

29 June 2021

**FILE REF:** SHA/23321  
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**DECISION MAKING BODY:** NHS COMMISSIONING BOARD (NHS ENGLAND)

**GMS CONTRACTOR:** DR MISTRY & PARTNERS

**PREMISES:** PARADISE MEDICAL CENTRE,  
BROAD STREET  
COVENTRY  
CV6 5AX

**DISPUTE RESOLUTION:** NHS (GENERAL MEDICAL SERVICES CONTRACT)  
REGULATIONS 2015

**DIRECTIONS:** NHS (GENERAL MEDICAL SERVICES – PREMISES  
COSTS) DIRECTIONS 2004

**RE:** NOTIONAL RENT

**1 Outcome**

- 1.1 I determine that an interest payment at base rate per annum from 13 February 2016 to 13 January 2021 in the total sum of £198.62 shall be paid by NHS England to the Contractor within 45 days of the date of this determination. If payment of the reviewed rent was made later than 13 January 2021 additional payments of interest at the daily rate of £0.025 up to the date of payment shall also be made within 45 days of the date of this determination.

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## 1 INTRODUCTION

- 1.1 As a GMS Provider, the above named contractor referred the dispute of current market rent assessment as at 13 February 2016 for dispute resolution under the provision of Part 12 of the NHS (General Medical Services Contract) Regulations 2015.
- 1.2 The Secretary of State for Health and Social Care directed that NHS Resolution exercise the functions of dispute resolution on his behalf. I, as an authorised officer of NHS Resolution, have made this determination.

## 2 APPLICATION FOR DISPUTE RESOLUTION

- 2.1 The Contractor submitted an application for dispute resolution which was determined by NHS Resolution on 23 October 2020. That determination found that the Current Market Rent from 13 February 2016 should be £36,455.00, an increase of £8,965 per annum.
- 2.2 On 25 November 2020, in judicial proceedings unrelated to this dispute, the Court of Appeal (SSP Health Limited –v- NHS Litigation Authority and others “SSP”) determined that an Adjudicator has a power to award interest, where appropriate, on payments they determined should be made.
- 2.3 This power is conferred by s9(11) of the NHS Act 2006 (“the Act”) read in conjunction with s9(12) of the Act.
- 2.4 Given that the instant application was determined immediately prior to the Court of Appeal Judgment, NHS Resolution decided that it should consider a retrospective award of interest in this dispute.

- 2.5 As a result, Primary Care Appeals has sought representations from each of the parties involved and they have been given the opportunity to provide written submissions.
- 2.6 I have had regard to the following documents made available to me in consideration of this matter to ensure the just, expeditious, economical and final determination of the dispute:
- 2.6.1 Letter from GP Surveyors, representing the Contractor, dated 18 December 2020;
- 2.6.2 Email from GP Surveyors, representing the Contractor, dated 12 January 2021; and
- 2.6.3 Letter from Mills and Reeve LLP, representing NHS England, dated 21 January 2021
- 2.7 This determination relates to interest payable on the increase of £8,965 per annum in current market rent payable to the Contractor with effect from 13 February 2016.

### 3 SUBMISSIONS FROM GP SURVEYORS FOR THE CONTRACTOR DATED 18 DECEMBER 2020

- 3.1 GP Surveyors submit that the decision in SSP provides that:
- 3.1.1 “if a party to a dispute has been kept out of their money, it is prima facie appropriate that the resolution of that dispute should include provision to reflect and compensate the party for that fact”.
- 3.1.2 and NHS Resolution has “the power to award interest on damages and equitable compensation”.
- 3.1.3 and that “In addition to an award of interest the sum should compensate the Dr for being kept out of its money” citing **Carasco v Johnson** [2018] EWCA Civ 87 at [17] as authority for this proposition.
- 3.2 GP Surveyors’ submission is that the following sums should be recoverable:

