

NI's Discount Rate: -1.50%

FOIL Northern Ireland

Tuesday, 2 May 2023

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What I will cover today

- Meet the HM Forensic team
- History of the discount rate
- The current position
- What we are doing now
- Impact of -1.50% and examples
- Other things to consider
- Questions

HM Forensic Team



History of the Discount Rate

Date	Discount rate	20 yr male	40 yr female
1984	4.5%	19.80	17.70
14 June 1998	3.5%	24.06	21.11
25 June 2001	2.5% in England, Wales, Scotland and NI	29.33	24.82
March 2017	-0.75% in England and Wales, NI remains at 2.5%	88.96 32.10	60.52 27.76
27 March 2017	-0.75% in Scotland, NI remains at 2.5%		

History of the Discount Rate

Date	Discount rate	20 yr male	40 yr female
7 September 2017	Lord Chancellor makes announcement suggesting indicative range if rate set now somewhere between 1% and 0%		
August 2019	England and Wales rate changes to -0.25%, Scotland remains at -0.75%, NI remains at 2.5%	73.56 88.96 32.10	52.64 60.52 27.76
February 2020	Announcement by MoJ to review the discount rate in NI (proposed rate of -1.75% if Wells v Wells methodology used)		

History of the Discount Rate

Date	Discount rate
19 June 2020	Announcement of further consultation in relation to how the discount rate should be set in NI
22 October 2020	DoJ not going to reset existing rate based on the 1996 Act, ILGS yields and Wells v Wells. DoJ seeking to introduce legislation quickly to deliver a new legal framework for setting the discount rate
1 March 2021	DoJ introduced Damages (Return on Investment) Bill to the Assembly

