Benefits (£m)	Total Transitional (Policy)		Average Annual (recurring)	Total Benefit
	(constant price)	Years	(excl. transitional) (constant price)	(Present Value)
Low	Optional	10	Optional	Optional
High	Optional		Optional	Optional
Best Estimate	Nil		Nil	Nil

**Description and scale of key monetised benefits by 'main affected groups'** Maximum 5 lines  
 n/a

**Other key non-monetised benefits by 'main affected groups'** Maximum 5 lines  
 Children would benefit from the requirement for all settlements to be approved, removing the risk of under-compensation of children and facilitate the court protection of awards.  
 More cases obtaining court approval would be a benefit to barristers and solicitors in terms of increased chargeable work (in this option including additional work for legal representatives of compensators), but this would be offset by fewer cases requiring a court hearing.

**Key Assumptions, Sensitivities, Risks** Maximum 5 lines  
 It is assumed that the relatively low overall additional cost to insurance companies would be insufficient to result in any increase to insurance premiums for consumers.  
 For detailed assumptions, see 'Policy Option 4' under 'Evidence Base' below. In addition to the assumptions for Options 1, 2 and 3, further assumptions were made about additional costs to compensators of being responsible for bringing approvals to court.  
 The risk of this option is that settlements not called for hearing may otherwise have been increased.

### BUSINESS ASSESSMENT (Option 4)

<b>Direct Impact on business (Equivalent Annual) £3,799,736</b>				
<b>Costs:£3,799,736</b>	<b>Benefits:Nil</b>	<b>Net:£3,799,736</b>		

### Cross Border Issues (Option 4)

**How does this option compare to other UK regions and to other EU Member States (particularly Republic of Ireland)** Maximum 3 lines  
 There is no equivalent policy in other UK regions or Republic of Ireland.

## Summary: Analysis and Evidence

## Policy Option 5

Description: Legislation – duty on claimant to submit all settlements of more than £3k for court approval, under a simplified court procedure

### ECONOMIC ASSESSMENT (Option 5)

Costs (£m)	Total Transitional (Policy) (constant price) Years		Average Annual (recurring) (excl. transitional) (constant price)	Total Cost (Present Value)
Low	Optional	10	Optional	Optional
High	Optional		Optional	Optional
Best Estimate	Nil		£3,407,608	£29,331,621

**Description and scale of key monetised costs by 'main affected groups'** Maximum 5 lines  
 All costs (legal costs of claimants and compensators, cost of medical reports, and court fees) would be borne by insurance companies.  
 Increased costs of additional approvals of settlements of more than £3,000 would be offset by the reduced cost of a simplified procedure.  
 The cost of the settlements is not included.

**Other key non-monetised costs by 'main affected groups'** Maximum 5 lines  
 There would be a time cost to claimants' parents/guardians (to attend with child for medical examination and to attend court. While the requirement for all settlements of more than £3,000 to be brought into court would increase the potential number of court appearances, this would be offset by a simplified procedure that would remove the requirement for a court appearance in every case.

Benefits (£m)	Total Transitional (Policy) (constant price) Years		Average Annual (recurring) (excl. transitional) (constant price)	Total Benefit (Present Value)
Low	Optional	10	Optional	Optional
High	Optional		Optional	Optional
Best Estimate	Nil		Nil	Nil

**Description and scale of key monetised benefits by 'main affected groups'** Maximum 5 lines  
 n/a

**Other key non-monetised benefits by 'main affected groups'** Maximum 5 lines  
 Children would benefit from the requirement for all settlements of more than £3,000 to be approved, removing the risk of under-compensation of children and facilitating the court protection of awards in those cases.  
 More cases obtaining court approval would be a benefit to barristers and solicitors in terms of increased chargeable work, but this would be offset by fewer cases requiring a court hearing.

**Key Assumptions, Sensitivities, Risks** Maximum 5 lines  
 It is assumed that the relatively low overall savings to insurance companies would be insufficient to result in any reduction to insurance premiums for consumers.  
 For detailed assumptions, see 'Policy Option 5' under 'Evidence Base' below. In addition to the assumptions for Option 3, further assumptions were made about the volume of minor settlements of more than £3,000 currently not approved by the court.  
 The risks of this option are that settlements of £3,000 and under not approved by the court may involve under-compensation and may not be used for the benefit of the child; and that settlements of more than £3,000 not called for hearing may otherwise have been increased.

### BUSINESS ASSESSMENT (Option 5)

<b>Direct Impact on business (Equivalent Annual) £3,407,608</b>				
<b>Costs:£ 3,407,608</b>	<b>Benefits:Nil</b>	<b>Net:£ 3,407,608</b>		

### Cross Border Issues (Option 5)

**How does this option compare to other UK regions and to other EU Member States (particularly Republic of Ireland)** Maximum 3 lines  
 There is no equivalent policy in other UK regions or Republic of Ireland.

## Summary: Analysis and Evidence

## Policy Option 6

Description: Legislation – duty on compensator to submit all settlements of more than £3k for court approval, under a simplified court procedure

### ECONOMIC ASSESSMENT (Option 6)

Costs (£m)	Total Transitional (Policy)		Average Annual (recurring) (excl. transitional) (constant price)	Total Cost (Present Value)
	(constant price)	Years		
Low	Optional	10	Optional	Optional
High	Optional		Optional	Optional
Best Estimate	Nil		£3,776,527	£32,507,161

#### Description and scale of key monetised costs by 'main affected groups' Maximum 5 lines

All costs (legal costs of claimants and compensators, cost of medical reports, and court fees) would be borne by insurance companies.

Increased costs of additional approvals of settlements of more than £3,000 would be offset by the reduced cost of a simplified procedure.

Placing the duty on the compensator would incur additional legal costs for the compensator.

#### Other key non-monetised costs by 'main affected groups' Maximum 5 lines

There would be a time cost to claimants' parents/guardians (to attend with child for medical examination and to attend court. While the requirement for all settlements to be brought into court would increase the potential number of court appearances, this would be offset by a simplified procedure that would remove the requirement for a court appearance in every case.

Benefits (£m)	Total Transitional (Policy)		Average Annual (recurring) (excl. transitional) (constant price)	Total Benefit (Present Value)
	(constant price)	Years		
Low	Optional	10	Optional	Optional
High	Optional		Optional	Optional
Best Estimate	Nil		Nil	Nil

#### Description and scale of key monetised benefits by 'main affected groups' Maximum 5 lines

n/a

#### Other key non-monetised benefits by 'main affected groups' Maximum 5 lines

Children would benefit from the requirement for settlements of more than £3,000 to be approved, removing the risk of under-compensation of children and facilitate the court protection of awards in those cases.

More cases obtaining court approval would be a benefit to barristers and solicitors in terms of increased chargeable work (in this option including additional work for legal representatives of compensators), but this would be offset by fewer cases requiring a court hearing.

#### Key Assumptions, Sensitivities, Risks Maximum 5 lines

It is assumed that the relatively low overall savings to insurance companies would be insufficient to result in any reduction to insurance premiums for consumers.

For detailed assumptions, see 'Policy Option 6' under 'Evidence Base' below. In addition to the assumptions for Option 5, further assumptions were made about additional costs to compensators of being responsible for bringing approvals to court.

The risks of this option are that settlements of £3,000 and under not approved by the court may involve under-compensation and may not be used for the benefit of the child; and that settlements of more than £3,000 not called for hearing may otherwise have been increased.

### BUSINESS ASSESSMENT (Option 6)

<b>Direct Impact on business (Equivalent Annual) £3,776,527</b>				
<b>Costs: £3,776,527</b>	<b>Benefits: Nil</b>	<b>Net: £3,776,527</b>		

### Cross Border Issues (Option 6)

#### How does this option compare to other UK regions and to other EU Member States (particularly Republic of Ireland) Maximum 3 lines

There is no equivalent policy in other UK regions or Republic of Ireland.