#### **Underpayment of Current Market Rent (CMR)**

- 3.3 The CMR was increased from £27,490 per annum to £36,455 per annum with effect from 13 February 2016, a CMR increase of £8,965 per annum with a back payment of £44,519.89 up to the 13 January 2021. GP Surveyors calculate the total award of interest on underpayment of CMR as **£8,948.05**, calculated as follows;

#### Length of time

- 3.4 The date of review, 13 February 2016, to the date the back payment is assumed to be received by the Contractor, 13 January 2021, is 59 months and 1 day.
- 3.5 As notional rent payments are received monthly, it is submitted that “the interest and growth accumulated would be accrued at each payment on each month rather than on a per annum basis (or lump sum approach)”.

#### Interest

- 3.6 On the rate of interest, GP Surveyors cite **Carasco v Johnson** [2018] (above); “[with] commercial claimant’s the general presumption will be that they would have borrowed less and so the court will have regard to the rate at which persons with

the general attributes of the claimant could have borrowed. This is likely to be a percentage over base rate and may be higher for small businesses than for first class borrowers.”

- 3.7 GP Surveyors do not suggest a borrowing rate but rather propose to apply the statutory rate of interest on late payments of 8% plus the Bank of England’s base rate, 0.1%.

GP Surveyor’s Calculation

- 3.8 The CMR increase of £8,965 per annum equates to £747.08 per month.
- 3.9 For each month the additional CMR payment of £747.08 would then accumulate interest at a rate of 0.02247% per day (or 8.1% per annum).
- 3.10 For a total of 59 months and one day the interest is **£8,948.05**.

**Agents’ Fees**

- 3.11 It is GP Surveyors’ submission that due to the underpayment of CMR the Contractor had to instruct them to act on its behalf. The dispute resulted in an increase in CMR to the market level. Therefore agents’ fees should be recoverable as the underpayment of CMR would not have been rectified without GP Surveyors instruction. Their fees were **£8,965 + VAT** being **£10,758**.

**Financial Award**

- 3.12 In addition, GP Surveyor’s submit, that the underpayment of CMR has kept the Contractor out of money which was “reasonably his/hers” for nearly 5 years. As “...per the definition of interest awards this includes a reflection for the fact the Contractor has been deprived of sums which he or she was rightfully entitled to...” there should be additional compensation for this loss. This sum proposed is £100 per month (as CMR reimbursement is paid monthly) over the 59 months and 1 day, being **£5,787.59**.

**Conclusion**

- 3.13 GP Surveyors conclude that the total award of interest should be £8,948.05 plus £10,758 fees plus £5,787.59 additional compensation, giving a total of **£25,493.64**.

**4 SUBMISSIONS FROM MILLS AND REEVE LLP (M&R) ON BEHALF OF NHS ENGLAND DATED 21 JANUARY 2021**

- 4.1 M&R take issue with the submission made by GP Surveyors in paragraph 3.1.3 above :

*“in addition to an award of interest the sum should compensate the Dr for being kept out of its money as stated in Carasco v Johnson[2018] EXCA Civ 87 at [17]”*

- 4.2 They submit that the statement is misleading and ill founded in suggesting that two separate awards should be made, first for interest and second to compensate the Contractor for being “kept out of its money” as the award of interest is itself the compensation provided to the Contractors for being kept out of the money due. M&R cite in support, paragraph 20 of SSP which states:

4.2.1 *The Learned Judge then set out a summary of principles that are generally applicable when a Court is considering a claim for interest to compensate a claimant for being kept out of its money, as provided by this Court in Carasco v Johnson [2018] EWCA Civ 87 at [17]:*

