

Local Government Association

Response to Consultation on The Personal Injury Discount Rate : How it should be set in future

May 2017

About the Local Government Association

The Local Government Association (LGA) is the national voice of local government. We work with councils to support, promote and improve local government.

We are a politically-led, cross party organisation that works on behalf of councils to ensure local government has a strong, credible voice with national government. We aim to influence and set the political agenda on the issues that matter to councils so they are able to deliver local solutions to national problems. The LGA covers every part of England and Wales, supporting local government as the most efficient and accountable part of the public sector.

General points

The LGA accepts that the aim of the personal injury discount rate is to be fair to an injured party receiving damages. As such the LGA does not have views on most of the technical aspects of the consultation as to how this can be best achieved; the LGA also understands that the impact on the insured party will not be taken into account in setting a fair rate. Therefore we will not be commenting on any of the detailed questions in the consultation with the sole exception of question 32.

Response to question 32: Please provide details of any costs and benefits that you anticipate would arise as a result of any of the approaches described above.

The consultation document outlines that “The Government has committed to ensuring that the NHS Litigation Authority has appropriate funding to cover changes to hospitals’ clinical negligence costs” and it states that £1.2 billion was put aside in the 2017 budget to cover this. The new rate announced suddenly on 27 February this year and coming into force on 20 March (replacing a rate that had been in place for more than 15 years) will also have a financial impact on local government and the Government will need to take account of this. We call on the Government to commit to providing sufficient funding to local government to cover any increased costs in the same way that additional funding is being provided to the NHS. Subsequent rate changes as a result of this review will also affect local government.

Local government is in a different position to many other public bodies and potentially faces costs from the change to the discount rate that other bodies would not face. This is because of the position regarding Municipal Mutual Insurance (MMI) which was the primary insurer for local government until it ceased underwriting new business in 1992. It is now under a scheme of arrangement. Any increase in its liabilities could mean additional costs for local authorities affected, for example in the form of a levy on creditors.



Submission

Further increased costs to local government will take two additional forms – either in the form of increased premiums from external insurers or in the form of additional calls on local authorities' self insurance arrangements. These additional costs have not yet been quantified, but could be significant. Some local authorities are already reporting an increase in premiums charged of 10% to 15% in response to the change in the discount rate announced in February.

Local Government has suffered significant reductions in funding since 2010 and the LGA calculates that it already faces a funding gap of £5.8 billion by 2020, without taking account of the recent changes to the discount rate. Further costs from changes such as these will therefore be very difficult for the sector. The LGA would welcome the opportunity to work with the Government and with the local government sector to identify and quantify these additional costs so that suitable additional national funding can be provided.