## Evidence Base

### Costs and benefits

Introducing a requirement to seek court approval of all compensation awards to children would involve the following costs and benefits (in relation to awards of compensation that would otherwise not be submitted for court approval):

#### *Monetised costs*

1. Cost of legal advice and representation to the claimant's parent/guardian
2. Cost of legal advice and representation to the compensator
3. Cost of medical report
4. Court fees

Note that the cost to NICTS of court administration and judicial time is not included as these costs are recovered by the court fees noted above.

#### *Non-monetised costs*

1. Time cost to claimant's parent/guardian

#### *Monetised benefits*

Benefits to solicitors and barristers of additional chargeable work have not been monetised as the margins between costs incurred and fees charged are unknown.

#### *Non-monetised benefits*

1. Removal of risk of under-compensation
2. Ensures protection of award until child reaches adulthood

### Assumptions and evidence

To estimate the costs, a series of assumptions had to be made about the following (these are explained in detail under each Policy Option below).

- The current volume of minor settlements approved by the court (minor approvals)
- The values of those settlements
- The current volume of minor settlements not approved by the court.
- The values of some those settlements

This was done by obtaining data from NICTS on the current number and values of compensation awards to children and applying a number of assumptions about how many of these awards would have been 'minor approvals'.

A solicitors' firm specialising in personal injury litigation and the Association of British Insurers were consulted in relation to the legal costs incurred by claimants and compensators, which led to the assumption that parties agreed that whichever was the higher of the county court scale costs for civil bill or minor petition are payable to the claimant's representatives. Further assumptions were made about the number of cases in which counsel is instructed, the number of cases in which a second hearing is required, and travel costs. The solicitors' firm was also consulted about the number and cost of medical reports.

The main assumptions were:

- All awards initiated by minor petition were minor approvals.
- Half of awards initiated by civil bill with notice of intention to defend were minor approvals.
- No awards initiated by civil bill with no notice of intention to defend were minor approvals.
- No High Court awards were minor approvals.
- There are currently 104 unapproved settlements, 26 of which with no legal representation.
- Compensators agree to pay the higher of the scale costs for minor petition or civil bill, regardless of how the approval is initiated.
- Counsel is instructed in 80% of approvals.



- The values of minor approvals are proportionately the same as the values of all compensation awards.
- The values of unapproved settlements are proportionately the same as the values of all approvals.
- Compensators incur their own legal costs when there is a civil bill.
- If the duty were on the compensator they would incur their own legal costs in all cases.
- Average of 1.5 medical reports per settlement.

## Policy Option 1

This is the status quo option, which would mean continuing with a voluntary procedure for the court approval of compensation settlements for children.

### Monetised costs

#### **Assumed number of cases**

To estimate the current costs it was necessary to estimate the number of 'minor approvals' (i.e. minor settlements reached without legal proceedings having been issued, and then brought into court for approval) and the number of unapproved minor settlements (i.e. those reached without legal proceedings having been issued, but not brought into court for approval) in which legal costs were incurred.

For minor approvals, the total number of court awards of compensation to children in calendar years 2017–19 was obtained from NICTS, broken down by court tier and application procedure. The following assumptions were made:

- No High Court awards were minor approvals.
- All county court awards initiated by minor petition were minor approvals.
- 50% of county court awards initiated by civil bill with notice of intention to defend were minor approvals.
- No county court awards initiated by civil bill with no notice of intention to defend were minor approvals.

Applying these assumptions resulted in an estimated annual average 1,249 minor approvals: 1,057 initiated by minor petition and 192 by civil bill.

For unapproved settlements, the total number of court awards of compensation to children in calendar years 2017–19 (NICTS figures) (4,857) was subtracted from the total number of compensation payments to children recorded in the Compensation Recovery Scheme database for the same period (5,169) (see Table 4 of the consultation paper). This gives a total of 312 cases, which is an annual average of 104. Data obtained from compensators (see para. 2.25 of the consultation paper) indicated that there are 26 settlements per year reached without legal representation for the claimant. Therefore, it was assumed that there are 78 unapproved minor settlements annually in which legal costs are incurred.

#### **Assumed value of cases**

The legal costs of obtaining a minor approval are determined by the value of the settlement. It was therefore necessary to estimate the values of the 1,249 settlements. To do this, an analysis of the values of all children's compensation awards paid into the Court Funds Office in calendar years 2017–19 was obtained from NICTS, broken down by bands equivalent to the bands used for determining legal costs under the County Court Rules (NI) 1981. The following assumptions were made:

- No awards of more than £30,000 (the High Court jurisdiction limit) were minor approvals.
- Those awards that were minor approvals had proportionately the same values as all the remaining awards.

This led to the following estimated annual values:

<i>Value £</i>	<i>Minor petitions</i>	<i>Civil bills</i>
0–1,000	113	20
1,001–2,500	317	57
2,501–5,000	410	74
5,001–7,500	121	22
7,501–10,000	36	7

10,001–12,500	12	2
12,501–15,000	17	3
15,001–20,000	15	3
20,001–25,000	9	2
25,001–30,000	7	1
<i>Total</i>	<i>1,057</i>	<i>192</i>

For unapproved settlements, it was assumed that their values were proportionately the same as the values of approved settlements. The known values of the 26 settlements reached without legal representation (see para. 2.26 of the consultation paper) were deducted from the assumed values of the 104 unapproved settlements, which led to the following estimated values:

Value £	Unapproved settlements
0–1,000	6
1,001–2,500	18
2,501–5,000	33
5,001–7,500	12
7,501–10,000	4

10,001–12,500	1
12,501–15,000	2
15,001–20,000	1
20,001–25,000	1
25,001–30,000	1
<i>Total</i>	<i>78</i>

## 1. Claimants' legal costs

### *Minor approvals*

There are two avenues for seeking court approval of a minor settlement in a county court: (1) by petition, using Form 36 of the County Court Rules (Northern Ireland) 1981 ('the 1981 Rules'), or (2) by civil bill (a "friendly" civil bill). The costs for these procedures are prescribed in Appendix 2 of the 1981 Rules: the costs of (1) are in Part VIII (equity and title suits) and the costs of (2) in Part I (ordinary civil bills).

In terms of costs, however, it was assumed that both parties agree in advance that the higher of the fees payable under either process will be paid. The assumed fees per case, therefore, ranged – for solicitor's costs – from £554 (for settlements of £1,000 or less) to £4,833 (settlements between £25,001 and £30,000), and – for counsel – from £370 to £1,096.

It was assumed that claimant legal costs are incurred in all cases, and that counsel is instructed in 80% of cases and in the remaining 20% of cases the solicitor conducts the hearing and receives an enhancement of costs of 50% of the fee for counsel. It was assumed that an additional day is required in 5% of cases, resulting in an entitlement for a solicitor of 50% of the scale fee not exceeding £600, and for counsel 50% of the scale fee (no maximum).<sup>1</sup>

For travel costs, it was assumed that solicitor's travel from office to court was less than 20 miles in 75% of case, 20–50 miles in 20% of cases, and more than 50 miles in 5% of cases; and that counsel's travel from Belfast to court was less than 20 miles in 50% of cases, 20–50 miles in 20% of cases, and more than 50 miles in 30% of cases.

Total average annual claimants' legal costs for minor approvals were estimated to be £2,531,100 as shown below.

<sup>1</sup> These assumptions are informed by information provided by a solicitor specialising in personal injury litigation and with experience of seeking court approval for minor settlements.

