



The 8th Edition of the Ogden Tables is the first update in almost a decade to what, for personal injury practitioners, is a resource which is consulted on an almost daily basis. The 8th Edition takes effect from 17 July 2020. The Ogden Working Group, of which Compass Chambers' Andrew Smith QC was a member, have made several changes to the Explanatory Notes which materially affect the quantification of damages.

The reliance on the ONS' downward estimate of the rate of improvement in life expectancy has resulted in a lowering of multipliers for future losses. How pronounced these reductions are, depends on the gender and the age of the claimant.

The group most affected by these changes is older female claimants, who in some cases can see a reduction of as much as 9% in lifetime multipliers. Younger claimants will see a lesser reduction to those multipliers of between 1 and 2%.

Section A

Section A of the Explanatory Notes provides new, general guidance in relation to the application of the Ogden Tables including interpolation of multipliers, allowing for different retirement ages, calculation of split multipliers for variable losses and calculating multipliers between two ages. The Working Group had the laudable (if perhaps unachievable) aim of simplifying the approach to be taken with the calculation of future losses.

Lifetime Losses

Tables 1 and 2 deal with losses for life. To illustrate the effect of the reduction in lifetime multipliers, we have used the example of male and female claimants aged 60 and 20 with annual costs for life of £50,000 and where the life expectation is normal. The differences in outcome between the application of the 7th and 8th Editions are as follows:

60 Year Old Female £50,000

	Ogden 7	Ogden 8	Difference
Multiplier	32.68 (Table 2)	30.53 (Table 2)	
Multiplicand	£50,000	£50,000	
Valuation	£1,634,000	£1,526,500	-£107,500

60 Year old Male £50,000

	Ogden 7	Ogden 8	Difference
Multiplier	29.19 (Table 1)	27.67 (Table 1)	
Multiplicand	£50,000	£50,000	
Valuation	£1,459,500	£1,383,500	-£76,000

20 Year old Male

	Ogden 7	Ogden 8	Difference
Multiplier	88.96 (Table 1)	87.19 (Table 1)	
Multiplicand	£50,000	£50,000	
Valuation	£4,480,000	£4,359,500	-£120,500

20 year old Female

	Ogden 7	Ogden 8	Difference
Multiplier	94.99 (Table 2)	91.68 (Table 2)	
Multiplicand	£50,000	£50,000	
Valuation	£4,749,500	£4,584,000	-£165,500

The application of the multipliers in the 8th Edition to lifetime losses produces materially lower awards than would have been the case on application of the 7th Edition multipliers.

Loss of Earnings

There are now 16 Tables (instead of 12) for use in calculating future loss of earnings. The introduction of Tables calculating multipliers for two additional ages will be a very welcome addition, particularly to those who have had to spend time interpolating figures from the 7th Edition Tables to calculate the appropriate multiplier to the current state retirement age of 68. Some may be concerned to see the inclusion of a Table for retirement at age 80...

To illustrate, some examples for male and female claimants aged 50 and 25 with retirement at age 70, net earnings of £30,000 a year and with no prospect of future employment are provided:

50 Year Old Female

	Ogden 7	Ogden 8	Difference
Multiplier	20.78 (Table 12 interpolated)	(Table 14) 20.85	
Multiplicand	£25,000	£25,000	
Valuation	£519,500	£521,250	+£1,750

50 Year old Male

	Ogden 7	Ogden 8	Difference
Multiplier	20.36 (Table 11 interpolated)	20.51 (Table 13)	
Multiplicand	£25,000	£25,000	
Valuation	£509,000	£512,750	£3,750

25 Year old Male £150,000

	Ogden 7	Ogden 8	Difference
Multiplier	51.33 (Table 11 interpolated)	51.62 (Table 13)	
Multiplicand	£25,000	£25,000	
Valuation	£1,283,250	£1,290,500	£7,250

25 year old Female £ 150,000

	Ogden 7	Ogden 8	Difference
Multiplier	52.25 (Table 12 interpolated)	52.33 (Table 14)	
Multiplicand	£25,000	£25,000	
Valuation	£1,306,250	£1,308,250	+£2,000

It should be noted that the figures in these worked examples make no allowance for the application of the Table A to D reduction factors which are considered in a little more detail below. The examples are simply for the purpose of illustration.

