Finance and Constitution Committee Questionnaire

This questionnaire is being sent to those organisations that have an interest in, or which may be affected by the Damages (Investment Returns and Periodical Payments) (Scotland) Bill FM.

In addition to the questions below, please add any other comments you may have which would assist the Committee’s scrutiny of the FM.

Consultation

1. Did you take part in any consultation exercise preceding the Bill and, if so, did you comment on the financial assumptions made? No

2. If applicable, do you believe your comments on the financial assumptions have been accurately reflected in the FM? N/A

3. Did you have sufficient time to contribute to the consultation exercise? N/A

Costs

4. If the Bill has any financial implications for your organisation, do you believe that they have been accurately reflected in the FM? If not, please provide details.

No, we don’t believe costs are accurately reflected for our organisation. The section headed ‘Costs on Local Authorities’ within the FM states “there are no specific costs which fall to local authorities”. This is not the case if the ogden discount rate is amended.

When South Lanarkshire Council renewed it’s main insurance policies on 1 April 2018, insurers applied an ‘ogden discount rate levy’ to counter the impact of the change in discount rate. The levy applied to the Council’s liability insurance policy was £67,681.60 and the levy applied to the Council’s motor insurance policy was £60,762.24, giving a total premium increase of £128,443.84 (including Insurance Premium Tax).

The FM does not recognise the impact on local authority insurance premiums and Councils may require to pay more or less in line with changes to the rate relative to the previous rate.

The section on ‘Costs on Local Authorities’ within the FM does accurately capture potential fluctuations in the level of claim settlement for individual claims, in line with changes in the ogden discount rate.

5. Do you consider that the estimated costs and savings set out in the FM are reasonable and accurate?
Yes, in terms of the costs of carrying out regular reviews of the discount rate. The FM also accurately details fluctuations in claim settlement costs, but does not detail the impact on insurance premiums, as detailed in question 4.

6. If applicable, are you content that your organisation can meet any financial costs that it might incur as a result of the Bill? If not, how do you think these costs should be met?

South Lanarkshire Council, like other local authorities at the present time face significant financial challenges as a result of a reduction in local government funding at a time when there are increased demands on Council Services. It is the Council’s expectation that any financial implications from the Act would be funded by Scottish Government.

7. Does the FM accurately reflect the margins of uncertainty associated with the Bill’s estimated costs and with the timescales over which they would be expected to arise?

Within the section headed ‘Possible impact of a change in the discount rate’ good examples are provided on variations in the value of claim settlements, as influenced by the duration of the claim i.e. the longer the period over which the damages are to be paid, the greater the expected increase.

In accordance with earlier comments, local authorities may also be affected by significant fluctuations in insurance premiums year on year, in line with alterations to the discount rate.

Wider Issues

8. Do you believe that the FM reasonably captures any costs associated with the Bill? If not, which other costs might be incurred and by whom?

No, in accordance with our previous comments on insurance premiums and ‘ogden discount rate levies’ noted above.

9. Do you believe that there may be future costs associated with the Bill, for example through subordinate legislation? If so, is it possible to quantify these costs?

Not known at present