Where counsel is instructed											
value	Assumed number of cases		Solicitor's costs £				Counsel's fee £				Total
	Total	Counsel instructed	First day		Additional day		First day		Additional day		
			Advice	Travel	Advice	Travel	Advice/heari	Travel	Hearing	Travel	
0-1000	133	107	59,127	736	1,478	37	39,489	1,571	734	79	103,251
1001-2500	374	299	350,222	2,065	8,756	103	110,754	4,406	2,058	220	478,584
2501-5000	485	388	644,370	2,675	11,631	134	152,757	5,707	3,819	285	821,378
5001-7500	143	114	246,600	790	3,433	39	56,300	1,684	1,408	84	310,338
7501-10000	42	34	83,716	235	1,020	12	19,680	500	492	25	105,680
10001-12500	14	11	29,465	75	326	4	7,168	160	179	8	37,385
12501-15000	20	16	48,211	113	489	6	12,073	240	302	12	61,446
15001-20000	18	14	56,084	97	421	5	12,181	207	305	10	69,309
20001-25000	11	9	37,723	59	258	3	8,456	127	211	6	46,844
25001-30000	9	7	33,949	48	211	2	7,699	103	192	5	42,210
<b>Total</b>	<b>1249</b>	<b>999</b>	<b>1,589,467</b>	<b>6,894</b>	<b>28,024</b>	<b>345</b>	<b>426,556</b>	<b>14,706</b>	<b>9,699</b>	<b>735</b>	<b>2,076,426</b>

  

Where counsel is not instructed											
value	Assumed number of cases		Solicitor's costs £				Total				
	Total	Counsel not instructed	First day		Additional day						
			Advice	Travel	Advice	Travel					
0-1000	133	27	18,450	184	461	9	19,105				
1001-2500	374	75	97,695	516	2245	26	100,483				
2501-5000	485	97	180,187	669	2908	33	183,797				
5001-7500	143	29	68,688	197	858	10	69,753				
7501-10000	42	8	23,389	59	255	3	23,706				
10001-12500	14	3	8,262	19	82	1	8,363				
12501-15000	20	4	13,562	28	122	1	13,714				
15001-20000	18	4	15,543	24	105	1	15,674				
20001-25000	11	2	10,488	15	65	1	10,568				
25001-30000	9	2	9,446	12	53	1	9,512				
<b>Total</b>	<b>1249</b>	<b>250</b>	<b>445,711</b>	<b>1,723</b>	<b>7,154</b>	<b>86</b>	<b>454,675</b>				

  

<b>GRAND TOTAL</b>							<b>2,531,100</b>
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### Unapproved settlements

It was assumed that claimant legal costs are incurred in unapproved settlements in which the claimant is legally represented; and – as above – that both parties agree in advance that the higher of the fees payable under the minor petition or civil bill will be paid, but for advice only. It was also assumed that counsel is instructed (for advice on quantum) in 80% of cases. The assumed fees per case, therefore, ranged – for solicitor's costs – from £554 (for settlements of £500 or less) to £4,833 (settlements between £25,001 and £30,000), and – for counsel – from £102 to £1,092. It was assumed that travel costs are not incurred.

Total average annual claimants' legal costs for unapproved settlements were estimated to be £159,930 as shown below.

<b>Where counsel is instructed</b>					
value	Assumed number of cases		Solicitor's costs £	Counsel's fee £	<b>Total</b>
		Counsel instructed	Advice	Advice	
0-500	2	1	762	140	<b>902</b>
501-1000	4	3	1,777	593	<b>2,370</b>
1001-2500	18	14	16,925	3,920	<b>20,845</b>
2501-5000	33	26	43,636	10,345	<b>53,981</b>
5001-7500	12	10	20,536	4,689	<b>25,225</b>
7501-10000	4	3	6,972	1,639	<b>8,611</b>
10001-12500	1	1	2,454	597	<b>3,051</b>
12501-15000	2	1	4,015	1,005	<b>5,020</b>
15001-20000	1	1	4,671	1,014	<b>5,685</b>
20001-25000	1	1	3,142	704	<b>3,846</b>
25001-35000	1	1	2,827	639	<b>3,466</b>
<b>Total</b>	<b>78</b>	<b>62</b>	<b>107,716</b>	<b>25,286</b>	<b>133,001</b>
<b>Where counsel is not instructed</b>					
value	Assumed number of cases		Solicitor's costs £	<b>Total</b>	
	Total	Counsel not instructed	First day Advice		
0-500	2	0	190	<b>190</b>	
501-1000	4	1	444	<b>444</b>	
1001-2500	18	4	4,231	<b>4,231</b>	
2501-5000	33	7	10,909	<b>10,909</b>	
5001-7500	12	2	5,134	<b>5,134</b>	
7501-10000	4	1	1,743	<b>1,743</b>	
10001-12500	1	0	613	<b>613</b>	
12501-15000	2	0	1,004	<b>1,004</b>	
15001-20000	1	0	1,168	<b>1,168</b>	
20001-25000	1	0	785	<b>785</b>	
25001-35000	1	0	707	<b>707</b>	
<b>Total</b>	<b>78</b>	<b>16</b>	<b>26,929</b>	<b>26,929</b>	
<b>GRAND TOTAL</b>				<b>159,930</b>	

Total claimants' legal costs were therefore estimated to be £2,511,458.

## **2. Compensators' legal costs**

It was assumed that, in cases that proceed by way of minor petition, compensators incur no legal costs of their own, but that in cases that proceed by way of civil bill, the compensator must instruct a solicitor and a fee of between £125 and £150 per case is agreed (assumed average of £137.50 per case).<sup>2</sup>

Assuming as above 192 civil bills per year, therefore, total annual compensators' costs were estimated to be **£26,331**.

## **3. Cost of medical reports**

It was assumed that every approval, and every settlement reached with legal representation, requires at least one medical report (either in respect of physical injury or psychological injury), 50% of cases will require two reports, and that the average cost of a report is £300 (inclusive of VAT).<sup>3</sup>

<sup>2</sup> Assumption informed by information provided by the Association of British Insurers.

<sup>3</sup> Assumption informed by information provided by a solicitor specialising in personal injury litigation and with experience of seeking court approval for minor settlements.

Assuming as above 1,249 approvals per year and 78 unapproved settlements, therefore, this would be a total annual cost of **£597,075**.

#### **4. Court fees**

The fees for an application for court approval are prescribed in Section I of Schedule 1 to the County Courts Fees Order (Northern Ireland) 1996 (Fees in respect of proceedings not otherwise specifically provided for in any subsequent section of this Schedule). Fee 19 of that Section prescribes a fee of £195 for a petition, and Fee 6 prescribes fees of £195, £216 and £242 for an ordinary civil bill respectively for claims not exceeding £1,000, claims exceeding £1,000 but not exceeding £5,000 and claims exceeding £5,000. At Fee 14, there is also a fee of £327 for a certificate of readiness, which is required when proceedings are issued by civil bill.

Assuming as above 1,057 minor petitions per year and 192 civil bills (20 of which for £1,000 or less, 132 for more than £1,000 and not exceeding £5,000, and 39 for more than £5,000), this would be a total annual cost of **£310,758**.

(Note also that a court may authorise opening and closing fees of £20 and £40 respectively for lodging the award in the Court Funds Office (as prescribed in Part 7 of the Schedule to the Court of Judicature Fees Order (Northern Ireland) 1996). These fees, however, are deducted from the return on the investment and are, therefore, not borne by the compensator. In the event that there is insufficient return, the fee (or full fee) is not deducted and the cost of administration is borne by NICTS. This would, however, be a negligible cost.)

#### **Total annual costs**

Type of cost	Total cost
Legal costs - claimant	£2,691,030
Legal costs - compensator	£26,331
Medical report	£597,075
Court fees	£310,758
<b>GRAND TOTAL</b>	<b>£3,625,195</b>

This represents an average cost per case of **£2,680**.

#### Direct costs and benefits to business

All costs would be borne by the compensator, who is usually an insurance company.

## Policy Option 2

This option would involve legislating to place a duty on the claimant to submit all minor settlements for court approval, using existing court procedures.

### Monetised costs

#### **Assumed number of cases**

For this option, it was assumed that court approvals of currently unapproved settlements (regardless of legal representation) would be initiated by minor petition or civil bill in the same proportion as current approvals (which would mean 88 minor petitions and 16 civil bills).

Adding this to the Option 1 estimates, the estimated annual average for Option 2 was 1,353 minor approvals: 1,145 initiated by minor petition and 207 by civil bill.