- 4.2.2 *“The guidance to be derived from these cases includes the following:*
- 4.2.3 *(1) Interest is awarded to compensate claimant’s for being kept out of money which ought to have been paid to them rather than as compensation for damage done or to deprive defendants of profit they may have made from the use of the money.*
- 4.2.4 *(2) This is a question to be approached broadly. The court will consider the position of persons with the claimants’ general attributes, but will not have regard to claimants’ particular attributes or any special position in which they may have been.*
- 4.2.5 *(3) In relation to commercial claimant’s the general presumption will be that they would have borrowed less and so the court will have regard to the rate at which persons with the general attributes of the claimant could have borrowed. This is likely to be a percentage over base rate and may be higher for small businesses than for first class borrowers.*
- 4.2.6 *(4) In relation to personal injury claimant’s the general presumption will be that the appropriate rate of interest is the investment rate. Judgment Approved by the court for handing down. SSP Health Limited v The NHS Litigation Authority (PCAS) & Others*
- 4.2.7 *(5) Many claimant’s will not fall clearly into a category of those who would have borrowed or those who would have put money on deposit and a fair rate for them may often fall somewhere between those two rates.”*

4.3 It is M&R’s submission that **Carasco v Johnson** provides guidance on the level of interest that should be paid, but is not authority that any additional sum, beyond interest, should be paid to compensate the Contractor for being kept out of the money.

4.4 M&R do not accept that the payment should include an element for agents’ fees or the financial award as proposed by GP Surveyors and do not accept the basis of calculation of interest on the underpayment of CMR.

4.5 Dealing with the Contractor’s heads of claim in detail:

#### **Underpayment of CMR**

4.6 M&R accept that the start date for the payment of interest should be the review date, unless NHS Resolution considers that interest should be awarded on the basis of the borrowing cost of the Contractor. If interest is awarded on the borrowing cost then interest should be awarded from the date on which it would be reasonable for the parties to have decided the review.

4.7 M&R do not accept that interest should be calculated by monthly accrual as submitted by GP Surveyors (paragraph 3.5 above). They submit that interest should be awarded on the standard annual basis assuming a simple rate of interest as a court would not normally have the power to award compound interest either in equity or under the statute which empowers the court to award interest, for example section 35A of the Senior Courts Act or section 69 of the County Courts Act.

4.8 M&R submit that GP Surveyors rely (as per paragraph 3.6 above) on only one of many factors (listed in paragraph 4.2 above) which should be taken into account when ascertaining the appropriate rate of interest payable. They say that the relevant factors which should be taken into account “are described at paragraph 25 of SSP and are far broader than ... the Contractor’s representations suggest”, as follows:

*“When considering whether or not such an award is appropriate it is open to the Adjudicator to take into account the considerations that would apply and weigh with a decision maker if the arrangement were a contract at law and the Adjudicator were a court. To that extent the 1998 Act and general equitable principles may be relevant by analogy; but, ultimately, the decision as to what is appropriate is a matter for the Adjudicator to decide on the facts of a given case taking all relevant matters into account.” (emphasis added)*

