



Ogden: Past, Present and Future

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Summary

- Background to the Ogden Tables
- > Aims and purpose
- Creation and funding
- > Historical development
- Present OWP and Ogden 8
- > The future: Ogden 9



Background

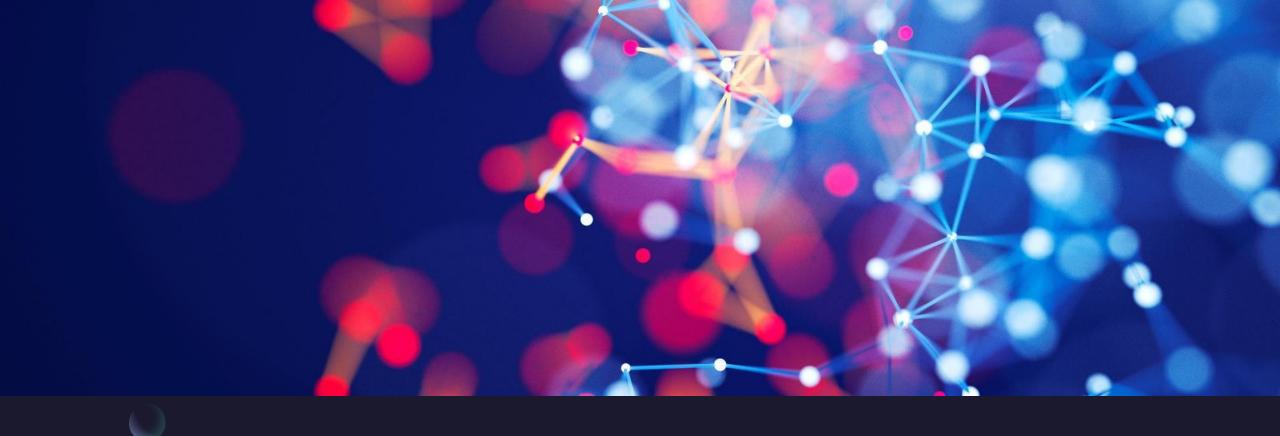
- Suggested by Law Commission
- Initially started as a collaboration between the legal profession (barristers & solicitors) and actuaries (FoA and the IoA, which were previously separate)
- First published by the OWP in 1984, chaired by Michael Ogden
- > Tables prepared by GAD
- Hard copies published by Her Majesty's
 Stationery Office (HMSO)





Aims & Purpose of the Tables

- The purpose of the tables is to help the courts calculate lump sum damages
- The Tables help determining the appropriate figure for the "multiplier"
- Originally based upon a PIDR of 4-5% (return of ILGS at time)
- At start contingency discounts were left to judicial discretion



Creation and Funding

- > No statutory basis
- > Make-up of OWP at discretion of Chairman
- Voluntary and informal
- > No specific funding for meetings or research etc
- > GAD performs number crunching (paid for by MoJ)

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Ease of Use

"When it comes to the explanatory notes we must make sure that they are readily comprehensible. We must assume the most stupid circuit judge in the country and before him are the two most stupid advocates. All three of them must be able to understand what we are saying".

Appears in 5th edition of the Tables attributed to Sir Michael Ogden

NB don't have specialist judges: Noble v Owens [2008] EWHC 359 (QB)



Admissibility

- s. 10 of the Civil Evidence Act
 1995 makes the actuarial tables
 (and the explanatory notes)
 admissible in evidence
- May be provided by the production of a HMSO copy
- ➢ BUT s. I0 has never actually been enforced





Wells v Wells [1998] UKHL 27

- Lord Lloyd: the tables should now be regarded as the starting-point, rather than a check. A judge should be slow to depart from the relevant actuarial multiplier on impressionistic grounds, or by reference to "a spread of multipliers in comparable cases".
- Lord Steyn: the effect of the decision of the HoL on the PIDR, together with the availability of the Ogden Tables, should be to eliminate the need in future to call actuaries, accountants and economists in such cases.
- In short increase consistency and predictability



