D E A N S C O U R T C H A M B E R S

The Eighth Edition of the Ogden Tables

The eighth edition of the Ogden Tables was released on Friday, some 9 years after the publication of the seventh edition. This paper summarises the changes introduced in the new edition and considers the likely effect on claims for future losses.

The Main Changes

The main changes are as follows:

1. the new tables provide multipliers based on projected mortality rates derived from the most recent, 2018-based projections which were published in December 2019.
2. a new table has been published in Excel format which enables the calculation of multipliers between any two given ages.
3. new tables are added to calculate multipliers for loss of earnings to pension ages 68 and 80, and for loss of pension commencing at those ages.
4. there are new tables A-D containing reduction factors for contingencies other than mortality and more extensive guidance on the application of those tables and when it is appropriate to depart from them.
5. the expanded explanatory notes have also been updated to assist with the interpolation of multipliers, the application of the tables to fatal accident claims (in light of *Knauer v Ministry of Justice* [2016] UKSC 9) and the selection of a suitable index for periodical payment orders. There is a new Section C dealing with pension loss claims.

Multipliers based on the 2018 mortality rates

As the introduction to the new tables points out, the expectations of life underpinning these tables are lower than in the previous edition. This is said to reflect the lower decreases in

mortality than previously projected and more pessimistic assumptions adopted by the ONS regarding the future rates of improvement of mortality at some ages over the next few years.

The assumptions do not of course take into account the effect of the Covid-19 pandemic on future mortality. The technical note prepared by the Government Actuary's Department points out that the full impact of the pandemic is not known and will remain uncertain until further evidence has been established. Whilst the pandemic is likely to have an effect on mortality in the short term, it does not necessarily follow that there will be a long-term effect on mortality rates. The note also indicates that a new edition of the tables will be produced in the next 4 or 5 years, at which time better evidence is likely to be available on which to consider the effect of the pandemic.

We attach a table comparing the multipliers produced by the seventh and eighth editions of the tables. It can be seen that there is a general reduction in multipliers at all ages in tables 1 and 2. Earnings multipliers have very slightly increased.

For example, the life multiplier for a claimant aged 25 is reduced by 1.61% in the case of a male and 2.95% in the case of a female.

The New Excel Tables

The additional tables produced in Excel format permit the calculation of multipliers from one age to another, using the same mortality rates and other assumptions used in the main tables and at 3 different discount rates (-0.75%, -0.25% and 0%). This should make life easier where the claimant has an unusual retirement age and in other cases where interpolation between tables would have been required, and also for the calculation of split multipliers. The Introduction stresses that these additional tables will usually provide more accurate results than methods previously used.

Retirement at 68 or 80

In addition, new tables have been introduced for calculating loss of earnings and pension loss for claimants expected to retire at age 68 (which will be the state pension age for many claimants) and at age 80.

Contingencies other than Mortality

Perhaps the most significant changes in the explanatory notes relate to contingencies other than mortality. The developments in this section can be summarised as follows:

1. the explanatory notes state that the methodology for calculating future loss of earnings using the reduction factors in Tables A-D will apply in the majority of cases.

2. alternative approaches such as a *Smith* or *Blamire* award might apply "where there is insufficient evidence or too many imponderables for the judge to be able to make the findings necessary to support the conventional multiplicand/multiplier approach", but it is made clear that uncertainties about the future do not of themselves justify departing from the conventional methodology, and the alternative approaches should be a last resort.

3. the reduction factors themselves have been adjusted to allow for the reduction in the discount rate.

4. the classification of educational attainment has been relabelled to level 1, level 2 and level 3 and more guidance is now offered for finding the right level for the individual claimant.

5. the definition of "disability" is now based on the definition set out in the Disability Discrimination Act 1995 and not the Equality Act 2010. The difference is as follows:
   - Ogden 7: "the person satisfies the Equality Act 2010 definition that the impact of the disability substantially limits the person's ability to carry out normal day to day activities and their condition affects either the kind or the amount of paid work they can do";
   - Ogden 8: "the Disability Discrimination Act 1995 definition is satisfied in that the impact of the disability has a substantial adverse effect on the person's ability to carry out normal day-to-day activities and the effects of the impairment limit either the kind or the amount of paid work he/she can do".

6. much improved guidance is available as to when it is appropriate to depart from the conventional methodology. This is most likely to arise from relevant characteristics of the individual which are not included in the characteristics which are allowed for in the reduction factors (i.e. age, sex, employment status, educational achievement and disability status).

7. it is made clear that disability status is not dependent on severity: as the authors of the explanatory notes put it "the norm for severity is not severe: it is at the mild end of the mild to moderate category. In the circumstances, as long as the claimant meets the … Ogden definition of disability, a departure on the basis of a perceived mild impairment/activity-limitation might not be appropriate".

