

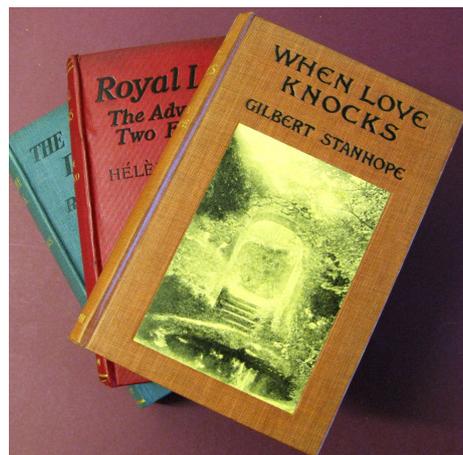
## Quantum Leap

Presented to: IMC Liability Insurance Conference

Presented by: James Stanbury, Partner

Date: 11 September 2012

## Faith, hope and.....love?



$$\Delta x \Delta p \geq \frac{\hbar}{2}$$

- What would have happened v What did happen
- Not what :
  - Could
  - Might
  - Hoped
  - Dreamed

## Expectation

- Corporate or personal claims.....expectation quotient remains high
- Assertion and assumption-based....it would have happened
- Acceptance of what the Claimant asserts without proper investigation
- Loss of chance
- Cause and effect

## Calibrating the uncertainty

- Hurdles of proof
- Documents
- Analyse the business

## Losses

- Driven by sales / income
- Methodologies:
  - Historic performance
  - Budgets / forecasts / plans
  - Benchmarking
  - Econometrics ?

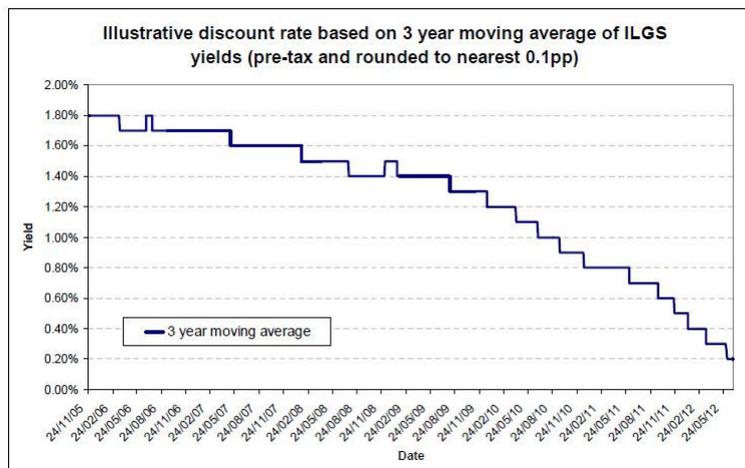
## Other issues

- Other issues from the business cycle:
  - Property
  - Supplies
  - Production
  - Customers
  - Finance
- Ignore the Balance Sheet at your peril

## Personal Claims

- Self-employed.....same applies
- Beware the Super-Claimant
- Selling the business
- Pensions

## Discount rates.....more uncertainty



## Discount Rates

- 1979 : Cookson v Knowles : “basket” : 4.5%
- 1981 : ILGS introduced
- 1994 : Law Commission recommended ILGSs
- 1996 : Damages Act
- 1998 : Wells v Wells : ILGS : 3%
- 2001 : Damages (Personal Injury) Order : 2.5%
- 2002 : Warriner v Warriner
- 2003 : Cooke v United Bristol Healthcare
- 2005 : Periodical Payments
- 2010 : Helmot v Simon
- 2012 : MOJ Consultation

## MOJ Consultation

- Guided by Wells v Wells
- Principle : full compensation from investments based on a “low risk investment strategy”
- Endure for a reasonable length of time – mindful of a balance
- 2 options:
  - ILGS-based methodology applied to current data
  - Mixed portfolio of appropriate investments
    - Mixed : 0% to 35% shares
    - Sterling Fixed Interest
    - Money Market

## History of 2.5%

- Single rate to cover all cases
- Rate to nearest half a percent
- Rate should last for a reasonable period in the future
- Claimant not an ordinary investor
- Reference to (simple) average yields on ILGS in 3 years to June 2001
- Government Actuary / HM Treasury view?

## The Questions (1)

- Option 1 : ILGS
  - Period : historic, current or anticipated?
  - Which yields included – how averaged?
  - RPI or a different index?
  - Rounding?
  - Allowance for tax or investment expenses?
- Option 2 : Mixed Portfolio
  - Is it consistent with Wells v Wells?
  - What mix of portfolio?
  - Range of data : historic, average?
  - Allowance for tax or investment expenses?
- Option 3 : some other approach?
- Single rate or different rates for different classes?
- What rate?

## The Questions (2)

- Impact assessment :
  - on Claimant
  - on Defendant
- Small firms
- Equality impact assessment

## After effect?

Where will the focus be.....

- Multiplicand
- Retirement Age
- Dependency factor
- Residual Earning Capacity

The image shows a screenshot of the Dulux website. At the top left is the Dulux logo. Below it is a grid of 40 color swatches arranged in 8 rows and 5 columns. The swatches transition from light to dark shades. The RGL Forensics logo and tagline are visible in the top right corner of the slide.

## About RGL

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In 23 offices on four continents, RGL combines the skills and experience of its professionals with the financial models, methodologies and technologies that meet or exceed global standards for evidence.

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