OWP Influencing Case Law

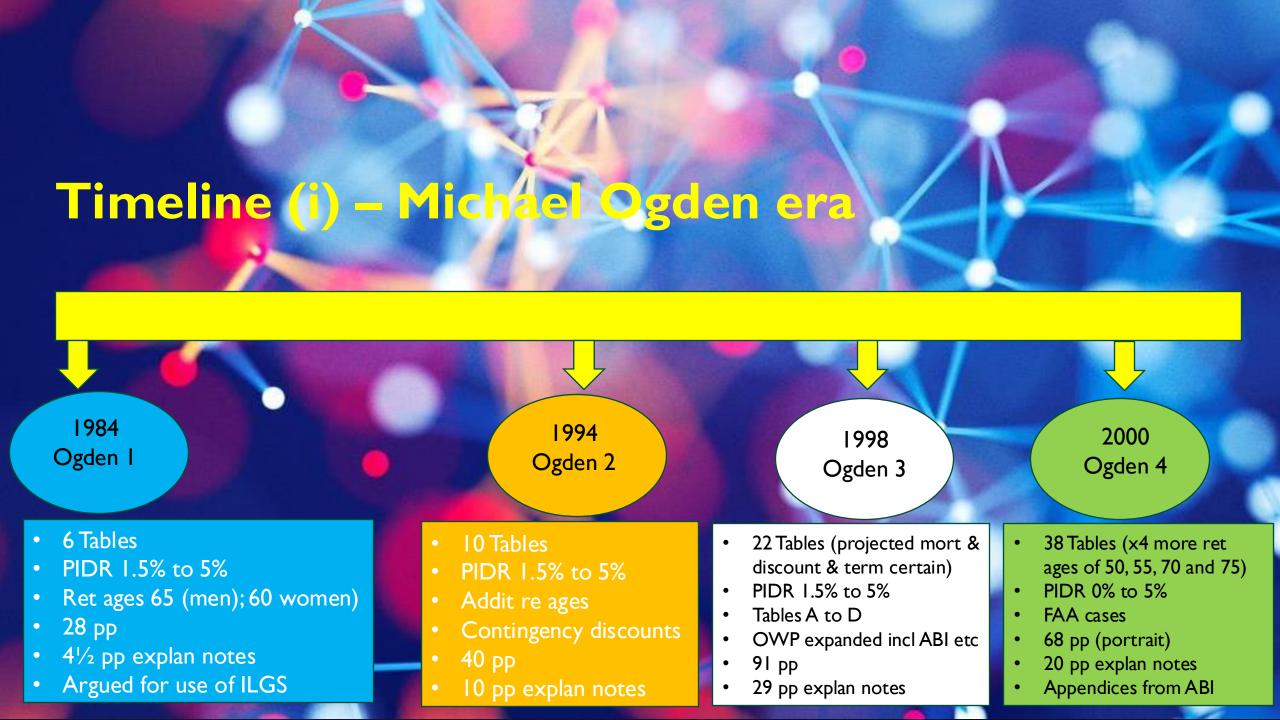


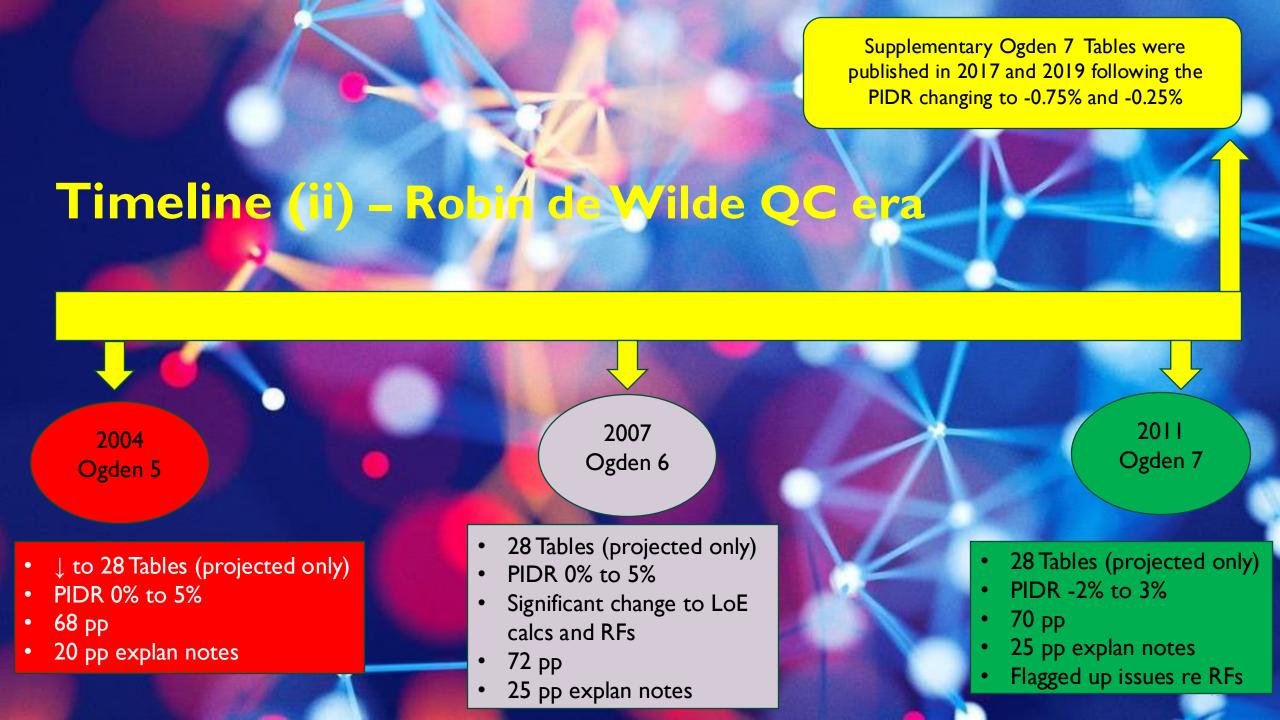
- > OWP used to be more political
- ▶ Use of ILGS to set PIDR Wells v Wells [1998]
 UKHL 27 the arguments of the plaintiffs
 mirroring those in Ogden I
- Calculation of multipliers in FAA cases at the date of trial *Knauer v MOJ* [2016] UKSC 9 (overturning *Cookson v Knowles* [1979] AC 556), the arguments of the claimant mirroring those in Ogden 4