#### **Assumed value of cases**

The same assumptions were made as for Option 1, resulting in the following estimated annual values:

<i>Value £</i>	<i>Minor petitions</i>	<i>Civil bills</i>
0–1,000	122	22
1,001–2,500	343	62
2,501–5,000	444	81
5,001–7,500	131	24
7,501–10,000	39	7

10,001–12,500	12	2
12,501–15,000	19	3
15,001–20,000	16	3
20,001–25,000	10	2
25,001–30,000	8	1
<i>Total</i>	<i>1,145</i>	<i>207</i>

#### **1. Claimants' legal costs**

The same assumptions were made as for Option 1.

Total average annual claimants' legal costs were estimated to be £2,741,884 as shown below.

Where counsel is instructed											
value	Assumed number of cases		Solicitor's costs £				Counsel's fee £				Total
	Total	Counsel instructed	First day		Additional day		First day		Additional day		
			Advice	Travel	Advice	Travel	Advice/heari	Travel	Hearing	Travel	
0-1000	145	116	64,051	798	1,601	40	42,778	1,702	795	85	111,849
1001-2500	405	324	379,387	2,237	9,485	112	119,977	4,773	2,229	239	518,440
2501-5000	525	420	698,032	2,898	12,600	145	165,478	6,182	4,137	309	889,781
5001-7500	155	124	267,136	855	3,719	43	60,989	1,825	1,525	91	336,183
7501-10000	46	37	90,688	254	1,105	13	21,319	542	533	27	114,480
10001-12500	15	12	31,919	81	353	4	7,765	173	194	9	40,498
12501-15000	22	18	52,226	122	530	6	13,079	260	327	13	66,563
15001-20000	19	15	60,754	105	457	5	13,195	224	330	11	75,081
20001-25000	12	9	40,865	64	280	3	9,160	137	229	7	50,745
25001-30000	10	8	36,777	53	228	3	8,340	112	208	6	45,725
<b>Total</b>	<b>1353</b>	<b>1082</b>	<b>1,721,834</b>	<b>7,468</b>	<b>30,358</b>	<b>373</b>	<b>462,079</b>	<b>15,931</b>	<b>10,506</b>	<b>797</b>	<b>2,249,346</b>

  

Where counsel is not instructed											
value	Assumed number of cases		Solicitor's costs £				Total				
	Total	Counsel not instructed	First day		Additional day						
			Advice	Travel	Advice	Travel					
0-1000	145	29	19,987	199	500	10	20,696				
1001-2500	405	81	105,831	559	2432	28	108,851				
2501-5000	525	105	195,193	724	3150	36	199,103				
5001-7500	155	31	74,408	214	930	11	75,562				
7501-10000	46	9	25,337	64	276	3	25,680				
10001-12500	15	3	8,950	20	88	1	9,060				
12501-15000	22	4	14,691	30	133	2	14,856				
15001-20000	19	4	16,838	26	114	1	16,980				
20001-25000	12	2	11,361	16	70	1	11,448				
25001-30000	10	2	10,233	13	57	1	10,304				
<b>Total</b>	<b>1353</b>	<b>271</b>	<b>482,829</b>	<b>1,867</b>	<b>7,750</b>	<b>93</b>	<b>492,539</b>				

  

<b>GRAND TOTAL</b>							<b>2,741,884</b>
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## 2. Compensators' legal costs

The same assumptions were made as for Option 1. Assuming as above 207 civil bills per year, therefore, total annual compensators' costs were estimated to be **£28,524**.

## 3. Cost of medical reports

The same assumptions were made as for Option 1. Assuming as above 1,353 approvals per year, therefore, this would be an annual cost of **£608,775**.

## 4. Court fees

The same assumptions were made as for Option 1. Assuming as above 1,145 minor petitions per year and 207 civil bills (22 of which for £1,000 or less, 143 for more than £1,000 and not exceeding £5,000, and 43 for more than £5,000), this would be a total annual cost of **£336,637**.

### Total annual costs

Type of cost	Total cost
Legal costs - claimant	£2,741,884
Legal costs - compensator	£28,524
Medical report	£608,775
Court fees	£336,637
<b>GRAND TOTAL</b>	<b>£3,715,821</b>

This represents an average cost per case of **£2,747**.



### Direct costs and benefits to business

All costs would be borne by the compensator, who is usually an insurance company.

More cases obtaining court approval would be a benefit to barristers and solicitors in terms of increased chargeable work.

## Policy Option 3

This option would involve legislating to place a duty on the claimant to submit all minor settlements for court approval, under a simplified court procedure.

### Monetised costs

#### **Assumed number of cases**

The same assumptions were made as for Options 1 and 2, and thus the estimated annual average for Option 3 was 1,353 minor approvals: 1,145 initiated by minor petition and 207 by civil bill.

#### **Assumed value of cases**

The same assumptions were made as for Option 1, resulting in the following estimated annual values:

<i>Value £</i>	<i>Minor petitions</i>	<i>Civil bills</i>			
0–1,000	122	22	10,001–12,500	12	2
1,001–2,500	343	62	12,501–15,000	19	3
2,501–5,000	444	81	15,001–20,000	16	3
5,001–7,500	131	24	20,001–25,000	10	2
7,501–10,000	39	7	25,001–30,000	8	1
			<i>Total</i>	<i>1,353</i>	<i>207</i>

#### **1. Claimants' legal costs**

The same assumptions were made as for Option 1, with additional assumptions made in relation to a simplified procedure. It was assumed that such a procedure would involve the court considering approvals initially on papers only, but with the option of ordering a hearing, and that:

- 80% of settlements for £5,000 or less would be approved with no hearing;
- 50% of settlements from £5,001 to £10,000 would be approved with no hearing; and
- 20% of settlements of more than £10,000 would be approved with no hearing.

Total average annual claimants' legal costs were estimated to be £2,452,502 as shown below.

Hearing (counsel instructed)													
value	Assumed number of cases			Solicitor's costs £				Counsel's fee £				Total	
	Total	Hearing	Counsel instructed	First day		Additional day		First day		Additional day			
				Advice	Travel	Advice	Travel	Advice/hearing	Travel	Hearing	Travel		
0-1000	145	29	23	12,810	160	320	8	8,556	340	159	17	22,370	
1001-2500	405	81	65	75,877	447	1,897	22	23,995	955	446	48	103,688	
2501-5000	525	105	84	139,606	580	2,520	29	33,096	1,236	827	62	177,956	
5001-7500	155	77	62	133,568	428	1,859	21	30,494	912	762	46	168,091	
7501-10000	46	23	18	45,344	127	552	6	10,659	271	266	14	57,240	
10001-12500	15	12	9	25,535	65	283	3	6,212	139	155	7	32,399	
12501-15000	22	18	14	41,781	98	424	5	10,463	208	262	10	53,250	
15001-20000	19	15	12	48,603	84	365	4	10,556	179	264	9	60,065	
20001-25000	12	9	7	32,692	51	224	3	7,328	110	183	5	40,596	
25001-30000	10	8	6	29,421	42	183	2	6,672	90	166	4	36,580	
<b>Total</b>	<b>1353</b>	<b>377</b>	<b>302</b>	<b>585,238</b>	<b>2,081</b>	<b>8,628</b>	<b>104</b>	<b>148,031</b>	<b>4,440</b>	<b>3,491</b>	<b>222</b>	<b>752,236</b>	

#### Hearing (counsel not instructed)

value	Assumed number of cases			Solicitor's costs £				Total
	Total	Hearing	Counsel not instructed	First day		Additional day		
				Advice	Travel	Advice	Travel	
0-1000	145	29	6	3,997	40	100	2	4,139
1001-2500	405	81	16	21,166	112	486	6	21,770
2501-5000	525	105	21	39,039	145	630	7	39,821
5001-7500	155	77	15	37,204	107	465	5	37,781
7501-10000	46	23	5	12,668	32	138	2	12,840
10001-12500	15	12	2	7,160	16	71	1	7,248
12501-15000	22	18	4	11,753	24	106	1	11,885
15001-20000	19	15	3	13,470	21	91	1	13,584
20001-25000	12	9	2	9,089	13	56	1	9,158
25001-30000	10	8	2	8,186	11	46	1	8,243
<b>Total</b>	<b>1353</b>	<b>377</b>	<b>75</b>	<b>163,733</b>	<b>520</b>	<b>2,189</b>	<b>26</b>	<b>166,469</b>

