

CLYDE&CO

Practical implications of the PIDR review

Tuesday 21 March 2023

Agenda

- Introduction
- PWC Presentation
- Dual discount rate – Clyde & Co modelling
- Questions and next steps

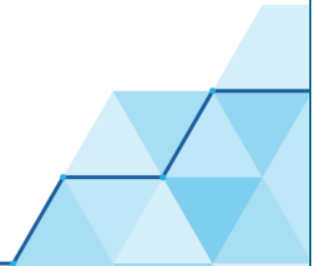


Ministry
of Justice

Personal Injury Discount Rate

Exploring the option of a dual/multiple rate

This Call for Evidence begins on 17 January 2023



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Will serious injury claims remain more expensive in Scotland and Northern Ireland?

Legal Director [Ali Tyler](#) and Senior Associate [Kim McLeod](#), writing in [The Scotsman](#), assess the impact of different personal injury discount rates (PIDR) across the UK and look to the future on PIDR reviews and the potential for dual, or multiple, PIDRs in one or more of the three UK legal jurisdictions.

Read here: <https://bit.ly/3YZSPcH>

[#personalinjury](#)

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Personal injury discount rate (PIDR) A UK jurisdictional analysis

Ali Tyler and Kim McLeod writing in [The Scotsman](#)

Will serious injury claims remain more expensive in Scotland and Northern Ireland?

- Ali Tyler and Kim McLeod

scotsman.com • 3 min read

Personal Injury Discount Rate Webinar

Presentation by PwC
March 2023



Agenda

1.	Background to the Personal Injury Discount Rate (“PIDR”)	
2.	Institute and Faculty of Actuaries (“IFoA”) Ogden Discount Rate Working Party recalculation	
3.	Dual / Multiple Rate	
4.	Conclusions / Q&A	

Background to the Personal Injury Discount Rate



Background

Movement from discount rate of 2.5%

England and Wales

- **27 February 2017 (effective 20 March 2017)** : Discount rate set at -0.75%
- **19 July 2017** : GAD* publishes report of claimant outcomes under different discount rates
- **20 December 2018** : Civil Liability Act comes into force
- **22 January 2019** : GAD memorandum sets out their analytical approach
- **25 June 2019** : GAD publishes report recommending a +0.25% discount rate
- **15 July 2019 (effective 5 August 2019)** : Discount rate set at -0.25%
- For England & Wales, the inflation measure used is **CPI + 1% damage inflation**

Scotland

- **28 March 2017** : Discount rate set at -0.75% via The Damages (Personal Injury) (Scotland) Order 2017
- **5 September 2018** : GAD publishes report analysing different portfolios
- **24 April 2019 (passed 19 March 2019)** : Damages (Investment Returns and Periodical Payments) (Scotland) Act 2019 sets out notation portfolio, duration and adjustments
- **27 September 2019** : GAD publishes report concluding the discount rate should remain at -0.75%
- For Scotland, the inflation measure used is **RPI**

Northern Ireland

- **May 2021** : Discount rate set at -1.75%.
- **2 February 2022** : Damages (Return on Investment) Act (Northern Ireland) 2022 comes into force
- **22 March 2022** : Discount rate set at -1.5% [*hypothetical rate under the previous methodology, would be -2.25%*]
- For Northern Ireland, the inflation measure used is **RPI**

*Government Actuary's Department ("GAD") is a shared service supplier to the government and the devolved administrations