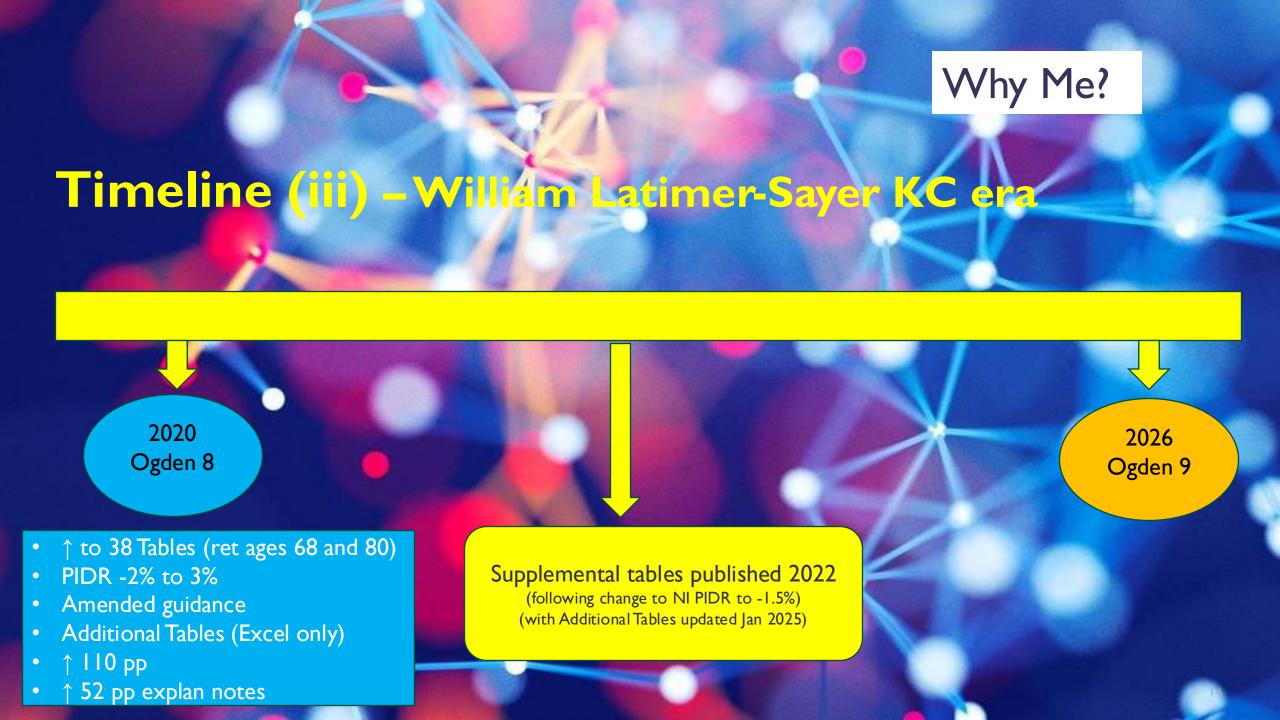
Case Law Influencing the OWP



- ➤ Use of projected mortality data: Worrall v Powergen plc [1999] PIQR Q103; Biesheuval v Birrell [1999] PIQR Q40; and Jenkins v Groscott and Hoyte [2000] PIQR Q17
- Impaired life expectancy: B v RVI [2002] PIQR Q137; Whiten v St George's Healthcare NHS Trust [2011] EWHC 2066 (QB); Manna v Central Manchester University Hospitals NHS Foundation Trust [2015] EWHC9 (QB)
- Conner v Bradman [2007] EWHC 2789 (QB) and Billett v MOD [2015] EWCA Civ 773 regarding when to depart from the RFs







Ogden 8: Current OWP



Members of the Working Party Responsible for Eighth Edition

Chairman: William Latimer-Sayer QC

	Harry Trusted, Barrister	Secretary to the Ogden Working Party
	Tamar Burton, Barrister	Assistant Secretary to the Ogden Working Party
	Cara Guthrie, Barrister	Former Assistant Secretary to the Ogden Working Party
	Adrian Gallop, FIA	Government Actuary's Department
	Paul Nixon, FIA	Government Actuary's Department
	Shahram Sharghy, Barrister	Association of Personal Injury Lawyers representative
	John Pollock, FFA	Institute and Faculty of Actuaries representative
<	Andrew Smith QC	Faculty of Advocates representative
	Alistair Kinley	Forum of Insurance Lawyers representative
	Julian Chamberlayne	Forum of Complex Injury Solicitors, chairman and representative
	Dermot Fee QC	General Council of the Bar of Northern Ireland representative
	John Mead	NHS Resolution, Technical Claims Director and representative
	Richard Methuen QC	Personal Injuries Bar Association representative
	Simon Levene, Barrister	Professional Negligence Bar Association representative
	Stephen Webber	Society of Clinical Injury Lawyers, chairman and representative
	Kim Leslie	The Law Society of Scotland representative
(Richard Cropper, DipPFS	Independent financial adviser, invited by Chairman
	Chris Daykin, FIA	Actuary, invited by Chairman
	Maurice Faull, FCA	Forensic accountant, invited by Chairman
	Hugh Gregory, FCA	Forensic accountant, invited by Chairman
	Jon Ramsey	Re-insurance claims manager at Munich Re, invited by Chairman
	John Saunders	Director of Technical and Large Loss at Direct Line Group, invited by Chairman
	Andrew Underwood, Solicitor	Solicitor, invited by Chairman
	Professor Victoria Wass	Labour economist, invited by Chairman
	Martin White, FIA	Actuary, invited by Chairman