#### No hearing (counsel instructed)

value	Assumed number of cases			Solicitor's costs	Counsel's fee	Total
	Total	No hearing	Counsel instructed	Advice	Advice	
0-1000	145	116	92	51,241	8,787	60,027
1001-2500	405	324	259	303,510	24,644	328,154
2501-5000	525	420	336	558,425	31,920	590,345
5001-7500	155	77	62	133,568	7,934	141,502
7501-10000	46	23	18	45,344	2,356	47,700
10001-12500	15	3	2	6,384	370	6,754
12501-15000	22	4	4	10,445	555	11,000
15001-20000	19	4	3	12,151	627	12,778
20001-25000	12	2	2	8,173	442	8,615
25001-30000	10	2	2	7,355	472	7,827
<b>Total</b>	<b>1353</b>	<b>976</b>	<b>781</b>	<b>1,136,596</b>	<b>78,106</b>	<b>1,214,702</b>

#### No hearing (counsel not instructed)

value	Assumed number of cases			Solicitor's costs
	Total	No hearing	Counsel not instructed	Advice
0-1000	145	116	23	15,990
1001-2500	405	324	65	84,664.99
2501-5000	525	420	84	156,154.17
5001-7500	155	77	15	37,203.84
7501-10000	46	23	5	12,668.43
10001-12500	15	3	1	1,790.05
12501-15000	22	4	1	2,938.25
15001-20000	19	4	1	3,367.58
20001-25000	12	2	0	2,272.24
25001-30000	10	2	0	2,046.57
<b>Total</b>	<b>1353</b>	<b>976</b>	<b>195</b>	<b>319,096</b>

**GRAND TOTAL** 2,452,502

## 2. Compensators' legal costs

The same assumptions were made as for Option 1. Assuming as above 207 civil bills per year, therefore, total annual compensators' costs were estimated to be **£28,524**.

## 3. Cost of medical reports

It was assumed that a simplified procedure would still require medical reports to be provided, and therefore the same assumptions were made as for Option 1. Assuming as above 1,353 approvals per year, then, this would be an annual cost of **£608,775**.

#### **4. Court fees**

It was assumed that court fees under a simplified procedure would remain the same as currently, therefore the same assumptions were made as for Option 1. Assuming as above 1,145 minor petitions per year and 207 civil bills (22 of which for £1,000 or less, 143 for more than £1,000 and not exceeding £5,000, and 43 for more than £5,000), this would be a total annual cost of **£336,637**.

#### **Total annual costs**

Type of cost	Total cost
Legal costs - claimant	£2,452,502
Legal costs - compensator	£28,524
Medical report	£608,775
Court fees	£336,637
<b>GRAND TOTAL</b>	<b>£3,426,439</b>

This represents an average cost per case of **£2,533**.

#### Direct costs and benefits to business

All costs would be borne by the compensator, who is usually an insurance company.

More cases obtaining court approval would be a benefit to barristers and solicitors in terms of increased chargeable work, but this would be offset by fewer cases requiring a court hearing.

## Policy Option 4

This option would involve legislating to place a duty on the compensator to submit all minor settlements for court approval, under a simplified court procedure.

### Monetised costs

#### **Assumed number of cases**

The same assumptions were made as for Options 1 and 2 and 3, and thus the estimated annual average for Option 4 was 1,353 minor approvals: 1,145 initiated by minor petition and 207 by civil bill.

#### **Assumed value of cases**

The same assumptions were made as for Option 1, resulting in the following estimated annual values:

<i>Value £</i>	<i>Minor petitions</i>	<i>Civil bills</i>			
0–1,000	122	22	10,001–12,500	12	2
1,001–2,500	343	62	12,501–15,000	19	3
2,501–5,000	444	81	15,001–20,000	16	3
5,001–7,500	131	24	20,001–25,000	10	2
7,501–10,000	39	7	25,001–30,000	8	1
			<i>Total</i>	<i>1,145</i>	<i>207</i>

#### **1. Claimants' legal costs**

The same assumptions were made as for Options 1 and 2.

Total average annual claimants' legal costs were estimated to be £2,452,502 as shown below.

Hearing (counsel instructed)													
value	Assumed number of cases			Solicitor's costs £				Counsel's fee £				Total	
	Total	Hearing	Counsel instructed	First day		Additional day		First day		Additional day			
				Advice	Travel	Advice	Travel	Advice/heari	Travel	Hearing	Travel		
0-1000	145	29	23	12,810	160	320	8	8,556	340	159	17	22,370	
1001-2500	405	81	65	75,877	447	1,897	22	23,995	955	446	48	103,688	
2501-5000	525	105	84	139,606	580	2,520	29	33,096	1,236	827	62	177,956	
5001-7500	155	77	62	133,568	428	1,859	21	30,494	912	762	46	168,091	
7501-10000	46	23	18	45,344	127	552	6	10,659	271	266	14	57,240	
10001-12500	15	12	9	25,535	65	283	3	6,212	139	155	7	32,399	
12501-15000	22	18	14	41,781	98	424	5	10,463	208	262	10	53,250	
15001-20000	19	15	12	48,603	84	365	4	10,556	179	264	9	60,065	
20001-25000	12	9	7	32,692	51	224	3	7,328	110	183	5	40,596	
25001-30000	10	8	6	29,421	42	183	2	6,672	90	166	4	36,580	
<b>Total</b>	<b>1353</b>	<b>377</b>	<b>302</b>	<b>585,238</b>	<b>2,081</b>	<b>8,628</b>	<b>104</b>	<b>148,031</b>	<b>4,440</b>	<b>3,491</b>	<b>222</b>	<b>752,236</b>	

  

Hearing (counsel not instructed)									
value	Assumed number of cases			Solicitor's costs £				Total	
	Total	Hearing	Counsel not instructed	First day		Additional day			
				Advice	Travel	Advice	Travel		
0-1000	145	29	6	3,997	40	100	2	4,139	
1001-2500	405	81	16	21,166	112	486	6	21,770	
2501-5000	525	105	21	39,039	145	630	7	39,821	
5001-7500	155	77	15	37,204	107	465	5	37,781	
7501-10000	46	23	5	12,668	32	138	2	12,840	
10001-12500	15	12	2	7,160	16	71	1	7,248	
12501-15000	22	18	4	11,753	24	106	1	11,885	
15001-20000	19	15	3	13,470	21	91	1	13,584	
20001-25000	12	9	2	9,089	13	56	1	9,158	
25001-30000	10	8	2	8,186	11	46	1	8,243	
<b>Total</b>	<b>1353</b>	<b>377</b>	<b>75</b>	<b>163,733</b>	<b>520</b>	<b>2,189</b>	<b>26</b>	<b>166,469</b>	

  

No hearing (counsel instructed)						
value	Assumed number of cases			Solicitor's costs		Counsel's fee
	Total	No hearing	Counsel instructed	Advice	Advice	
0-1000	145	116	92	51,241	8,787	60,027
1001-2500	405	324	259	303,510	24,644	328,154
2501-5000	525	420	336	558,425	31,920	590,345
5001-7500	155	77	62	133,568	7,934	141,502
7501-10000	46	23	18	45,344	2,356	47,700
10001-12500	15	3	2	6,384	370	6,754
12501-15000	22	4	4	10,445	555	11,000
15001-20000	19	4	3	12,151	627	12,778
20001-25000	12	2	2	8,173	442	8,615
25001-30000	10	2	2	7,355	472	7,827
<b>Total</b>	<b>1353</b>	<b>976</b>	<b>781</b>	<b>1,136,596</b>	<b>78,106</b>	<b>1,214,702</b>

  

No hearing (counsel not instructed)				
value	Assumed number of cases			Solicitor's costs
	Total	No hearing	Counsel not instructed	Advice
0-1000	145	116	23	15,990
1001-2500	405	324	65	84,665
2501-5000	525	420	84	156,154
5001-7500	155	77	15	37,204
7501-10000	46	23	5	12,668
10001-12500	15	3	1	1,790
12501-15000	22	4	1	2,938
15001-20000	19	4	1	3,368
20001-25000	12	2	0	2,272
25001-30000	10	2	0	2,047
<b>Total</b>	<b>1353</b>	<b>976</b>	<b>195</b>	<b>319,096</b>

  

<b>GRAND TOTAL</b>												<b>2,452,502</b>
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## 2. Compensators' legal costs

For this option, it was assumed that placing a duty on compensators to seek court approval would mean that compensators would incur solicitor's costs in all cases. An average cost per case of £200 was assumed, based on the assumption that more work would be involved than currently as assumed under Option 1 at an average cost of £137.50. It was also assumed that compensators would incur counsel costs in all cases in which the court ordered a hearing (see assumptions claimants' legal costs

under Option 3); and that counsel would charge £275 per cases up to a value of £5,000, £350 for cases from £5,001 to £10,000, and £600 for cases valued at more than £10,000.