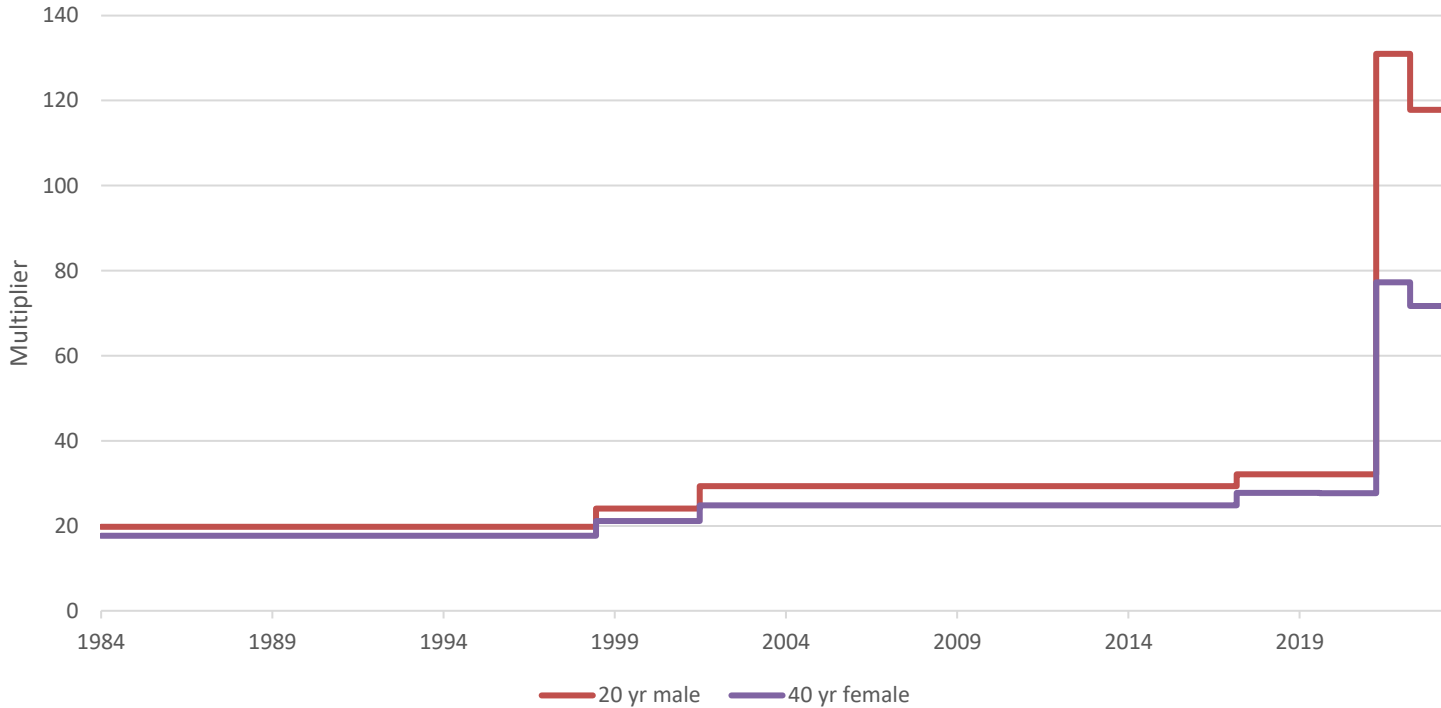
History of the Discount Rate

Date	Discount rate	20 yr male	40 yr female
26 March 2021	DoJ indicate that the discount rate of 2.5% will reduce to an interim rate of -1.75% in NI from 31 May 2021 i.e. a 4.25% reduction.	131.01	77.25
May 2021	8 th Edition Ogden updated to include -1.75% tables		
22 March 2022	DOJ confirmed the NI discount rate to be -1.50%	117.78	71.71
August 2022	8 th Edition Ogden updated to include -1.50% tables		

History of the Discount Rate

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1984	4.5%	19.80	17.70
14 June 1998	3.5%	24.06	21.11
25 June 2001	2.5%	29.33	24.82
March 2017	-0.75% (Eng/Wal/Scot)	88.96	60.52
	2.5% (NI)	32.10	27.76
August 2019	-0.25% (Eng/Wal)	73.56	52.64
	-0.75% (Scotland)	88.96	60.52
	2.5% (NI)	32.10	27.70
26 March 2021	-1.75% (NI)	131.01	77.25
22 March 2022	-1.50% (NI)	117.78	71.71

Change in Northern Ireland Multipliers



What we are doing now

One rate: -1.50%

The future.....

The rate will be reviewed on a regular basis to make sure it reflects any changes in market conditions

Next planned review will commence in July 2024

In England and Wales, the Ministry of Justice is exploring the option of a dual/multiple discount rate ahead of the review in July 2024 (Republic of Ireland have a dual rate).

Impact of the -1.50% discount rate

Lifetime Multipliers – Males

Age	-0.25%	-0.75%	-1.50%
20	72.46	87.19	117.78
30	59.75	69.82	89.74
40	47.63	54.10	66.32
50	36.24	40.06	46.95
60	25.68	27.67	31.10
70	16.48	17.34	18.78
80	9.06	9.35	9.81
90	4.21	4.28	4.39

Lifetime Multipliers – Females

Age	-0.25%	-0.75%	-1.50%
20	75.75	91.68	125.04
30	63.00	74.05	96.08
40	50.75	57.97	71.71
50	39.09	43.43	51.33
60	28.20	30.53	34.58
70	18.41	19.45	21.19
80	10.27	10.62	11.19
90	4.68	4.77	4.90

Source: 8th Edition Ogden Tables (updated August 2022 in light of NI setting the discount rate at -1.50%)

20 year old male with £100k per annum ongoing loss

Discount rate	Annual Loss	Multiplier	Claim £	Impact of the NI -1.50% rate
-1.50% (NI Interim rate)	£100K	117.78	11,778,000	
-0.75% (Scotland)	£100K	87.19	8,719,000	35% higher than in Scotland
-0.25% (England & Wales)	£100k	72.46	7,246,000	62.5% higher than in England and Wales

40 year old male with £100k per annum ongoing loss

Discount rate	Annual Loss	Multiplier	Claim £	Impact of the NI -1.50% rate
-1.50% (NI Interim rate)	£100K	66.32	6,632,000	
-0.75% (Scotland)	£100K	54.10	5,410,000	22.5% higher than in Scotland
-0.25% (England & Wales)	£100K	47.63	4,763,000	39.2% higher than in England & Wales