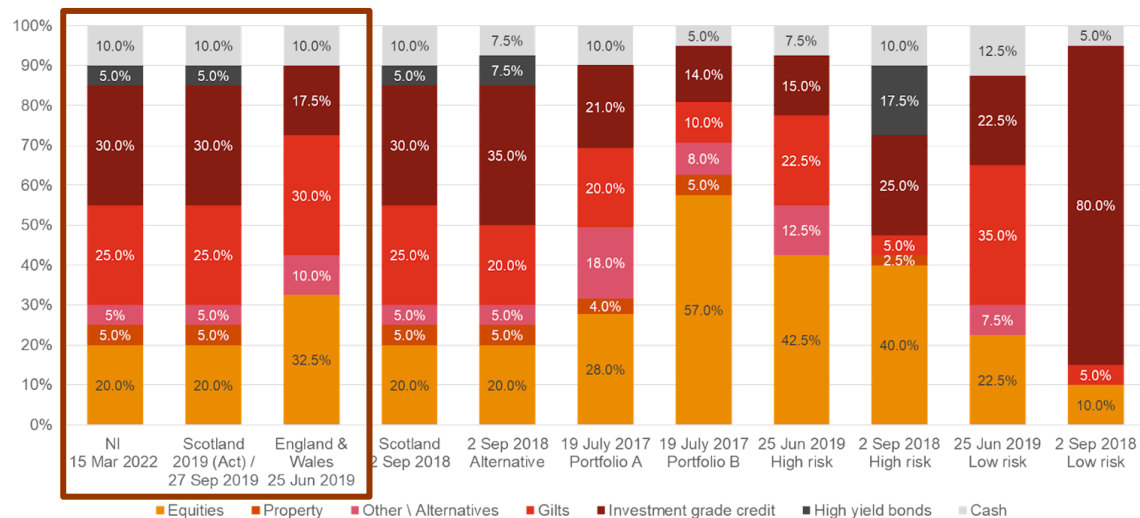
Current Personal Injury Discount Rates

Government Actuary's advice to the Lord Chancellor

	England & Wales	Scotland	Northern Ireland	
Weighted return	4.00%	3.50%	3.25%	Higher weighted return in England & Wales driven by: <ul style="list-style-type: none"> • a larger weighting to equities in the portfolio • higher return across all asset classes
Tax and Expenses	-0.75%	-0.75%	-0.75%	
Return post Tax and Expenses	3.25%	2.75%	2.50%	
Inflation	-3.00%	-3.00%	-3.50%	Higher inflation assumption for NI driven by economic conditions at the time of the discount rate review
Real Return	0.25%	-0.25%	-1.00%	
Political adjustment for further margin involved in relation to the rate of return	-0.50%	-0.50%	-0.50%	The 0.5% adjustment is statutory in NI and Scotland, whilst in E&W it is a subjective adjustment applied by the Lord Chancellor
Personal Injury Discount Rate	-0.25%	-0.75%	-1.50%	Lower NI rate driven by lower weighted returns and higher inflation assumption
Date of review	July 2019	September 2019	March 2022	

GAD approach

Portfolio mix



Source: PwC

Setting the new Discount Rate

Considerations

Fairness to all
stakeholders

Single vs multiple
rate(s)

Economic, long
term inflation,
financial forecasts

Investment portfolio
– mix & duration

Tax and investment
management costs

Consultation of a
panel and the Lord
Chancellor with
different areas

Next Steps for the PIDR in England & Wales

- The **MoJ** issued a **call for evidence** in January 2023 to seek expert stakeholder input on the pros and cons of a dual/multiple PIDR
- The deadline for submissions for the call for evidence is 11th April 2023
- Ahead of this they engaged with **industry professionals** through a number of **round table** events to provide additional information to the sector on what the call for evidence will entail.
- The review of the discount rate will last up to **180 days** from when the Lord Chancellor announces the review.
- In conducting the review, the Lord Chancellor must consult:
 - The **expert panel** established for the review, and,
 - The **Treasury**

IFoA Ogden Discount Rate Working Party reestimation



IFoA Ogden Discount Rate Working Party re-estimation: What would the PIDR be now in England and Wales?

If re-estimated now, the PIDR would most likely be positive.

	GAD's conclusions	PIDR WP Aug 2021	PIDR WP June 2022	PIDR WP October 2022	PIDR WP Nov 2022 (market inflation assumption)	PIDR WP Nov 2022 (GAD original inflation assumption) ¹
Expected return	4.00%	↓ 3.50%	↑ 4.75%	↑ 6.30%	↓ 6.00%	— 6.00%
Inflation (CPI)	-2.00%	-2.00%	↑ -3.00%	↑ -3.90%	↓ -3.40%	↓ -2.00%
Real Expected Return	2.00%	1.50%	1.75%	2.40%	2.60%	4.00%
Tax and Expenses	-0.75%	-0.75%	-0.75%	-0.75%	-0.75%	-0.75%
Damage inflation	-1.00%	-1.00%	-1.00%	-1.00%	-1.00%	-1.00%
Return post DI, T&E	0.25%	-0.25%	0.00%	0.65%	0.85%	2.25%
Political adjustment (extra margin)	-0.50%	-0.50%	-0.50%	-0.50%	-0.50%	-0.50%
Estimated PIDR	-0.25%	-0.75%	-0.50%	0.15%	0.35%	1.75%

The differences are purely driven by the changing economic conditions.