8. a distinction is drawn between impairment and disability. Only the latter relates to employment. Thus, a lower limb amputee in sedentary employment may not be especially disabled in the kind or amount of paid work he or she can do.

9. the notes specifically advise that interpolation using a mid-point between the disabled and non-disabled reduction factors (the approach adopted in *Conner v Bradman* [2007] EWHC 2789 (QB)) is inappropriate. Any adjustment to the reduction factors should be modest, and are more appropriately approached by using different employment or educational categories than by finding figures in between disability categories.

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Richard Whitehall
21st July 2020

Comparison between Ogden 7 & Ogden 8 Multipliers

Stephen Grime QC and Richard Whitehall 21 July 2020

	Table 1 Multipliers for pecuniary loss for life (males)			Table 2 Multipliers for pecuniary loss for life (females)			Table 9 Multipliers for loss of earnings to pension age 65 (males)			Table 10 Multipliers for loss of earnings to pension age 65 (females)		
Age at date of trial	Ogden 7	Ogden 8	Change	Ogden 7	Ogden 8	Change	Ogden 7	Ogden 8	Change	Ogden 7	Ogden 8	Change
0	100.10	**98.93**	-1.17%	104.54	**102.08**	-2.35%						
1	99.23	**97.90**	-1.34%	103.60	**101.01**	-2.50%						
2	97.86	**96.56**	-1.33%	102.23	**99.67**	-2.50%						
3	96.49	**95.19**	-1.35%	100.86	**98.31**	-2.53%						
4	95.11	**93.83**	-1.35%	99.48	**96.96**	-2.53%						
5	93.74	**92.47**	-1.35%	98.11	**95.61**	-2.55%						
6	92.36	**91.11**	-1.35%	96.74	**94.26**	-2.56%						
7	90.99	**89.76**	-1.35%	95.37	**92.92**	-2.57%						
8	89.62	**88.40**	-1.36%	94.01	**91.57**	-2.60%						
9	88.26	**87.05**	-1.37%	92.64	**90.23**	-2.60%						
10	86.89	**85.71**	-1.36%	91.28	**88.90**	-2.61%						
11	85.53	**84.36**	-1.37%	89.93	**87.56**	-2.64%						
12	84.17	**83.02**	-1.37%	88.58	**86.23**	-2.65%						
13	82.82	**81.68**	-1.38%	87.23	**84.91**	-2.66%						
14	81.48	**80.35**	-1.39%	85.88	**83.59**	-2.67%						
15	80.14	**79.02**	-1.40%	84.54	**82.27**	-2.69%						
16	78.80	**77.70**	-1.40%	83.21	**80.95**	-2.72%	50.81	**51.03**	0.43%	51.41	**51.45**	0.08%
17	77.48	**76.38**	-1.42%	81.88	**79.65**	-2.72%	49.68	**49.90**	0.44%	50.28	**50.32**	0.08%
18	76.16	**75.07**	-1.43%	80.56	**78.34**	-2.76%	48.56	**48.77**	0.43%	49.15	**49.20**	0.10%
19	74.86	**73.76**	-1.47%	79.24	**77.04**	-2.78%	47.45	**47.65**	0.42%	48.03	**48.07**	0.08%
20	73.56	**72.46**	-1.50%	77.94	**75.75**	-2.81%	46.34	**46.53**	0.41%	46.91	**46.95**	0.09%
21	72.27	**71.17**	-1.52%	76.63	**74.45**	-2.84%	45.23	**45.42**	0.42%	45.80	**45.84**	0.09%
22	70.98	**69.89**	-1.54%	75.33	**73.17**	-2.87%	44.12	**44.31**	0.43%	44.69	**44.72**	0.07%
23	69.69	**68.60**	-1.56%	74.02	**71.88**	-2.89%	43.02	**43.20**	0.42%	43.58	**43.61**	0.07%
24	68.41	**67.33**	-1.58%	72.72	**70.60**	-2.92%	41.92	**42.10**	0.43%	42.47	**42.51**	0.09%