60 year old male with £100k per annum ongoing loss

Discount rate	Annual Loss	Multiplier	Claim £	Impact of the NI -1.50% rate
-1.50% (NI Interim rate)	£100K	31.10	3,110,000	
-0.75% (Scotland)	£100K	27.67	2,767,000	12.3% higher than in Scotland
-0.25% (England & Wales)	£100K	25.68	2,568,000	21% higher than in England & Wales

80 year old male with £100k ongoing loss

Discount rate	Annual Loss	Multiplier	Claim £	Impact of the NI -1.50% rate
-1.50% (NI Interim rate)	£100K	9.81	981,000	
-0.75% (Scotland)	£100K	9.35	935,000	4.9% higher than in Scotland
-0.25% (England & Wales)	£100K	9.06	906,000	8.3% higher than in England & Wales

Examples

- Loss of pension (Examples 1 and 2)
- Prosthetic costs (Example 3)

TYPES OF PENSION SCHEMES

Defined Benefit Pension Schemes (NHS, NILGOSC, etc)

Defined Contribution Pension Schemes (personal pensions)

Defined Benefit Pension Schemes (Government Pension Schemes)

- Up to 31 March 2015 - NHS, Police, Civil Service, Fire Service, Teachers, etc were based on final years' pensionable pay at retirement and included an automatic lump sum
- From 1 April 2015 - Career Average Revalued Earnings schemes (CARE) were introduced – these are defined benefit schemes which pay a pension based on the average of a member's pensionable earnings throughout their whole career and have no automatic lump sum

Example 1 – CARE pension
28 year old male student nurse

Scenario 1 - CARE Pension (uninjured and injured)

28 year old male student nurse (3 year delay in career)

- Loss of CARE pension from age 68
Less
- Residual CARE pension from age 68 (delayed by 3 years)

Discount rate	-1.50%	-0.75%	-0.25%
	NI	Scotland	Engl/Wales
	£	£	£
Pension loss	109,433	76,861	56,427

-1.50% higher by 42% compared to -0.75%

-1.50% higher by 94% compared to -0.25%

Scenario 2 - CARE Pension (uninjured only)

28 year old male student nurse (unable to return to nursing due to injuries)

- Loss of CARE pension from age 68
- **Less**
- Residual employer's pension to 68 (3% of National Living Wage from trial to age 68)

Discount rate	-1.50%	-0.75%	-0.25%
	NI	Scotland	Engl/Wales
	£	£	£
Pension loss	1,136,816	796,149	581,493

-1.50% higher by 42.8% compared to -0.75%

-1.50% higher by 95.5% compared to -0.25%

Impact of -1.50% - lifetime claims – 28 year old male

Discount rate	-1.50% NI £	-0.75% Scotland £	-0.25% Engl/Wales £
Lifetime multiplier	94.97	73.17	62.26

Scenario 3 – Loss of employer’s pension – 28 year old male

- Loss of employer’s pension of 3% (£30k pa) to age 68
Less
- Residual employer’s pension of 3% (NLW £19.5K pa) to age 68

Discount rate	-1.50%	-0.75%	-0.25%
	NI	Scotland	Engl/Wales
	£	£	£
Pension loss	15,533	12,858	11,979

SUMMARY

Impact of -1.50% - Loss of pension – 28 year old male

Discount rate	-1.50% NI £	-0.75% Scotland £	-0.25% Eng/Wales £
Loss of pension			
Scenario 1 - CARE pension v CARE pension	109,433	76,861	56,427
Scenario 2 - CARE pension v employer's pension	1,136,816	796,149	581,493
Scenario 3 – Employer's pension v employer's pension	15,533	12,858	11,979

Example 2 - CARE pension 61 year old female

Example 2 – CARE Pension (uninjured and injured)

61 year old female (medically retired, enhanced ill-health pension)

- Loss of NILGOSC/CARE pension from age 67
- Residual ill-health NILGOSC/CARE pension from age 67 (with enhancement)
- Residual employer's pension to age 67 (3% of residual earnings)

Discount rate	-1.50%	-0.75%	-0.25%
	NI	Scotland	Engl/Wales
	£	£	£
Loss in pension	29,318	25,615	23,463

Example 3 - Prosthetic costs

Example 3 – Prosthetic costs

24 year old female requires 2 prosthetic limbs

Discount rate	-1.50%	-0.75%	-0.25%
	NI	Scotland	Engl/Wales
	£	£	£
Total loss	606,692	455,555	381,901