Total annual compensators' costs were estimated to be **£401,821**, based on 1,353 cases approvals per year.

### **3. Cost of medical reports**

The same assumptions were made as for Option 3. Assuming as above 1,353 approvals per year, then, this would be an annual cost of **£608,775**.

### **4. Court fees**

The same assumptions were made as for Option 3. Assuming as above 1,145 minor petitions per year and 207 civil bills (22 of which for £1,000 or less, 143 for more than £1,000 and not exceeding £5,000, and 43 for more than £5,000), this would be a total annual cost of **£336,637**.

### **Total annual costs**

Type of cost	Total cost
Legal costs - claimant	£2,452,502
Legal costs - compensator	£401,821
Medical report	£608,775
Court fees	£336,637
<b>GRAND TOTAL</b>	<b>£3,799,736</b>

This represents an average cost per case of **£2,809**.

### Direct costs and benefits to business

All costs would be borne by the compensator, who is usually an insurance company.

More cases obtaining court approval would be a benefit to barristers and solicitors in terms of increased chargeable work (in this option including additional work for compensators), but this would be offset by fewer cases requiring a court hearing.

## Policy Option 5

This option would involve legislating to place a duty on the claimant to submit all minor settlements of more than £3,000 for court approval, under a simplified court procedure.

### Monetised costs

#### **Assumed number of cases**

For this option, separate assumptions had to be made about the number of court approvals of settlements of £3,000 and less, and the number of approvals of settlements of more than £3,000.

The total number of court awards of compensation to children in calendar years 2017–19 was obtained from NICTS for claims of £3,000 and less, and claims of more than £3,000, broken down by court tier and application procedure.

For minor approvals of settlements of *£3,000 or less*, the same assumptions were made as for Option 1, resulting in an estimated annual average 577 minor approvals: 574 initiated by minor petition and 4 by civil bill. To estimate the number of unapproved settlements of £3,000 or less, it was assumed that the values of all unapproved settlements are proportionately the same as the values of all approved settlements, and thus 46% (48) of the 104 assumed annual average unapproved cases (see Option 1) were settlements of £3,000 or less. Data from compensators (see paras. 2.25 and 2.26 of the consultation paper), indicated that 23 of 26 unapproved settlements without legal representation were for £3,000 or less, resulting in an assumed 25 (48 minus 23) unapproved settlements with legal representation.

For minor approvals of settlements of *more than £3,000*, it was necessary to add together (i) the assumed volumes of existing approvals of more than £3,000 to (ii) the estimated volume of unapproved settlements of £3,000 and more. For (i), the same assumptions were made as for Option 1, resulting in an estimated annual average 672 minor approvals: 484 initiated by minor petition and 188 by civil bill. For (ii), as above, it was assumed that the values of all unapproved settlements are proportionately the same as the values of all approved settlements, and thus 54% (56) of the 104 assumed annual average unapproved cases (see Option 2) were settlements of more than £3,000. It was then assumed that court approvals of those settlements would be initiated by minor petition or civil bill in the same proportion as current approvals (which would mean 47 minor petitions and 9 civil bills). This resulted in a total estimated annual average 728 minor approvals of more than £3,000: 531 initiated by minor petition and 196 by civil bill.

#### **Assumed value of cases**

The analysis of the values of all children's compensation awards paid into the Court Funds Office in calendar years 2017–19 (used for Option 1) was further refined to allow analysis of awards of £3,000 and less and awards of more than £3,000. The same assumptions were then made as for Option 1, resulting in the following estimated annual values:

Value £	Minor petitions	Civil bills
0–1,000	118	1
1,001–2,500	331	2
2,500–3,000	125	1
<i>Total</i>	<i>574</i>	<i>4</i>

Value £	Minor petitions	Civil bills
3,001–5,000	304	112
5,001–7,500	127	47
7,501–10,000	38	14
10,001–12,500	12	4
12,501–15,000	18	7
15,001–20,000	16	6
20,001–25,000	10	4
25,001–30,000	8	3
<i>Total</i>	<i>531</i>	<i>196</i>

For unapproved settlements, the values of the 23 settlements of £3,000 and under reached without legal representation (see para. 2.26 of the consultation paper) were deducted from the assumed values of the 48 unapproved settlements of £3,000 and under, which led to the following estimated values:



Value £	Unapproved settlements
0–1,000	5
1,001–2,500	15
2,501–3,000	6
<b>Total</b>	<b>25</b>

## 1. Claimants' legal costs

### Minor approvals

The same assumptions were made as for Option 3.

Total average annual claimants' legal costs were estimated to be £2,420,228 (£743,330 for settlements of £3,000 or less and £1,676,898 for settlements of more than £3,000) as shown below.

### Settlements of £3,000 or less

Hearing (counsel instructed)													
value	Assumed number of cases			Solicitor's costs £				Counsel's fee £				Total	
	Total	Hearing	Counsel instructed	First day		Additional day		First day		Additional day			
				Advice	Travel	Advice	Travel	Advice/hearing	Travel	Hearing	Travel		
0-1000	119	24	19	10,525	131	263	7	7,030	280	131	14	<b>18,380</b>	
1001-2500	333	67	53	62,345	368	1,559	18	19,716	784	366	39	<b>85,195</b>	
2501-5000	126	25	20	33,387	139	603	7	7,915	296	198	15	<b>42,558</b>	
<b>Total</b>	<b>577</b>	<b>115</b>	<b>92</b>	<b>106,257</b>	<b>637</b>	<b>2,424</b>	<b>32</b>	<b>34,660</b>	<b>1,360</b>	<b>695</b>	<b>68</b>	<b>146,133</b>	
Hearing (counsel not instructed)													
value	Assumed number of cases			Solicitor's costs £				Total					
	Total	Hearing	Counsel not instructed	First day		Additional day							
				Advice	Travel	Advice	Travel						
0-1000	119	24	5	3,284	33	82	2	<b>3,401</b>					
1001-2500	333	67	13	17,391	92	400	5	<b>17,887</b>					
2501-5000	126	25	5	9,336	35	151	2	<b>9,523</b>					
<b>Total</b>	<b>577</b>	<b>115</b>	<b>23</b>	<b>30,012</b>	<b>159</b>	<b>632</b>	<b>8</b>	<b>30,811</b>					
No hearing (counsel instructed)													
value	Assumed number of cases			Solicitor's costs		Counsel's fee		Total					
	Total	No hearing	Counsel instructed	Advice	Advice								
				Advice	Advice								
0-1000	119	95	76	42,102	7,220	<b>49,322</b>							
1001-2500	333	266	213	249,379	20,249	<b>269,628</b>							
2501-5000	126	100	80	133,546	7,634	<b>141,180</b>							
<b>Total</b>	<b>577</b>	<b>462</b>	<b>369</b>	<b>425,027</b>	<b>35,102</b>	<b>460,129</b>							
No hearing (counsel not instructed)													
value	Assumed number of cases			Solicitor's costs									
	Total	No hearing	Counsel not instructed	Advice									
				Advice	Advice								
0-1000	119	95	19	<b>10,525</b>									
1001-2500	333	266	53	<b>62,345</b>									
2501-5000	126	100	20	<b>33,387</b>									
<b>Total</b>	<b>577</b>	<b>462</b>	<b>92</b>	<b>106,257</b>									
<b>GRAND TOTAL</b>											<b>743,330</b>		

