

Response ID ANON-5EUW-19MP-D

Submitted to Consultation on Court Approval of Minor Settlements
Submitted on 2021-08-11 09:15:11

Consultation Questions

1 Should Government legislate to compel court approval of settlements of compensation for children in cases in which legal proceedings have not issued?

Yes

Please give reasons:

We have three concerns that may give rise to the need for law: the absence of legal representation for children; the absence of the court approval of the sum of compensation and the absence of court protection of the sum.

If yes

2 If yes: Should legislation place a duty to obtain court approval (in cases in which legal proceedings have not issued) on one of the parties (a compensator or a parent) and invalidate compensation paid to a child without court approval? Please give reasons, including which of the parties and why.

Yes

Please give reasons:

The absence of court approval does give rise to the concerns that the sum of compensation awarded may not be as much as a court would approve and therefore some children may be under-compensated (parent). While the absence of court protection of the sum creates the possibility that wards may not be used for the child's benefit or in the best interests (compensator).

3 How could or should such a duty be enforced?

How could or should such a duty be enforced?:

The focus of any law ought to be on court approval, which is the means of obtaining court protection as to how the money is to be dealt with? in most case it will be that the money is paired into court to be managed by the Court Funds Office.

4 Should such legislation apply to all such settlements or only those above a financial threshold?

All such settlements

Please give reasons:

Such law should apply to all such settlements or only those above a financial threshold. Placing the duty on the parent or guardian the child seeking compensation to initiate court proceedings may be viewed as an unwelcome imposition on the party that has suffered the loss. The prospect of having to make a court application probably engaging solicitor and obtaining a medical report may even serve as a disincentive to some parents tossed compensation in the first place.

5 If there were to be a financial threshold, at what level should it be set?

If there were to be a financial threshold, at what level should it be set?:

If there were to be law to require out approval of compensation payment to children, it would be possible to apply a threshold below which such requirements would not apply. In Scotland, there is a threshold of £5,000 below which cannot be given a direction as to its management. It might b argue that where the costs of seeking approval outweighs the value of settlement. Therefore, our law could still allow a voluntary process for awards below the threshold.

6 Would a new paper-based procedure for seeking court approval for settlements encourage more court approvals?

Yes

Please give reasons:

This would reduce the 'hassle factor' for the parents or guardian and reduced the legal costs that would ultimately be borne by the compensator.

7 Should a new paper-based procedure be introduced?

Yes

Should such a procedure be introduced?:

It will be quicker to seek settlement on the threshold below and all settlements regardless of value ought to be placed under court protection.

8 If yes, what should be the parameters of such a procedure (e.g. should it be restricted to cases where liability is admitted, cases below a financial threshold, cases involving only certain types of injury, etc.)?

Restricted to cases below a financial threshold

Please give reasons:

See 7. above

Additional questions

14 Do you agree with the outcome of the screening exercises?

Yes

If not, please provide comments:

15 Do you agree with the outcome of the initial regulatory impact assessment?

No

If not, please provide comments:

It is the regulatory impact assessment per se but could not have the S.75 requirements.

16 Please provide any other comments you have in relation to this consultation.

Please provide any other comments you have in relation to this consultation. :

Ethnic minority could have negative impact such as language, understanding of law in which each country have variations. Moreover, they do not trust their government in country of origin.