25	67.13	**66.05**	-1.61%	71.43	**69.32**	-2.95%	40.83	**41.00**	0.42%	41.37	**41.40**	0.07%
26	65.86	**64.78**	-1.64%	70.14	**68.05**	-2.98%	39.74	**39.90**	0.40%	40.27	**40.30**	0.07%
27	64.60	**63.52**	-1.67%	68.86	**66.78**	-3.02%	38.65	**38.80**	0.39%	39.17	**39.20**	0.08%
28	63.34	**62.26**	-1.71%	67.58	**65.52**	-3.05%	37.57	**37.71**	0.37%	38.08	**38.11**	0.08%
29	62.08	**61.00**	-1.74%	66.30	**64.26**	-3.08%	36.48	**36.63**	0.41%	36.99	**37.02**	0.08%
30	60.83	**59.75**	-1.78%	65.03	**63.00**	-3.12%	35.41	**35.55**	0.40%	35.90	**35.93**	0.08%
31	59.59	**58.51**	-1.81%	63.77	**61.75**	-3.17%	34.34	**34.47**	0.38%	34.82	**34.85**	0.09%
32	58.37	**57.28**	-1.87%	62.52	**60.51**	-3.21%	33.27	**33.40**	0.39%	33.74	**33.77**	0.09%
33	57.15	**56.05**	-1.92%	61.27	**59.27**	-3.26%	32.22	**32.33**	0.34%	32.66	**32.69**	0.09%
34	55.94	**54.82**	-2.00%	60.02	**58.04**	-3.30%	31.16	**31.26**	0.32%	31.59	**31.62**	0.09%
35	54.73	**53.61**	-2.05%	58.78	**56.81**	-3.35%	30.11	**30.20**	0.30%	30.52	**30.55**	0.10%
36	53.53	**52.40**	-2.11%	57.54	**55.59**	-3.39%	29.06	**29.15**	0.31%	29.45	**29.49**	0.14%
37	52.34	**51.19**	-2.20%	56.31	**54.37**	-3.45%	28.02	**28.09**	0.25%	28.39	**28.43**	0.14%
38	51.14	**50.00**	-2.23%	55.08	**53.16**	-3.49%	26.97	**27.05**	0.30%	27.33	**27.37**	0.15%
39	49.95	**48.81**	-2.28%	53.86	**51.95**	-3.55%	25.93	**26.00**	0.27%	26.28	**26.32**	0.15%
40	48.76	**47.63**	-2.32%	52.64	**50.75**	-3.59%	24.89	**24.97**	0.32%	25.23	**25.27**	0.16%
41	47.58	**46.46**	-2.35%	51.43	**49.56**	-3.64%	23.86	**23.93**	0.29%	24.18	**24.22**	0.17%
42	46.41	**45.30**	-2.39%	50.23	**48.37**	-3.70%	22.83	**22.90**	0.31%	23.13	**23.18**	0.22%
43	45.24	**44.14**	-2.43%	49.03	**47.19**	-3.75%	21.80	**21.88**	0.37%	22.09	**22.14**	0.23%
44	44.08	**42.99**	-2.47%	47.84	**46.01**	-3.83%	20.78	**20.86**	0.38%	21.06	**21.10**	0.19%
45	42.93	**41.85**	-2.52%	46.66	**44.84**	-3.90%	19.76	**19.84**	0.40%	20.02	**20.07**	0.25%
46	41.79	**40.71**	-2.58%	45.48	**43.68**	-3.96%	18.74	**18.83**	0.48%	18.99	**19.04**	0.26%
47	40.65	**39.59**	-2.61%	44.31	**42.52**	-4.04%	17.73	**17.82**	0.51%	17.97	**18.02**	0.28%
48	39.52	**38.46**	-2.68%	43.16	**41.37**	-4.15%	16.73	**16.81**	0.48%	16.95	**16.99**	0.24%
49	38.40	**37.35**	-2.73%	42.01	**40.22**	-4.26%	15.72	**15.81**	0.57%	15.93	**15.97**	0.25%
50	37.30	**36.24**	-2.84%	40.88	**39.09**	-4.38%	14.73	**14.81**	0.54%	14.92	**14.96**	0.27%
51	36.20	**35.14**	-2.93%	39.75	**37.96**	-4.50%	13.73	**13.81**	0.58%	13.91	**13.95**	0.29%
52	35.13	**34.05**	-3.07%	38.62	**36.84**	-4.61%	12.74	**12.81**	0.55%	12.91	**12.94**	0.23%
53	34.06	**32.96**	-3.23%	37.51	**35.72**	-4.77%	11.76	**11.82**	0.51%	11.91	**11.93**	0.17%
54	33.01	**31.89**	-3.39%	36.41	**34.62**	-4.92%	10.78	**10.83**	0.46%	10.91	**10.93**	0.18%
55	31.98	**30.82**	-3.63%	35.33	**33.53**	-5.09%	9.80	**9.84**	0.41%	9.91	**9.93**	0.20%
56	30.96	**29.77**	-3.84%	34.25	**32.44**	-5.28%	8.83	**8.86**	0.34%	8.92	**8.94**	0.22%