¹ This column has been included for illustrative purposes in order to most closely reflect GAD's methodology, and does not represent the working party's view of long term inflation

High degree of uncertainty in the PIDR estimates

- Current interest rate and inflation environment highly volatile
- Timing of the reviews in England & Wales, Scotland and Northern Ireland may therefore have a significant impact on the PIDR
- Estimates by the working party also significantly impacted by the date on which they are performed

Dual / Multiple Rate



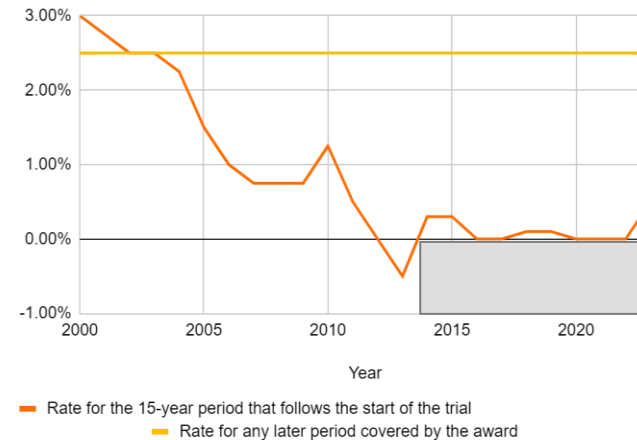
Background to Dual/Multiple Rates

- The current, single rate methodology may:
 - overcompensate those with **long** expected life spans (up to 20%)
 - And undercompensate those with **short** ones (up to 5%)
- GAD explored the issue of dual/multiple rates during the last PIDR review in **2019**
- The review noted that a dual rate may lead to **more equal outcomes** and there were good technical reasons to adopt a dual rate.
- However, the Government decided that there was a **lack in the quantity and depth of evidence** available at that time to conclude that a dual rate was more appropriate than a single rate.
- A commitment was, therefore, made to seek additional data and evidence on this issue to inform future PIDR reviews.

Ontario Discount Rate - Case Study

- The Canadian province of Ontario has had a dual rate system for calculating the PIDR since 1999. This consists of a short-term rate and a long-term rate, with the switching point period fixed at 15 years.
- The Ontario model is designed to blend one component that is current economic conditions (the short-term rate) with a second element that anticipates reversion to a long-term average (the long-term rate).
- The short-term rate is calculated on the basis of whichever is greater for the 15-year period following the start of the trial of either:
 - the average of the value of the real rate of interest on long-term Government of Canada real return bonds, in the year before the year in which the trial begins, less half a per cent and rounded to the nearest tenth of a per cent; or
 - Zero
- The current short-term rate (2023) is 0.50%, and the long-term rate is plus 2.5%. It is instructive to note that in the 22 years since the dual rate system was introduced, the short-term rate has been amended 16 times, but the long-term rate has remained unchanged.

Ontario Discount Rate



Ministry of Justice (“MoJ”) call for evidence

- The Ministry of Justice has published a **Call for Evidence** in January 2023 on exploring the option of introducing dual or multiple discount rates in order to meet the commitment made in 2019
- It is open for a period of 12 weeks and will close on **11th April 2023**
- The aim is to evidence and get expert opinion on the pros, cons, effects and impacts of a change to a dual or multiple PIDR




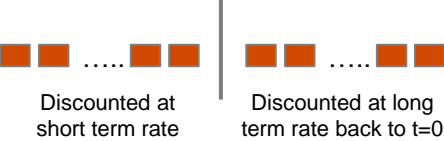


IFoA Ogden Discount Rate Working Party

- The IFoA Ogden Discount Rate working party will be responding to this call for evidence
- The response will be factual and we will **not be giving opinions**, rather presenting the evidence we have in response to the questions
- A key part of the response is outlining the advantages and disadvantages of a dual / multiple rate

Understanding the impact of Dual/Multiple Rates

Varies with duration	Varies depending on the heads of loss	Both
<p>Advantages:</p> <ul style="list-style-type: none"> • More accurately reflects expected investment behaviour • Leads to fairer outcomes for claimants and for compensators 	<p>Advantages:</p> <ul style="list-style-type: none"> • Can more accurately reflect the different inflation measures • Could lead to increased data capture for compensators 	<p>Advantages:</p> <ul style="list-style-type: none"> • The legislative framework already allows for the introduction of a dual/multiple rate system.
<p>Disadvantages:</p> <ul style="list-style-type: none"> • Short-term discount rate is likely to be more volatile than the current single rate • Could lead to the need for more frequent reviews of the short-term rate at least • The availability of PPOs means that a dual/multiple rate is unnecessary • A dual rate as previously modelled by the Government Actuary could also produce a short-term rate which is very low 	<p>Disadvantages:</p> <ul style="list-style-type: none"> • Arguments that each heads of loss would need a separate rate which could become very complex or result in “gaming the system” 	<p>Disadvantages:</p> <ul style="list-style-type: none"> • Multiple rate structures will introduce additional complexity • Will require an increased number of assumptions to be made • Implementation costs and increased operational complexity

