

2019.10.22

5 Deputy R.E. Huelin of St. Peter of the Chief Minister regarding the implementation of the Damages (Jersey) Law 2019: (OQ.256/2019)

As the Damages (Jersey) Law 2019 has now been in force for several months, will the Chief Minister update the Assembly on the outcomes, to date, of the law's implementation?"

Senator J.A.N. Le Fondré (The Chief Minister):

It is about a year since the law was lodged but, as the Deputy has rightly pointed out, it has only been in force for slightly less than 6 months. So, it is a little bit too early to try and quantify fully its impact, but the early indications are positive. I would suggest hopefully, and perhaps unusually for the moment, it is good news.

[10:15]

So, to date there have been no reported judgments of civil claims settled under the law, but I am informed that the provisions relating to the statutory discount rate and periodic payment orders have been instrumental in seeing one existing claim reduce from approximately £19 million to £8 million and another from £49 million to £15 million. So, overall, that is about a £45 million reduction in the claims as a result of that law. The law is also having a positive impact on the length of proceedings, saving the claimant, the defendant and the court time and money that was previously spent on arguing about these matters. Furthermore, I understand that the Damages Law was cited as a positive development during the recent tendering process renewal of the Government's own insurance arrangements. I am sure, or I hope, that this Assembly will agree that it is all very good news and justifies the action we took at the beginning of my term of office of putting the law in place.

3.5.1 The Deputy of St. Peter:

One of the concerns was from the G.P. community - the second time today - and their insurance premiums. Is there any indication as to the potential reduction of their clinical negligence insurance as a result of this law?

Senator J.A.N. Le Fondré:

I cannot give specific details, but I have been made aware that some local G.P.s are reporting that their Medical Defence Union insurance quotes have reduced and apparently that the M.D.U.s are actively touting for business in Jersey, if that is the right expression. But again, hopefully, that is an indication of the positive impact of the law.

3.5.2 Deputy M.R. Higgins:

I would hope that the Minister will give further information on the 2 cases he mentioned of the reductions. It is not good enough to say we saved this amount of money, without knowing what the cases are. But, in particular, will he not recognise that the reason why this law was brought into being was because of our failures in the past, I think it was Family X, the 2 children, where there was a claim for something like £200 million against the States and that was eventually settled. Will he confirm that is the reason why the law was brought in, to stop other cases like that, which means that we are basically discounting claims against the States, simply to save money?

Senator J.A.N. Le Fondré:

I do not know if the case in question is the one that the Deputy is citing, but certainly when I came in we were informed of one, which was later reported by the local media as being the largest personal injury claim in British legal history and it was in the order of £238 million. I would hope that most reasonable people would suggest that is not, in British circumstances, a normal claim that would normally be made. That is why it was felt that measures needed to be in place. Do not forget, we are still talking about claims of several million pounds being in place. I cannot go into the details of some of the circumstances on the cases, because they would have been sealed by the court. But I do know that, in certain instances, the settlements have fallen now within the insurance limits and so that means that the settlement is not funded from public money. So there is this balance because, the Deputy is right, we have to make sure there is a definition of justice for the claimants, but there also has to be balance of reasonableness in terms of the claims against the taxpayer and the public purse. We have taken action; we believe it is appropriate action, that meets those 2 different matters as they come together.

3.5.3 The Deputy of St. Peter:

For those that remember the law, it was a 3-party discussion with discount rates, periodic payment orders and split over life expectancy. Can I ask the Chief Minister if any information has come to his door to suggest that those need to be reviewed in the near term?

Senator J.A.N. Le Fondré:

The short answer is no. I am slightly nervous when I answer this one, because I wonder what the Deputy of St. Peter knows that I do not, which could be lots, particularly around St. Peter. But obviously the Deputy is aware that the Legislation Advisory Panel, on which he partially sits, are keeping a watching mandate on this area and, therefore, the Chair certainly will be no doubt raising the matter with me as and when matters arise under the watching brief. But I reiterate, from my perspective, this is a good news matter. I thank the Deputy for his question and I hope Members are on form that the Damages Law was an important piece of legislation to put in place, has had direct consequences, I believe beneficial, bearing in mind the response I gave to Deputy Higgins about competing tensions, is the word I was looking for; I think it has been a good piece of legislation this Assembly has put in place.

The Bailiff:

Very well, Deputy Le Hegarat being absent, the next question falls away.

N.B. Although Deputy M.R. Le Hegarat was not present to ask her question, the Minister for Health and Social Services has provided below the response that he would have given:

Following the response to Written Question 256/2019, will the Minister advise whether Continuous Glucose Monitoring for children continues to be funded by Diabetes Jersey and not Health and Community Services; and if that is the case, whether the department intends to assume responsibility for the funding and, if so, when?

Answer

At present, Diabetes Jersey funds Free Style Libre Flash Glucose monitoring devices for children.

As part of a new service to be rolled out from 20th November, the Diabetes Service at Overdale will identify people eligible for support with Flash Glucose Monitoring Sensors. The guidelines for

eligibility will be the same as those applied in the United Kingdom (based on N.I.C.E. - National Institute for Health and Clinical Excellence - guidelines).

From November it is planned that the charity will then fund Dexcom continuous glucose monitoring for children until a business case is approved for HCS funding. Dexcom provides alarms to the patient when their glucose is low or falling quickly.

The Health and Community Services (HCS) Department, working with other stakeholders, is currently developing an Island-wide strategy for the diabetes service in Jersey. This strategy aims to set out a business case for investment in the service that improves the lives for all those with diabetes, including better access to relevant devices/consumables.