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**Government must act now to help injured people invest for the future**

Vulnerable people with serious injuries should not be forced to invest in volatile stock markets to ensure they have enough money to meet their future needs, lawyers said today.

After years of lobbying, ending with a threat to take legal action, the Association of Personal Injury Lawyers (APIL) has finally persuaded the Government to consult on how deductions from the damages of injured people should be calculated.

The so-called 'discount rate' is the amount by which personal injury compensation is reduced by the courts to ensure an injured person doesn't make any profit by investing his damages.

"This is a critical issue affecting seriously injured people who are expected to invest their damages to meet their future needs, including the cost of future care," said APIL president Karl Tonks.

"If the discount rate is not set accurately a victim of a catastrophic spinal injury, for instance, who may need round-the-clock nursing care for the rest of his life, could be short of hundreds of thousands, if not millions of pounds, and left unable to finance his future needs."

The discount rate was set at 2.5 per cent in 2001 by the Lord Chancellor and was based on yields generated by index-linked government stock (ILGS). It has never been reviewed, despite the fact that interest rates have plummeted during the recession. Many people suffering with the most serious of injuries have been left struggling as a result. While the



Government is not, at the moment, consulting on the rate itself, it is looking at how injured people should invest their compensation to provide for their own future. But rather than allowing people to continue to invest in government stock, which is considered a low risk investment, the Government is considering whether to calculate the rate based on a mixed portfolio of investments, which is far more risky.

“It is simply unacceptable and inconceivable that a vulnerable, injured person, who needs every penny of his damages to work hard for his future should be forced to take the same risks as a speculative investor on the stock market,” said Karl.

“If an investment goes wrong, an injured person can’t simply cut back on his medical or care needs. Unlike an ordinary investor, it’s money which he simply cannot afford to lose. The Government must understand the seriousness of this situation for injured people. It must change the discount rate as a matter of urgency to stop people being under-compensated, and the rate must be based on low risk Government stock.”

-Ends-

### **Case study**

*Please note that this story is hypothetical but typical of what happens in a case of serious injury. All figures are accurate.*

Malcolm always enjoyed outdoor sports and playing with his grandchildren. But when the 61-year-old was catastrophically injured in a car crash, his dreams of spending his retirement pursuing the activities he loved were completely shattered.



Malcolm suffered serious injuries to his spine and was left tetraplegic. Unable to move his arms, legs and upper body, he required 24-hour care for the rest of his life. He also needed to be provided with specialist equipment to cater for his needs and required adaptations to be made to his bungalow so that he could continue to live there once he left nursing care.

Malcolm brought a claim against the negligent driver who caused the crash and in January 2012 he was awarded £5.5 million in compensation. This sum was calculated after a discount rate of 2.5 per cent had been applied.

The discount rate was set at 2.5 per cent in 2001 by the Lord Chancellor and was based on yields generated by index-linked government stock (ILGS). But at the start of 2012, yields on ILGS stood at around 0.5 per cent.

If a 0.5 per cent discount rate had been applied to Malcolm's case to reflect the rate on ILGSs, he would have received £7.3 million in compensation.

#### Notes to editors:

- APIL (Association of Personal Injury Lawyers) is a not-for-profit organisation whose members are dedicated to campaigning for improvements in the law to help people who are injured or become ill through no fault of their own
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