Options for a Dual / Multiple Rate

Option	Description	Duration < switch period	Duration > switch period
Stepped	<ul style="list-style-type: none"> Discount using same rate for all time periods Rate depends on duration 	 <p>All discounted using short term rate</p>	 <p>All discounted using long term rate</p>
Switched	<ul style="list-style-type: none"> Payments up to switching point discounted at short term rate Payments after switching point discounted at long term rate (for all time periods) 	 <p>All discounted using short term rate</p>	 <p>Discounted at short term rate Discounted at long term rate back to t=0</p>
Blended	<ul style="list-style-type: none"> Payments up to switching points discounted at short term rate Payments after switching point discounted at long term rate back to switch point, then at short term rate from switch point to now 	 <p>All discounted using short term rate</p>	 <p>Discounted at short term rate Discounted at short term rate back to switch Discounted at short term rate from switch to t=0</p>

Switch-over point

- If the switch-over point is **too short** (for example, 5 years), this would result in two very differentiated segments:
 1. the very short one (0 to 5 years), in which any form of **risk taking would be discouraged** for lack of investment horizon
 2. a very long one (over 5 years), which would likely lead to **differentiated investment strategies** for different types investment horizons, so the longer-term rate would have to reflect a very **heterogeneous mix of strategies**.
- If the switch-over point is **too long** (say 20 years), this would result in **heterogeneous grouping** in the first segment.
- The average economic cycle in the UK since 1970s has been **9.6 years**, although cycle lengths can vary greatly.
- A switch-over point a little shorter or longer than this optimal point might be acceptable – within a range of perhaps **7-15 years**.
- The aim would be for the longer-term rate to be **relatively stable** and not influenced by cyclical effects, whereas the short-term rate is reflective of **current conditions**.

Conclusions and Q&A



Conclusion

- Under the current methodology, if the discount rate were to be calculated today it would probably be positive
 - The timing of the calculation can affect results meaningfully
 - Long term inflation expectations are a key part of the calculation
- The current PIDR methodology may be unstable under **volatile financial markets** and **inflation expectations**
- The MoJ has issued a **call for evidence**, which will close on 11th April, to explore introducing **dual / multiple rates**.
- Dual / multiple rates may result in **fairer outcomes** for claimants
- However, they may result in **additional complexity** which many (re)insurers are not currently equipped for
- A switch-over point in the range of **7-15 years** might be optimal



Questions

Comments

Thank you

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The re-estimation of the PIDR is based on GAD's methodology and current economic conditions and is not PwC's view of what the PIDR will be at the next review.