- 4.9 M&R point out that the additional payment in this case is an amount due following a rent review under the provisions of the 2004 Premises Cost Directions. It is therefore wrong to consider, as GP Surveyors suggest, that the interest should be assessed based on the likely borrowing costs of the Contractor. Instead, the interest should reflect the amount that would be payable under a notional lease of the Contractor's premises where the rent review is decided after the relevant review date. This submission is supported by the following arguments:
- 4.9.1 “Modern commercial leases tend to include provisions for an “Interest Rate”, usually described as being equivalent to base rate of one of the major banks and a “Default Interest Rate” applicable where a party is in default of an obligation under the lease, such as an obligation to pay rent. The Default Rent is usually between 3-4% above base rate, depending on the covenant strength of the tenant. The Interest Rate (i.e. base rate) is the rate that is generally applied in modern leases in respect of the interest due where a rent review is decided after the relevant review date. This is seen in Cheylesmore Surgery and Quinton Medical Centre (Schedule 3 paragraph 8), lease enclosed at pages 24-65. This was one of the comparable surgeries reviewed.”
- 4.9.2 “Older commercial leases do sometimes include a payment of interest, but these rates are significantly below the 8% above interest claimed by the Contractor. The lease of Wigston Road, used as a comparable by GP Surveyors, includes a rate of 2% above base rate. See paragraph 5(2)(d) of the lease enclosed at pages 66-92.”
- 4.9.3 “The remaining practices used as comparables appear to be owner occupied or the lease is not available from the Land Registry. To the extent necessary it is submitted that the Adjudicator would be free to obtain advice on modern lease review clauses.”
- 4.10 It is submitted that modern leases include interest at base rate on the arrears as rent reviews are often conducted after the rent review date and are not an occasion of a tenant breach of the terms of the lease. Rather than applying a borrowing rate or the 8% plus base rate interest in line with the Late Payment of Commercial Debts (Interest) Act 1998 (“the **Late Payment Act**”), it is submitted that the Adjudicator may exercise its discretion and mirror the interest that would be awarded in modern commercial lease.
- 4.11 If NHS Resolution did consider it appropriate to base the interest rate on borrowing costs, M&R propose a rate of 1-2% above base rate which they say is in line with the court's usual approach, citing the case of **Kitcatt v MMS UK Holdings Ltd** which held that 1% above base rate was the starting point in ascertaining the interest rate payable. In addition this case decided that the starting point for interest to run should be from the date on which the payment would have been made had the parties acted reasonably.
- 4.12 M&R note that no reason is given by GP Surveyors to support their submission that interest should be payable at 8% above base rate in accordance with the Late Payment Act, other than it is the rate applied to commercial payments which are late. M&R submit that the Late Payment Act should not apply because:

- 4.12.1 “It is only applicable to “qualifying debts” pursuant to section 3(1) of the Late Payment Act, being a “debt created by virtue of an obligation under a contract to which [the Late Payment Act] applies”. For these purposes the unascertained rent to be paid pending a review is not a qualifying debt under the Late Payment Act.
- 4.12.2 Section 3(2) of the Late Payment Act specifically excludes debts from carrying interest at the statutory interest rate (8% above base) where “*it consists of a sum to which a right to interest or to charge interest applies by virtue of any enactment*” other than section 1 of the Late Payment Act. The right to charge interest in this matter arises from section 9(11) and 9(12) of the National Health Service Act 2006 (SSP at paragraph 25).
- 4.12.3 It would not be equitable to charge interest at rate of 8% above base rate, which is effectively a penal rate of interest, in circumstances where:
- 4.12.3.1 as at the date on which the Contractor alleges interest should commence, the amount payable was disputed. In this instance the CMR which was determined sat between the valuation placed by NHS England and the valuation put forward on behalf of the GPs; and
- 4.12.3.2 modern industry practice in respect of rent reviews is to limit the rate of interest to base rate, payable from the relevant review date.
- 4.13 M&R also disagree with GP Surveyors’ calculation on the ground that it has been done on the basis of 8.1% daily compounded interest. They submit that even if interest was due under the Late Payment Act (which it is denied) it is calculated as simple interest. Any interest charged should be based on simple interest and should reflect that the arrears has been incurred monthly as the notional rent fell due at an annual rate of interest.

## **Section 2 – Agents’ Fees**

- 4.14 The Contractor’s entitlement to recover agents’ fees is disputed on the basis that NHS Resolution has not awarded the costs of GP Surveyors to be paid nor has it invited representations on costs. No authority has been provided to support the claim for costs.
- 4.15 M&R state further that if costs are recoverable (which is denied) each party should bear its own costs on the basis that:
- 4.15.1 neither party obtained the CMR that it sought; and
- 4.15.2 no *Calderbank* offer (a formal “without prejudice” offer made to protect the costs position) was made.

## **Section 3 - Financial Award**

- 4.16 M&R also dispute the entitlement to the financial award, in addition to interest, to compensate the Contractor for being deprived of sums due.
- 4.17 M&R submit that this is a misunderstanding of **Carrasco v Johnson**, which, they say, at paragraph 17 confirms the factors to be taken into account when deciding the rate of interest payable as listed in paragraph 4.2 above.
- 4.18 M&R comment that GP Surveyors have arbitrarily determined that £5,787.59 is an appropriate amount to compensate for being kept out of the money but that this is “double counting” as the interest rate itself is intended to compensate the claimant for being kept out of its money.