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Age at date of trial	**Ogden 7**	**Ogden 8**	**Change**	**Ogden 7**	**Ogden 8**	**Change**	**Ogden 7**	**Ogden 8**	**Change**	**Ogden 7**	**Ogden 8**	**Change**
57	29.95	**28.72**	-4.11%	33.18	**31.37**	-5.46%	7.85	**7.87**	0.25%	7.93	**7.94**	0.13%
58	28.95	**27.69**	-4.35%	32.12	**30.30**	-5.67%	6.87	**6.89**	0.29%	6.94	**6.95**	0.14%
59	27.95	**26.68**	-4.54%	31.06	**29.25**	-5.83%	5.90	**5.91**	0.17%	5.95	**5.96**	0.17%
60	26.95	**25.68**	-4.71%	30.00	**28.20**	-6.00%	4.92	**4.93**	0.20%	4.96	**4.97**	0.20%
61	25.95	**24.69**	-4.86%	28.94	**27.17**	-6.12%	3.94	**3.95**	0.25%	3.97	**3.98**	0.25%
62	24.97	**23.72**	-5.01%	27.90	**26.15**	-6.27%	2.96	**2.97**	0.34%	2.98	**2.98**	0.00%
63	24.01	**22.76**	-5.21%	26.86	**25.14**	-6.40%	1.98	**1.99**	0.51%	1.99	**1.99**	0.00%
64	23.06	**21.81**	-5.42%	25.85	**24.14**	-6.62%	1.00	**1.00**	0.00%	1.00	**1.00**	0.00%
65	22.14	**20.88**	-5.69%	24.85	**23.15**	-6.84%						
66	21.24	**19.97**	-5.98%	23.88	**22.17**	-7.16%						
67	20.36	**19.07**	-6.34%	22.93	**21.21**	-7.50%						
68	19.50	**18.19**	-6.72%	21.99	**20.26**	-7.87%						
69	18.65	**17.33**	-7.08%	21.06	**19.33**	-8.21%						
70	17.81	**16.48**	-7.47%	20.14	**18.41**	-8.59%						
71	16.97	**15.64**	-7.84%	19.22	**17.50**	-8.95%						
72	16.13	**14.83**	-8.06%	18.29	**16.62**	-9.13%						
73	15.29	**14.03**	-8.24%	17.35	**15.75**	-9.22%						
74	14.44	**13.26**	-8.17%	16.40	**14.90**	-9.15%						
75	13.59	**12.50**	-8.02%	15.45	**14.07**	-8.93%						
76	12.75	**11.77**	-7.69%	14.50	**13.27**	-8.48%						
77	11.93	**11.05**	-7.38%	13.57	**12.48**	-8.03%						
78	11.14	**10.36**	-7.00%	12.66	**11.72**	-7.42%						
79	10.38	**9.70**	-6.55%	11.79	**10.98**	-6.87%						
80	9.65	**9.06**	-6.11%	10.97	**10.27**	-6.38%						
81	8.97	**8.45**	-5.80%	10.19	**9.58**	-5.99%						
82	8.35	**7.86**	-5.87%	9.46	**8.92**	-5.71%						
83	7.76	**7.31**	-5.80%	8.79	**8.28**	-5.80%						
84	7.22	**6.78**	-6.09%	8.15	**7.68**	-5.77%						
85	6.71	**6.28**	-6.41%	7.55	**7.10**	-5.96%						
86	6.23	**5.82**	-6.58%	6.98	**6.55**	-6.16%						
87	5.77	**5.37**	-6.93%	6.43	**6.03**	-6.22%						
88	5.33	**4.96**	-6.94%	5.91	**5.55**	-6.09%						
89	4.90	**4.57**	-6.73%	5.42	**5.10**	-5.90%						
90	4.51	**4.21**	-6.65%	4.95	**4.68**	-5.45%						
91	4.14	**3.88**	-6.28%	4.51	**4.30**	-4.66%						
92	3.79	**3.57**	-5.80%	4.11	**3.95**	-3.89%						
93	3.46	**3.29**	-4.91%	3.75	**3.63**	-3.20%						
94	3.18	**3.03**	-4.72%	3.43	**3.34**	-2.62%						
95	2.93	**2.80**	-4.44%	3.16	**3.08**	-2.53%						
96	2.71	**2.58**	-4.80%	2.93	**2.84**	-3.07%						
97	2.52	**2.38**	-5.56%	2.72	**2.61**	-4.04%						
98	2.35	**2.20**	-6.38%	2.53	**2.40**	-5.14%						
99	2.19	**2.04**	-6.85%	2.36	**2.21**	-6.36%						
100	2.05	**1.89**	-7.80%	2.19	**2.04**	-6.85%						