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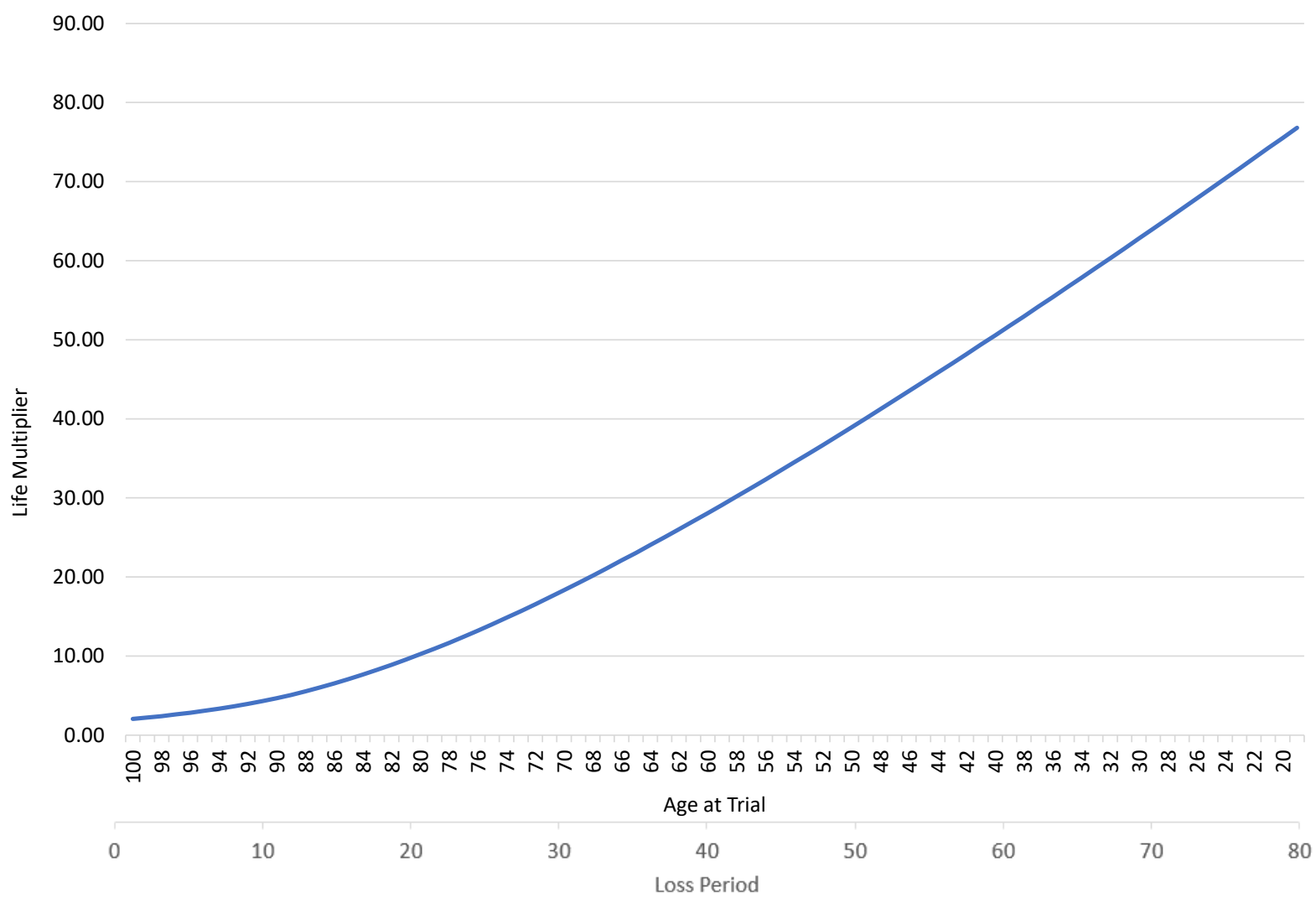
Dual Personal Injury Discount Rate

Clyde & Co Modelling

21 March 2023

A Dual Personal Injury Discount Rate?

- The present system: A single discount rate. -0.25%



A Dual Personal Injury Discount Rate?

