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Discount rate debate welcomed

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Lawyers have welcomed a Ministry of Justice consultation on whether the “discount rate” should be set by an independent body.

The discount rate is used to calculate how much compensation should be given to victims of injury, given the potential interest that may be earned over a lifetime. On 20 March, Lord Chancellor Elizabeth Truss controversially lowered the rate from 2.5% to minus 0.75%, for the first time since 2001. Critics argued this would significantly increase costs for defendants, including the NHS.

The new consultation, *Personal injury discount rate: how it should be set in future*, looks at whether the current methodology to calculate the rate is appropriate; if the discount rate should be set by an independent body; whether more frequent reviews of the rate are needed; and if periodical rather than lump sum payments would be a better way to compensate victims.

[Forum of Insurance Lawyers \(Foil\) President, Nigel Teasdale](#) said the “gulf in opinion” over the change to the rate showed the need for the review.

“Foil will be active in helping the MoJ identify a calculation methodology which is fair to victims, legally robust and which properly reflects long-term financial investment patterns, so that we achieve a formula which is sustainable and not disproportionately burdensome on any party,” he said.

Neil Sugarman, president of the [Association of Personal Injury Lawyers \(Apil\)](#), said: “It was very important that the rate was reduced because people with serious, life-changing injuries were not receiving the compensation they desperately need.

“Having said that, we are always prepared to be involved in constructive debate and so we will be responding to the consultation. Following the insurance industry’s hysterical response to the recent rate change, we are also very encouraged by the Lord Chancellor’s obvious commitment to the fact that injured people must receive 100%—no more, no less.”

Mark Burton, partner at Kennedys, said: "This consultation is looking to settle the questions around the discount rate for the long term, and raises many important points of principle as a result. By opening up the possibility of more regular reviews, for example, it suggests creating a more flexible and nuanced regime that can move better with the times.

"Importantly, it is not about denying injured people the compensation they need. At the same time, claimants should not be over-compensated, especially when it is public bodies, such as local authorities, which are paying. But in the current investment climate, the new discount rate risks doing exactly that.

"We don't pretend that this is an easy balance to find but in Europe and the USA, the discount rate is significantly higher than even the old rate, which indicates just how out of step we have now become."