-1.50% higher by 33% compared to -0.75%

-1.50% higher by 59% compared to -0.25%

Example 3 – Prosthetic costs

40 year old male requires 2 prosthetic limbs

Discount rate	-1.50%	-0.75%	-0.25%
	NI	Scotland	Engl/Wales
	£	£	£
Total loss	359,140	294,154	259,746

-1.50% higher by 22% compared to -0.75%

-1.50% higher by 38% compared to -0.25%

Impact of -1.50% - Prosthetic costs

Discount rate	-1.50% NI £	-0.75% Scotland £	-0.25% Engl/Wales £
Age			
24 year old female	606,692	455,555	381,901
40 year old male	359,140	294,154	259,746

Lifetime claims in respect of a life altering injury

For example, in tetraplegic or paraplegic cases, today's claims include heads of claim that would not have been included in the past such as:

- Assistive technology costs
- Hydrotherapy pool costs
- Physiotherapy costs / physiotherapy equipment costs
- Dietician costs
- And many more.

Summary

The main impact of the -1.50% discount rate is found in cases which have the following:

- Young people
- Defined Benefit Pension Schemes
- Lifetime claims eg care, prosthetic costs, equipment costs, etc

Other things to consider

- Life expectancy
- PPOs
- Overtime claims
- Adding or saving £500 per annum
- Smaller annual costs

Life expectancy

Life expectancy evidence is more critical than ever now

A life expectancy reduction with the current -1.50% discount rate can make a significant difference!

Period or Cohort Life Expectancy

Period life expectancies do not take account of future projected mortality rates, while Cohort life expectancies do take account of this

Many doctors use period life tables but Ogden tables are based on Cohort tables

Life expectancy for a 40 year old male:

- Period Life table – to age 80.7
- Ogden Life Table 1 at 0% - to age 84.8

A difference of 4.1 years

0% male (Table 1)

Age	Ogden 8	Ogden 7
10	77.42	78.31
20	66.36	67.22
30	55.46	56.34
40	44.80	45.76
50	34.53	35.45
60	24.76	25.92
70	16.07	17.32
80	8.92	9.49
90	4.18	4.47

0% female (Table 2)

Age	Ogden 8	Ogden 7
10	80.08	81.97
20	69.17	70.96
30	58.32	60.02
40	47.61	49.24
50	37.14	38.73
60	27.14	28.78
70	17.92	19.55
80	10.10	10.77
90	4.64	4.90

Marginal reduction in Ogden 8

Periodical Payments Orders (PPOs)

The current -1.50% discount rate may make PPOs less attractive for Plaintiffs

A claim for overtime will have a significant impact at -1.50% discount rate, for example:

The Plaintiff claimed a past and future loss of overtime based on around 20% of basic pay

Plaintiff's claim for loss of earnings/pension (before actual/residual earnings/pension) was around £1.3m

No pattern of pre-accident overtime

We included 50% of the Plaintiff's overtime claim

Reduced the claim by around £100k

Overtime – evidence required:

1. 3 years earnings prior to the date of the accident i.e. Payslips / P60s / P14s
2. Employment history from HMRC
3. NIC records from HMRC
4. Comparable / replacement employee's earnings for 3 years prior to the date of the accident and all earnings to date
5. Obtain clarification from the employer.

If a Plaintiff has made a claim for overtime, this information should be requested as soon as possible!

Adding or saving £500pa on a multiplicand will have a significant impact, for example:

10 year old female (lifetime multiplier)

-0.25%: Multiplier of 88.90 x £500pa = £44,450

-0.75%: Multiplier of 110.88 x £500pa = £55,440

-1.50%: Multiplier of 159.25 x £500pa = £79,625

An increase of around £24k comparing a discount rate of -0.75% and -1.50%

An increase of around £35k comparing a discount rate of -0.25% and -1.50%

Smaller annual costs are worth investigating given the impact of a -1.50% discount rate, for example:

- Travel costs
- Car adaptation costs
- Heating costs
- Loss of services

Summary

- How we have got to the -1.50% discount rate
- The impact of the -1.50% discount rate
- July 2024????

A final thought.....

Give me a ring or send me an email if you ever need assistance with multipliers

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Questions

Thank you