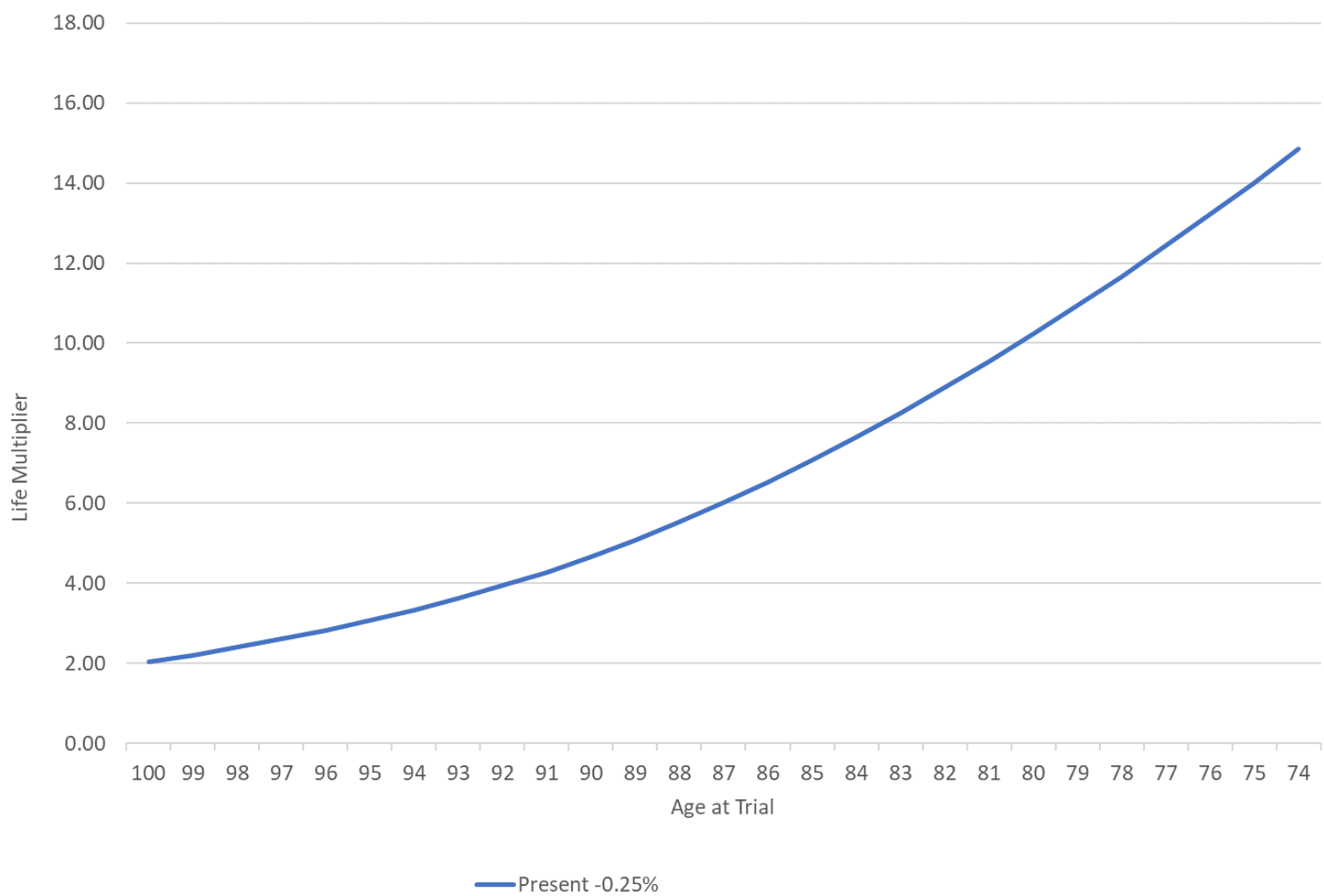
- The present system: A single discount rate. -0.25%
- A possible new system:
 - A low discount rate for near-term periods
(let's say: -1.5% for 15 years)
 - A high discount rate for far-term periods
(let's say: +1.5% for beyond 15 years)

