

Atkin Chambers

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Do not U-turn on medical negligence discount rate, Lords told

Insurance companies should not be allowed to return to profiting from life-changing injuries caused by medical negligence, lawyers warned peers in advance of a debate today.

Claimant lawyers are lobbying to block moves to reverse recent changes to the discount rate applied to awards in clinical negligence cases. Liz Truss, the former lord chancellor, slashed the rate from 2.5 per cent to minus 0.75 per cent last February, a move that claimant lawyers said was long overdue. However, insurance lawyers claimed that the move would trigger a rise in premiums elsewhere, most notably for motor policies.

When she announced the adjustment, Truss said the government would consult on the issue, raising expectations that the move could be reversed. Tomorrow, the House of Lords will debate a "motion to regret" the changed rate.

Brett Dixon, president of the Association of Personal Injury Lawyers, said: "Since the correction of the discount rate the insurance industry has to pay full compensation to catastrophically injured people for the first time in years." Dixon said the fact that the rate "plummeted" was evidence that it had been "been out-of-date for far too long. During this time insurers quietly reaped the financial benefits of not having to pay what they owe to people with life-long, life-changing injuries".

He went on to claim that "it is scandalous that the blame for the mismanagement of the discount rate is being put at the door of seriously injured people".

However, insurance lawyers claimed the current reduced rate "does not reflect reality". Nigel Teasdale, president of the Forum of Insurance Lawyers, said: "It is imperative we identify a calculation methodology which is fair to victims, legally robust and which properly reflects long-term financial investment patterns. This should achieve a formula which is sustainable and not disproportionately burdensome on any party, as well as not detrimental to consumers who have to pay higher insurance premiums."