Ogden 8 (i)

- > Expanded OWP
- Greater use of technology
- Guidance notes published on GAD website (with supplemental tables published online only)
- Funding obtained for updated RF research (NB previous research based upon 1998-2003 LFS data)



Ogden 8 (ii)

- Significant expansion of and amendment to explanatory notes
 - Billet v MOD test of disability
 - Connor v Bradman
 - When and how to depart from Tables A to D
- > Interpolation
- Impaired lives (para 20 of Ogden 7)
- More examples including guidance on how to calculate split multipliers



Ogden 8 (iii)

- Pension loss
- Updated FAA section
- ➤ Guidance re PPOs
- > Additional Tables (excel only)
 - v helpful calculating split multipliers





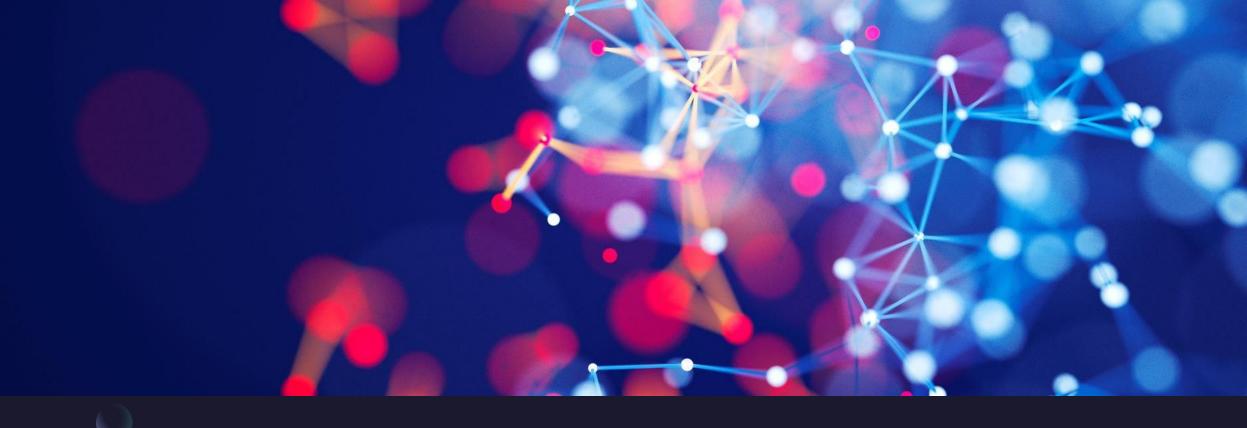


- Ad hoc hybrid meetings as and when required
- > PIDR reviewed every 5 years
- > OWP goes quiet and is then re-awakened
- > TB sends out codle; best date wins
- Special meetings eg discuss new ways of presenting data or to raise funding
- ➤ Once new RF data research complete → likely to be several meetings to finalise new explanatory notes



Ogden 9

- Further expand OWP
 - William Chapman
 - Jonathan Galbraith (actuary)
 - MOJ?
- New RF research
- ➤ ONS 2022 life expectancy data 14.2.25
 - At 0, -0.4 for women; -0.8 for men
 - At 52, +0.1 for women; -0.5 for men
- Amend explanatory notes re use of Additional Tables – end of life
- Online calculator?



The Future

- > Ogden Tables are expanding
- > Helpfully now have unified PIDR
- > Less political as difficult to find consenus
- Constructive criticism welcome
- > Open to suggestions for improvements

Thank you