- 4.19 In summary, M&R assert that the interest rate should not be 8% above base rate, but should reflect the interest payable in standard commercial leases on a late rent review which will usually be base rate. They say that this view is supported by **Carrasco v Johnson** and the principal that an interest award is designed to compensate the Contractor for being out of pocket. Further, notional rent reimbursement is designed to reimburse the Contractor for the rent that it would have obtained had it not been practicing from the property itself but renting to a third party. It is submitted that modern rent review clauses provide for interest to be charged at base rate payable from the relevant review date and that SSP confirms that the Adjudicator has broad powers to decide the rate of interest and this would allow the Adjudicator to step beyond the usual "borrowing rate" used to decide the interest rate payable.

## 5 CONSIDERATION and DETERMINATION

- 5.1 GP Surveyors submit on behalf of the Contractor that the sum of interest should include:
- 5.1.1 An amount to cover the time that there was an underpayment of CMR and that this should be calculated at 8.1% being 8%, the percentage applicable to the late payment of debts, plus the current base rate.
- 5.1.2 Agents' fees
- 5.1.3 Financial award
- 5.2 I will deal with the agents' fee and financial award first.
- 5.3 GP Surveyors claim their fees should be recovered as the underpayment of reviewed rent would not have been rectified without their input.
- 5.4 M&R dispute this on the basis that NHS Resolution has not awarded the costs of GP Surveyors to be paid or invited representations on costs.
- 5.5 I accept the submissions made by M&R on this point. SSP dealt with NHS Resolution's power to award interest, and this was the issue on which submissions were sought.
- 5.6 As far as the financial award is concerned, the Contractor is of the view that it should be compensated for being "deprived of sums to which [it] was rightfully entitled" submitting that the figure should be £100 per month, being £5,787.59.
- 5.7 M&R disputes the Contractor's claim for a financial award, stating that this is a misunderstanding of **Carrasco v Johnson** which confirms (at paragraph 17 and is cited in SSP) that interest is not compensation for damage done but compensation for being kept out of money which ought to have been paid. M&R submit that the proposed financial award is "double counting" as the interest rate itself is intended to compensate the claimant for being kept out of the money.
- 5.8 I accept the submissions made by M&R on this point. The primary award of interest will compensate the Contractor for being kept out of its money.
- 5.9 **Therefore it is my determination that in a claim for interest the Contractor is not entitled to be reimbursed for its agents' fees or to make the claim for a financial award which is in effect a double claim for interest.**
- 5.10 Moving on to the claim for interest itself, GP Surveyors state that the referral "resulted in a CMR increase of £8,965 per annum with a total back payment of £44,519.89 (up to the 13th January 2021)". I note these figures have not been

disputed, other than M&R suggesting a different (and later date) if NHS Resolution determine that interest should be awarded on the basis of borrowing costs.