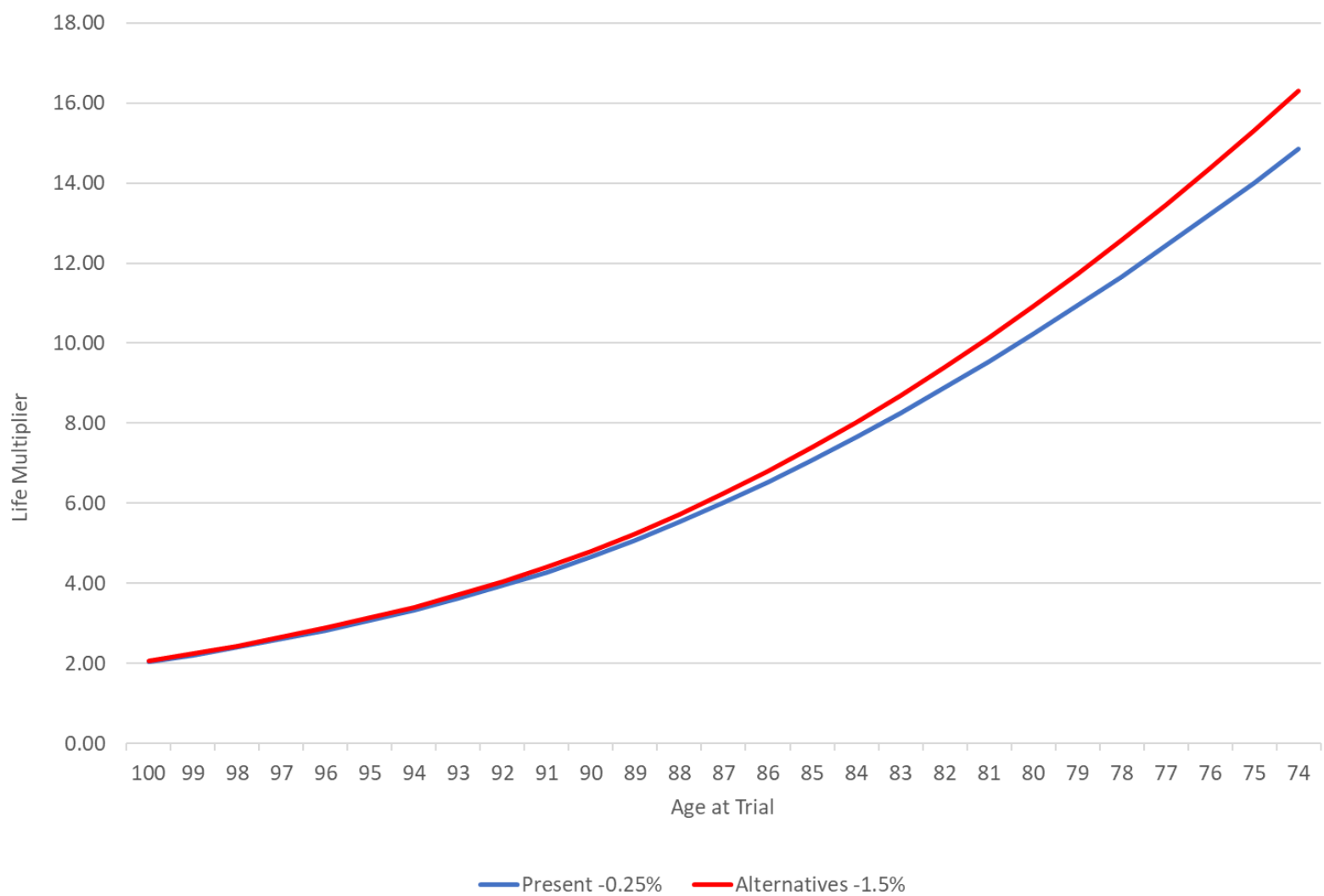
Method	MOJ term
Method 1	“Stepped”
Method 2	“Switching”
Method 3	“Blended”