Section B

There has been substantial revision to Section B of the Explanatory Notes which deals with “Contingencies other than Mortality”. According to the guidance, the methodology for applying the Table A to D reduction factors should generally be used “unless there is a good reason to disapply or to adjust them”.

A revised definition of “disability” is introduced, in response to the increased prevalence of the working population being classified (or seeking to be classified) as disabled (an increase from 12% to 19%). The 7th Edition required classification under the Equality Act 2010, whereas the 8th Edition requires application of the more restrictive classification under the Disability Discrimination Act 1995. Disability is defined as an impairment that has a ‘substantial’ adverse effect on a claimant’s ability to carry out ‘normal’ day to day activities, all of which will require interpretation having regard to the circumstances of the individual. In addition to meeting the 1995 Act definition, the impairment must also be work-affecting by either: (i) limiting the kind of work the claimant is able to do; or (ii) limiting the amount of work the claimant is able to do. The Ogden definition of disability is as follows.

“Disabled person”: A person is classified as being disabled if all three of the following conditions in relation to ill-health or disability are met:

- (i) The person has an illness or a disability which has or is expected to last for over a year or is a progressive illness; and
- (ii) The DDA1995 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
- (iii) The effects of impairment limit either the kind or the amount of paid work he/she can do.

“Not disabled”: All others

The effect of the changes will likely be to limit the number of claimants who will qualify for the application of the disabled Table A to D reduction factors. Again, this is a change which, when

applied to the future losses of a claimant, is likely to result in a downward trend in awards of damages.

Guidance on the application of Tables A-D is found at paragraphs 54 and following of the Explanatory Notes. In addition, the previous categories of D, DE-A and O, in relation to educational attainment have been replaced by Level 3,2 and 1 to reflect the fact that a wider range of qualifications is available than had previously been provided for.

Despite the ever upward movement of the state retirement age, Tables A to D still make no provision for adjustment beyond age 54 other than stating “(for) older ages the reduction factors tend to increase towards 1 at retirement age for those who are employed and fall towards 0 for those who are not employed”.

Section C

Section C deals with Quantification of Pension Loss and provides new guidance to reflect the auto enrolment requirement which has been in effect since 6 April 2019, by virtue of the Pensions Act 2008. It provides a helpful, worked example of a claim under an auto-enrolment pension scheme as well as under the Local Government Pension Scheme.

The quantification of pension loss is a complex matter and, we suspect, still the domain of actuarial experts.

Section D

Section D provides new guidance in relation to the calculation of damages in fatal claims. In particular, the Notes describe in some detail the principles to be followed when assessing post-trial dependency, the process to be followed when discounting for contingencies and how to make provision for multiple dependants with different period of dependency. Again, a number of helpful worked examples are provided in the Explanatory Notes by way of explanation.

General

At a general level, the 8th Edition has provided 8 more Tables than its predecessor. The multipliers are generally lower, and particularly so in relation to post retirement losses. The impact of the lower multipliers is less pronounced in relation to loss of earnings to retirement. The greatest impact is found in the quantification of catastrophic injury claims. Tables 35 and 36 now provide

multipliers for pecuniary loss for term certain. As can be seen from the above examples, the effect of the multipliers in the 8th Edition may be seen as favourable to compensators, showing a material reduction in claims for lifetime losses.

As matters stand, there has been no allowance made for the possible effects of the COVID-19 pandemic on future mortality (if any should properly be made). It is reasonable to suggest that only once the full effects of the virus on mortality rates have been established can an assessment of whether the mortality rates in use, remain “fit for purpose”.

Practitioners may be well advised, in light of these changes, to consider reviewing the quantification of claims, tenders and pursuer’s offers which are in process. Of course, members of Compass Chambers would be happy to help in doing so.

The Tables are available [here](#).