## Settlements of more than £3,000

Hearing (counsel instructed)													
value	Assumed number of cases			Solicitor's costs £				Counsel's fee £				Total	
	Total	Hearing	Counsel instructed	First day		Additional day		First day		Additional day			
				Advice	Travel	Advice	Travel	Advice/hearing	Travel	Hearing	Travel		
3001-5000	417	83	67	110,783	460	2,000	23	26,263	981	657	49	141,215	
5001-7500	173	87	69	149,507	479	2,081	24	34,133	1,021	853	51	188,149	
7501-10000	52	26	21	34,249	142	618	7	11,931	303	298	15	47,564	
10001-12500	16	13	11	28,582	73	317	4	6,953	155	174	8	36,265	
12501-15000	25	20	16	46,766	109	475	5	11,711	233	293	12	59,604	
15001-20000	21	17	14	54,403	94	409	5	11,816	201	295	10	67,232	
20001-25000	13	10	8	36,593	58	251	3	8,202	123	205	6	45,441	
25001-30000	11	9	7	32,932	47	204	2	7,468	100	186	5	40,945	
<b>Total</b>	<b>728</b>	<b>265</b>	<b>212</b>	<b>493,815</b>	<b>1,461</b>	<b>6,354</b>	<b>73</b>	<b>118,478</b>	<b>3,118</b>	<b>2,961</b>	<b>156</b>	<b>626,416</b>	

  

Hearing (counsel not instructed)									
value	Assumed number of cases			Solicitor's costs £				Total	
	Total	Hearing	Counsel not instructed	First day		Additional day			
				Advice	Travel	Advice	Travel		
3001-5000	417	83	17	30,979	115	500	6	31,599	
5001-7500	173	87	17	41,643	120	520	6	42,289	
7501-10000	52	26	5	14,180	36	155	2	14,372	
10001-12500	16	13	3	8,015	18	79	1	8,113	
12501-15000	25	20	4	13,155	27	119	1	13,303	
15001-20000	21	17	3	15,078	24	102	1	15,205	
20001-25000	13	10	2	10,174	14	63	1	10,251	
25001-30000	11	9	2	9,163	12	51	1	9,227	
<b>Total</b>	<b>728</b>	<b>265</b>	<b>53</b>	<b>142,386</b>	<b>365</b>	<b>1,589</b>	<b>18</b>	<b>144,359</b>	

  

No hearing (counsel instructed)						
value	Assumed number of cases			Solicitor's costs	Counsel's fee	Total
	Total	No hearing	Counsel instructed	Advice	Advice	
3001-5000	417	333	267	443,132	25,329	468,462
5001-7500	173	87	69	149,507	8,880	158,387
7501-10000	52	26	21	50,755	2,638	53,392
10001-12500	16	3	3	7,145	414	7,560
12501-15000	25	5	4	11,692	621	12,313
15001-20000	21	4	3	13,601	702	14,303
20001-25000	13	3	2	9,148	495	9,643
25001-30000	11	2	2	8,233	528	8,761
<b>Total</b>	<b>728</b>	<b>463</b>	<b>370</b>	<b>693,213</b>	<b>39,607</b>	<b>732,820</b>

  

No hearing (counsel not instructed)				
value	Assumed number of cases			Solicitor's costs
	Total	No hearing	Counsel not instructed	Advice
3001-5000	417	333	67	110,783
5001-7500	173	87	17	37,377
7501-10000	52	26	5	12,689
10001-12500	16	3	1	1,786
12501-15000	25	5	1	2,923
15001-20000	21	4	1	3,400
20001-25000	13	3	1	2,287
25001-30000	11	2	0	2,058
<b>Total</b>	<b>728</b>	<b>463</b>	<b>93</b>	<b>173,303</b>

  

<b>GRAND TOTAL</b>											<b>1,676,898</b>
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## Unapproved settlements

The same assumptions were made as for Option 1, and total average annual claimants' legal costs for unapproved settlements of £3,000 and less were estimated to be £35,007 as shown below.

Where counsel is instructed					
value	Assumed number of cases		Solicitor's costs £	Counsel's fee £	Total
		Counsel instructed	Advice	Advice	
0-500	1	1	599	110	709
501-1000	3	3	1,397	467	1,864
1001-2500	15	12	13,712	3,176	16,888
2501-3000	6	5	7,814	1,852	9,666
<b>Total</b>	<b>25</b>	<b>20</b>	<b>23,522</b>	<b>5,605</b>	<b>29,127</b>
Where counsel is not instructed					
value	Assumed number of cases		Solicitor's costs £	Total	
	Total	Counsel not instructed	First day Advice		
0-500	1	0	150	150	
501-1000	3	1	349	349	
1001-2500	15	3	3,428	3,428	
2501-3000	6	1	1,953	1,953	
<b>Total</b>	<b>25</b>	<b>5</b>	<b>5,880</b>	<b>5,880</b>	
<b>GRAND TOTAL</b>				<b>35,007</b>	

Total claimants' legal costs were therefore estimated to be £2,455,236.

## 2. Compensators' legal costs

The same assumptions were made as for Option 1. Assuming as above 120 civil bills per year, therefore, total annual compensators' costs were estimated to be **£27,514**.

## 3. Cost of medical reports

It was assumed that a simplified procedure would still require medical reports to be provided, and therefore the same assumptions were made as for Option 1. Assuming as above 1,305 approvals per year and 25 unapproved settlements, then, this would be an annual cost of **£598,559**.

## 4. Court fees

It was assumed that court fees under a simplified procedure would remain the same as currently, therefore the same assumptions were made as for Option 1. Assuming as above 1,105 minor petitions per year and 200 civil bills (1 of which for £1,000 or less, 115 for more than £1,000 and not exceeding £5,000, and 84 for more than £5,000), this would be a total annual cost of **£326,299**.

### Total annual costs

Type of cost	Total cost
Legal costs - claimant	£2,455,236
Legal costs - compensator	£27,514
Medical report	£598,559
Court fees	£326,299
<b>GRAND TOTAL</b>	<b>£3,407,608</b>

This represents an average cost per case of **£2,659**.

### Direct costs and benefits to business

All costs would be borne by the compensator, who is usually an insurance company.

More settlements of more than £3,000 obtaining court approval would be a benefit to barristers and solicitors in terms of increased chargeable work, but this would be offset by fewer cases requiring a court hearing.

## Policy Option 6

This option would involve legislating to place a duty on the compensator to submit all minor settlements of more than £3,000 for court approval, under a simplified court procedure.

### Monetised costs

#### **Assumed number of cases**

The same assumptions were made as for Option 5, and therefore an estimated annual average 577 minor approvals of settlements of £3,000 and less (574 initiated by minor petition and 4 by civil bill), 25 unapproved settlements with legal representation of £3,000 and less, and 728 minor approvals of settlements of more than £3,000 (531 initiated by minor petition and 196 by civil bill).

#### **Assumed value of cases**

The same assumptions were made as for Option 5, resulting in the following estimated annual values:

<i>Value £</i>	<i>Minor petitions</i>	<i>Civil bills</i>
0–1,000	118	1
1,001–2,500	331	2
2,500–3,000	125	1
<i>Total</i>	<i>574</i>	<i>4</i>

<i>Value £</i>	<i>Minor petitions</i>	<i>Civil bills</i>
3,001–5,000	304	112
5,001–7,500	127	47
7,501–10,000	38	14
10,001–12,500	12	4
12,501–15,000	18	7
15,001–20,000	16	6
20,001–25,000	10	4
25,001–30,000	8	3
<i>Total</i>	<i>532</i>	<i>196</i>

<i>Value £</i>	<i>Unapproved settlements</i>
0–1,000	5
1,001–2,500	15
2,501–3,000	6
<i>Total</i>	<i>25</i>

### **1. Claimants' legal costs**

#### *Minor approvals*

The same assumptions were made as for Option 5, and thus total average annual claimants' legal costs were estimated to be £2,420,228 (£743,330 for settlements of £3,000 or less and £1,676,898 for settlements of more than £3,000) as shown below.