- 5.11 GP Surveyors direct me to **Carasco v Johnson** which states that “[with] commercial claimant’s the general presumption will be that they would have borrowed less and so the court will have regard to the rate at which persons with the general attributes of the claimant could have borrowed. This is likely to be a percentage over base rate and may be higher for small businesses than for first class borrowers.” and submits that as rent is paid monthly that interest should be accumulated each month.
- 5.12 I note that GP Surveyors have not provided any submissions which confirm that money has been borrowed at a commercial rate while the payment was outstanding, or suggest an appropriate borrowing rate.
- 5.13 Instead I am directed to the statutory interest on late commercial payments at 8% plus the Bank of England’s base rate of 0.1%, so the Contractor seeks an interest rate of 8.1%, aggregated on a monthly basis.
- 5.14 M&R argue for a rate that reflects the nature of the dispute. They say;
- 5.14.1 the review provisions in paragraph 42 of the 2004 Premises Costs Directions mirror rent review provisions in commercial leases. Therefore it is wrong to conclude that interest should be assessed based on borrowing costs. It should instead reflect the amount of interest that would be payable under a notional lease of the Contractor’s premises where the rent review is decided after the relevant review date.
- 5.14.2 rather than adopt 8% plus base rate interest by analogy to the Late Payment Act, it would be available to the Adjudicator to exercise its discretion (as outlined in SSP) and mirror the interest that would be awarded in modern commercial lease, the terms of which form the basis of ascertaining the notional rent payable.
- 5.14.3 if the rate is to be based on borrowing costs, the rate should be 1-2% above base rate, in line with the court’s usual approach.
- 5.15 M&R do not accept that interest should be compounded. They state that if the Late Payment Act applied (which it denies), it uses simple interest.
- 5.16 M&R concludes that “the interest rate should not be 8% above base rate, but should reflect the interest payable in standard commercial leases on a late rent review. This will usually be base rate. This view is supported by Carrasco v Johnson and the principal that an interest award is compensatory designed to compensate the GPs for being out of pocket. Notional Rent reimbursement is designed to reimburse the GPs for the rent that they would have obtained had they not been practicing from the property themselves and would be renting the property they own to a third party. Modern rent review clauses provide for this to be charged at base rate payable from the relevant review date. SSP confirms that the Adjudicator has broad powers to decide the rate of interest and this would allow the Adjudicator to step beyond the usual “borrowing rate” used to decide the interest rate payable.”
- 5.17 I am mindful that the Court of Appeal has provided clear guidance on my power to determine interest payments, namely “*if a party to a dispute has been kept out of their money, it is prima facie appropriate that the resolution of that dispute should include provision to reflect and compensate the party for that fact.*”
- 5.18 As a result of the Court of Appeal decision, NHS Resolution has established an interim approach in relation to interest payments which has been published at :

<https://resolution.nhs.uk/wp-content/uploads/2021/03/NHS-Resolution-approach-to-Interest-Payments-FINAL.pdf> (the Approach).

- 5.19 As stated in the Approach, in light of the Court of Appeal decision, I shall start on the basis that interest will be awarded. I consider the following issues are appropriate for me to consider based on the facts of this matter, which could support a departure from this position.
- 5.19.1 where the conduct of the claiming party would make the award of interest unreasonable, for example, undue delay in resolving the dispute, or culpability in why a principal sum was under or overpaid;
- 5.19.2 where an overpaid sum was received in good faith and repayment with interest would cause unreasonable hardship, particularly if it could impact on the delivery of primary care services to the public;
- 5.19.3 where payment of interest would not represent a proper use of public money or where claiming interest does not represent proper conduct for a public body;
- 5.19.4 where the assumption that a winning party to a dispute has been kept out of their money is not supported by the facts of the case.
- 5.20 I am satisfied that the conduct of the Contractor does not make the award of interest unreasonable. I note the period during which this dispute has been ongoing (since 13 February 2016) and the position of the parties in their efforts to resolve this dispute.
- 5.21 This matter does not relate to an overpaid sum which is being recovered.
- 5.22 I am satisfied that the award of interest is not punitive to NHS England. Whilst NHS England is a public body, this is a matter where the Contractor was kept out of money, for a substantial period.
- 5.23 I am satisfied that the award of interest in these circumstances is to compensate the Contractor for being kept out of money due.
- 5.24 I accept that the award of interest is discretionary. Taking the above factors into account, I determine that interest shall be awarded to the Contractor.
- 5.25 The time period for the interest claim has been known to both parties since they were invited to comment upon interest payments in December 2020. Both parties were given the opportunity to make submissions. The Contractor is of the view that the time period for interest starts to run from the date of the current market rent review (13 February 2016) up to the assumed date the payment was made (13 January 2021). NHS England does not disagree so long as interest is not awarded on the basis of the borrowing cost of the Contractor.
- 5.26 I am of the view that the time period for interest starts to run from the date of the current market rent review, namely 13 February 2016 and runs to 13 January 2021 (or up to the date of payment of the top up reviewed rent if later).
- 5.27 As referenced in the Approach (paragraph 4.4) an award is simple, rather than compound, interest. I see no reason to depart from this.
- 5.28 I shall now turn to the rate of interest to be applied.
- 5.29 As outlined in the Approach, where interest is awarded, the rate will normally be at 8% above base rate although I have discretion to consider this rate (paragraph 4.4).

