

Personal Injury Discount Rate Announcement - July 2019

The Lord Chancellor's announcement on the discount rate



Announcement!

Today the Lord Chancellor announced the new discount rate that is to be used in the calculation of damages awards. As of 5 August 2019, the rate will be -0.25%.

The long awaited review has received much publicity and today's announcement will put an end to the guesswork from both claimants and defendants alike.

The Update

During the consultation process, we were aware of a number of views and opinions from Barristers and their Chambers as well as many of the large insurers guessing where the discount rate would be set. Throughout this period, we at Adroit remained firm in our belief that a claimant should receive full compensation, and the compelling evidence was that the discount rate should be negative and therefore the announcement is broadly in line with our advice.

Whilst many will see the decision as a political one, the fact remains that an injured person's damages are calculated in a prescribed way, based on the assumption that they will receive suitable advice, and their future

expenditure and needs follow a prescribed plan.

As we all know, life never follows a prescribed plan, and an injured client's needs will fluctuate over their lifetime. We at Adroit believe, more so than ever, that clients need advice during the claim, at the point of receiving their damages and importantly, for the rest of their life.

It should always be remembered that many of the factors which influence the value of a claim, such as life expectancy, inflation, risk and taxation (to name but a few) can easily be overcome with the inclusion of a suitably indexed Periodical Payment.

Adroit Financial Planning are experts in advising clients and their legal team in the suitability of Periodical Payments, the

calculation of Pension Loss and the specialised financial advice that clients require following the settlement of a claim.

The devil is in the detail of today's announcement, so Adroit will provide a further updates soon.

Civil Liability Act 2018

There will shortly be a full statement from the Lord Chancellor detailing how he arrived at this figure, but we can confirm that it's broadly in line with the view and advice that Adroit were providing APIL, the MOJ and GAD.

Below is an extract from the Civil Liability Act 2018 (Part 2 Schedule A1) which lays out the rationale behind how the rate has been decided:

- 4(3) In making the rate determination as required by sub-paragraph (2), the Lord Chancellor must make the following assumptions—
- (a) the assumption that the relevant damages are payable in a lump sum (rather than under an order for periodical payments);
 - (b) the assumption that the recipient of the relevant damages is properly advised on the investment of the relevant damages;
 - (c) the assumption that the recipient of the relevant damages invests the relevant damages in a diversified portfolio of investments;

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- (d) the assumption that the relevant damages are invested using an approach that involves-
 - (i) more risk than a very low level of risk, but
 - (ii) less risk than would ordinarily be accepted by a prudent and properly advised individual investor who has different financial aims.
- (4) That does not limit the assumptions which the Lord Chancellor may make.
- (5) In making the rate determination as required by sub-paragraph (2), the Lord Chancellor must—
 - (a) have regard to the actual returns that are available to investors;
 - (b) have regard to the actual investments made by investors of relevant damages; and
 - (c) make such allowances for taxation, inflation and investment management costs as the Lord Chancellor thinks appropriate.

Adroit

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As we're independent financial planners, we're able to provide completely unbiased advice when recommending solutions for all your financial needs.

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