**Settlements of £3,000 or less**

<b>Hearing (counsel instructed)</b>													
value	Assumed number of cases			Solicitor's costs £				Counsel's fee £				Total	
	Total	Hearing	Counsel instructed	First day		Additional day		First day		Additional day			
				Advice	Travel	Advice	Travel	Advice/hearing	Travel	Hearing	Travel		
0-1000	119	24	19	10,525	131	263	7	7,030	280	131	14	<b>18,380</b>	
1001-2500	333	67	53	62,345	368	1,559	18	19,716	784	366	39	<b>85,195</b>	
2501-5000	126	25	20	33,387	139	603	7	7,915	296	198	15	<b>42,558</b>	
<b>Total</b>	<b>577</b>	<b>115</b>	<b>92</b>	<b>106,257</b>	<b>637</b>	<b>2,424</b>	<b>32</b>	<b>34,660</b>	<b>1,360</b>	<b>695</b>	<b>68</b>	<b>146,133</b>	
<b>Hearing (counsel not instructed)</b>													
value	Assumed number of cases			Solicitor's costs £				Total					
	Total	Hearing	Counsel not instructed	First day		Additional day							
				Advice	Travel	Advice	Travel						
0-1000	119	24	5	3,284	33	82	2	<b>3,401</b>					
1001-2500	333	67	13	17,391	92	400	5	<b>17,887</b>					
2501-5000	126	25	5	9,336	35	151	2	<b>9,523</b>					
<b>Total</b>	<b>577</b>	<b>115</b>	<b>23</b>	<b>30,012</b>	<b>159</b>	<b>632</b>	<b>8</b>	<b>30,811</b>					
<b>No hearing (counsel instructed)</b>													
value	Assumed number of cases			Solicitor's costs	Counsel's fee	Total							
	Total	No hearing	Counsel instructed	Advice	Advice								
				Advice	Advice								
0-1000	119	95	76	42,102	7,220	<b>49,322</b>							
1001-2500	333	266	213	249,379	20,249	<b>269,628</b>							
2501-5000	126	100	80	133,546	7,634	<b>141,180</b>							
<b>Total</b>	<b>577</b>	<b>462</b>	<b>369</b>	<b>425,027</b>	<b>35,102</b>	<b>460,129</b>							
<b>No hearing (counsel not instructed)</b>													
value	Assumed number of cases			Solicitor's costs									
	Total	No hearing	Counsel not instructed	Advice									
				Advice									
0-1000	119	95	19	<b>10,525</b>									
1001-2500	333	266	53	<b>62,345</b>									
2501-5000	126	100	20	<b>33,387</b>									
<b>Total</b>	<b>577</b>	<b>462</b>	<b>92</b>	<b>106,257</b>									
<b>GRAND TOTAL</b>											<b>743,330</b>		

**Settlements of more than £3,000**

<b>Hearing (counsel not instructed)</b>								
value	Assumed number of cases			Solicitor's costs £				<b>Total</b>
	Total	Hearing	Counsel not instructed	First day		Additional day		
				Advice	Travel	Advice	Travel	
3001-5000	417	83	17	30,979	115	500	6	<b>31,599</b>
5001-7500	173	87	17	41,643	120	520	6	<b>42,289</b>
7501-10000	52	26	5	14,180	36	155	2	<b>14,372</b>
10001-12500	16	13	3	8,015	18	79	1	<b>8,113</b>
12501-15000	25	20	4	13,155	27	119	1	<b>13,303</b>
15001-20000	21	17	3	15,078	24	102	1	<b>15,205</b>
20001-25000	13	10	2	10,174	14	63	1	<b>10,251</b>
25001-30000	11	9	2	9,163	12	51	1	<b>9,227</b>
<b>Total</b>	<b>728</b>	<b>265</b>	<b>53</b>	<b>142,386</b>	<b>365</b>	<b>1,589</b>	<b>18</b>	<b>144,359</b>

**No hearing (counsel instructed)**

value	Assumed number of cases			Solicitor's costs	Counsel's fee	<b>Total</b>
	Total	No hearing	Counsel instructed	Advice	Advice	
3001-5000	417	333	267	443,132	25,329	<b>468,462</b>
5001-7500	173	87	69	149,507	8,880	<b>158,387</b>
7501-10000	52	26	21	50,755	2,638	<b>53,392</b>
10001-12500	16	3	3	7,145	414	<b>7,560</b>
12501-15000	25	5	4	11,692	621	<b>12,313</b>
15001-20000	21	4	3	13,601	702	<b>14,303</b>
20001-25000	13	3	2	9,148	495	<b>9,643</b>
25001-30000	11	2	2	8,233	528	<b>8,761</b>
<b>Total</b>	<b>728</b>	<b>463</b>	<b>370</b>	<b>693,213</b>	<b>39,607</b>	<b>732,820</b>

**No hearing (counsel not instructed)**

value	Assumed number of cases			Solicitor's costs
	Total	No hearing	Counsel not instructed	Advice
3001-5000	417	333	67	<b>110,783</b>
5001-7500	173	87	17	<b>37,377</b>
7501-10000	52	26	5	<b>12,689</b>
10001-12500	16	3	1	<b>1,786</b>
12501-15000	25	5	1	<b>2,923</b>
15001-20000	21	4	1	<b>3,400</b>
20001-25000	13	3	1	<b>2,287</b>
25001-30000	11	2	0	<b>2,058</b>
<b>Total</b>	<b>728</b>	<b>463</b>	<b>93</b>	<b>173,303</b>

<b>GRAND TOTAL</b>	<b>1,676,898</b>
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**Unapproved settlements**

The same assumptions were made as for Option 5, and total average annual claimants' legal costs for unapproved settlements of £3,000 and less were estimated to be £35,007 as shown below.

Where counsel is instructed					
value	Assumed number of cases		Solicitor's costs £	Counsel's fee £	Total
		Counsel instructed	Advice	Advice	
0-500	1	1	599	110	709
501-1000	3	3	1,397	467	1,864
1001-2500	15	12	13,712	3,176	16,888
2501-3000	6	5	7,814	1,852	9,666
<b>Total</b>	<b>25</b>	<b>20</b>	<b>23,522</b>	<b>5,605</b>	<b>29,127</b>
Where counsel is not instructed					
value	Assumed number of cases		Solicitor's costs £	Total	
	Total	Counsel not instructed	First day Advice		
0-500	1	0	150	150	
501-1000	3	1	349	349	
1001-2500	15	3	3,428	3,428	
2501-3000	6	1	1,953	1,953	
<b>Total</b>	<b>25</b>	<b>5</b>	<b>5,880</b>	<b>5,880</b>	
<b>GRAND TOTAL</b>				<b>35,007</b>	

Total claimants' legal costs were therefore estimated to be £2,455,236.

## 2. Compensators' legal costs

The same assumptions were made as for Option 4, resulting in estimated total annual compensators' costs of **£396,433**, based on 1,305 approvals per year.

## 3. Cost of medical reports

The same assumptions were made as for Option 5, resulting in estimated annual cost of **£598,559**.

## 4. Court fees

The same assumptions were made as for Option 5, resulting in estimated annual cost of **£326,299**.

### Total annual costs

Type of cost	Total cost
Legal costs - claimant	£2,455,236
Legal costs - compensator	£396,433
Medical report	£598,559
Court fees	£326,299
<b>GRAND TOTAL</b>	<b>£3,776,527</b>

This represents an average cost per case of **£2,791**.

### Direct costs and benefits to business

All costs would be borne by the compensator, who is usually an insurance company.

More settlements of more than £3,000 obtaining court approval would be a benefit to barristers and solicitors in terms of increased chargeable work (in this Option including additional work for compensators), but this would be offset by fewer cases requiring a court hearing.