- 5.30 I have had regard to all of the papers provided to me and in particular in relation to the appropriate level of interest that might be awarded.
- 5.31 The parties have provided submissions on the appropriate rate of interest that should be awarded. I note in particular the many references to case law and the levels of interest awarded by the Courts and to the approach to interest taken in the analogous circumstances of rent reviews in commercial leases. I note that the parties are far apart in their considerations of what level of interest might be appropriate.
- 5.32 I note that the Contract is silent in relation to entitlement to interest in the event of late payment of any sums due under it. There is therefore no contractual arrangement between the parties as regards the appropriate rate of interest.
- 5.33 I must therefore decide whether to apply the guideline rate of interest of 8%, or exercise my discretion by choosing a different rate.
- 5.34 I accept the submissions of M&R that the Late Payment Act should not apply.
- 5.35 This is not a case where one party is deliberately refusing to pay a due and ascertained sum to the other. This is a case where a genuine dispute as to level of liability had to be settled by a referral to Primary Care Appeals and the appointment of a third party valuer.
- 5.36 Valuation is not an exact science and there was a genuine dispute between the valuers engaged by both parties as to the appropriate level of CMR. When this was put to a third party valuer, they produced a figure somewhere between those proposed by each party. It is my experience of CMR cases of this type that this is invariably the position.
- 5.37 I am satisfied that that the delay in payment in CMR cases is akin to the delay in commercial rent review cases and that there is sufficient reason to depart from the normal award of 8% interest in this case, so that a “no fault” rate of interest is appropriate. I am further satisfied that in modern leases the “no fault” interest rate is generally the base rate of one of the major clearing banks as submitted by M&R.
- 5.38 As a result, I determine that simple interest at the Bank of England base rate (currently 0.1%) should be awarded on the payment.
- 5.39 I calculate from the undisputed sums provided to me by GP Surveyors:
- 5.39.1 Substantive amount: £8,965.00
- 5.39.2 Start date: 13 February 2016
- 5.39.3 End date: 13 January 2021
- 5.40 Interest: Simple interest to be paid on daily basis based on Bank of England base rate:

Calculation:

Time period	Base Rate	Daily interest rate	Number of days	Total interest
13/02/2016 to 03/08/2016	0.50%	0.001370%	173	£21.25
04/08/2016 to 01/11/2017	0.25%	0.000685%	454	£27.88
02/11/2017 to 01/08/2018	0.50%	0.001370%	273	£33.53
02/08/2018 to 10/03/2020	0.75%	0.002055%	587	£108.13
11/03/2020 to 18/03/2020	0.25%	0.000685%	8	£0.49

19/03/2020 to 13/01/2021	0.10%	0.000274%	299	£7.34
Total Interest				<b>£198.62</b>
Daily Interest to be applied until payment date				<b>£0.025</b>

5.41 In summary, I determine that an interest payment at base rate per annum from 13 February 2016 to 13 January 2021 in the total sum of £198.62 shall be paid by NHS England to the Contractor within 45 days of the date of this determination. If payment of the reviewed rent was made later than 13 January 2021 additional payments of interest at the daily rate of £0.025 up to the date of payment shall also be made within 45 days of the date of this determination.

**Jonathan Haley**  
**Head of Operations, Primary Care Appeals**  
**NHS Resolution**