If the loss is <15 years

All three new methods use the low discount rate.

And so they all look the same.



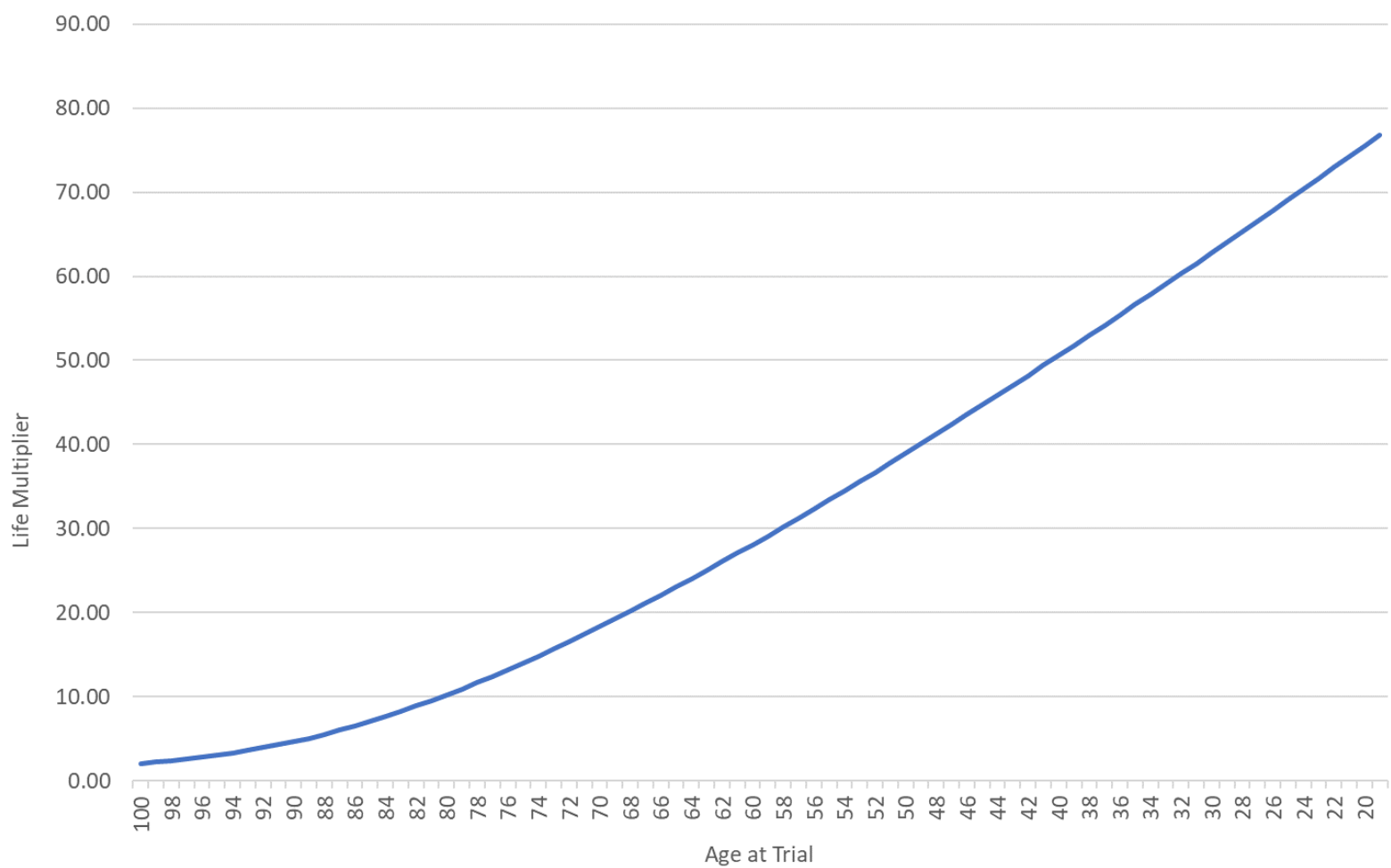


If the loss is >15 years

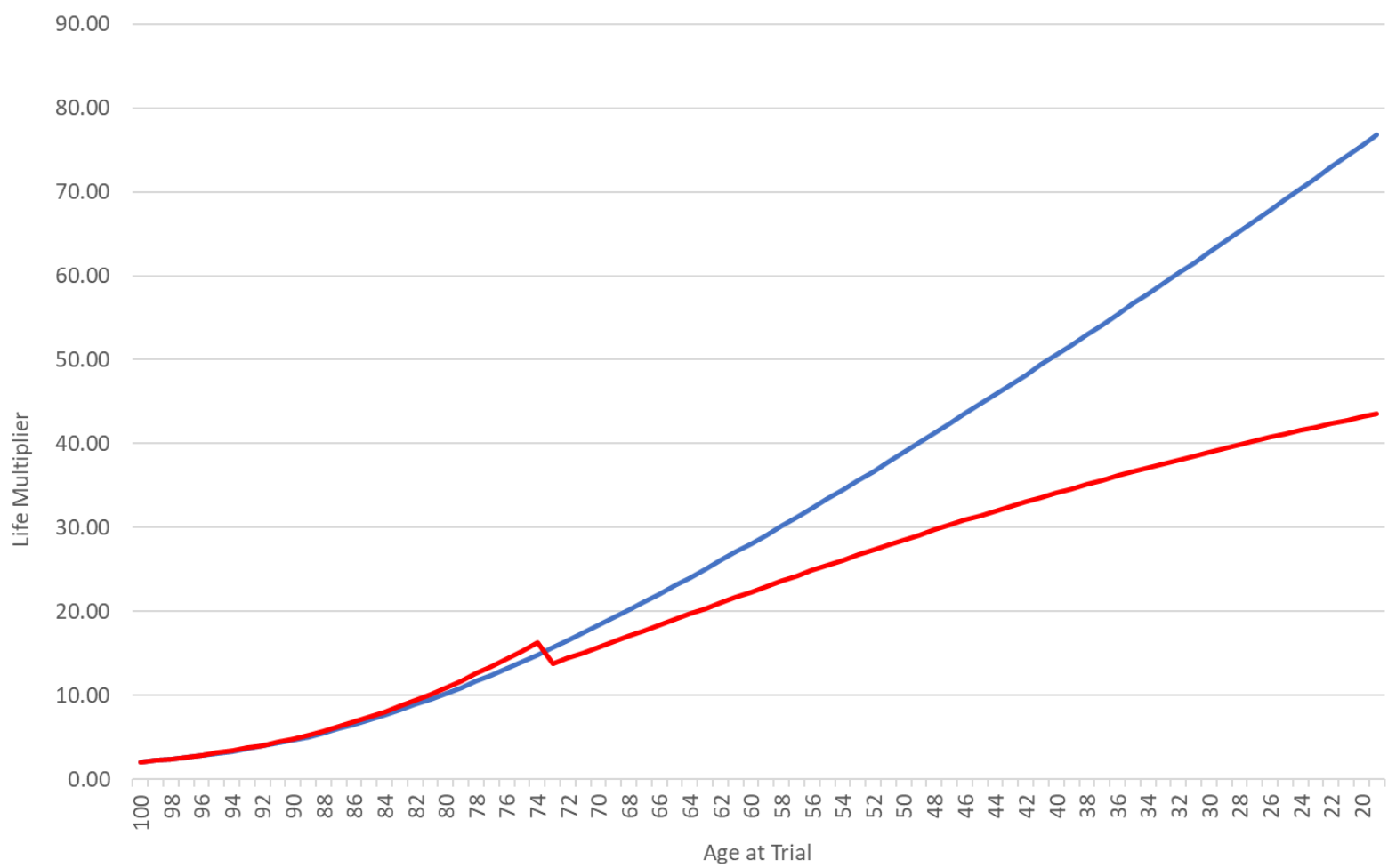
(Remember, if the loss is <15 years,)
then all at low discount rate.

Method 1 (MOJ “Stepped”)

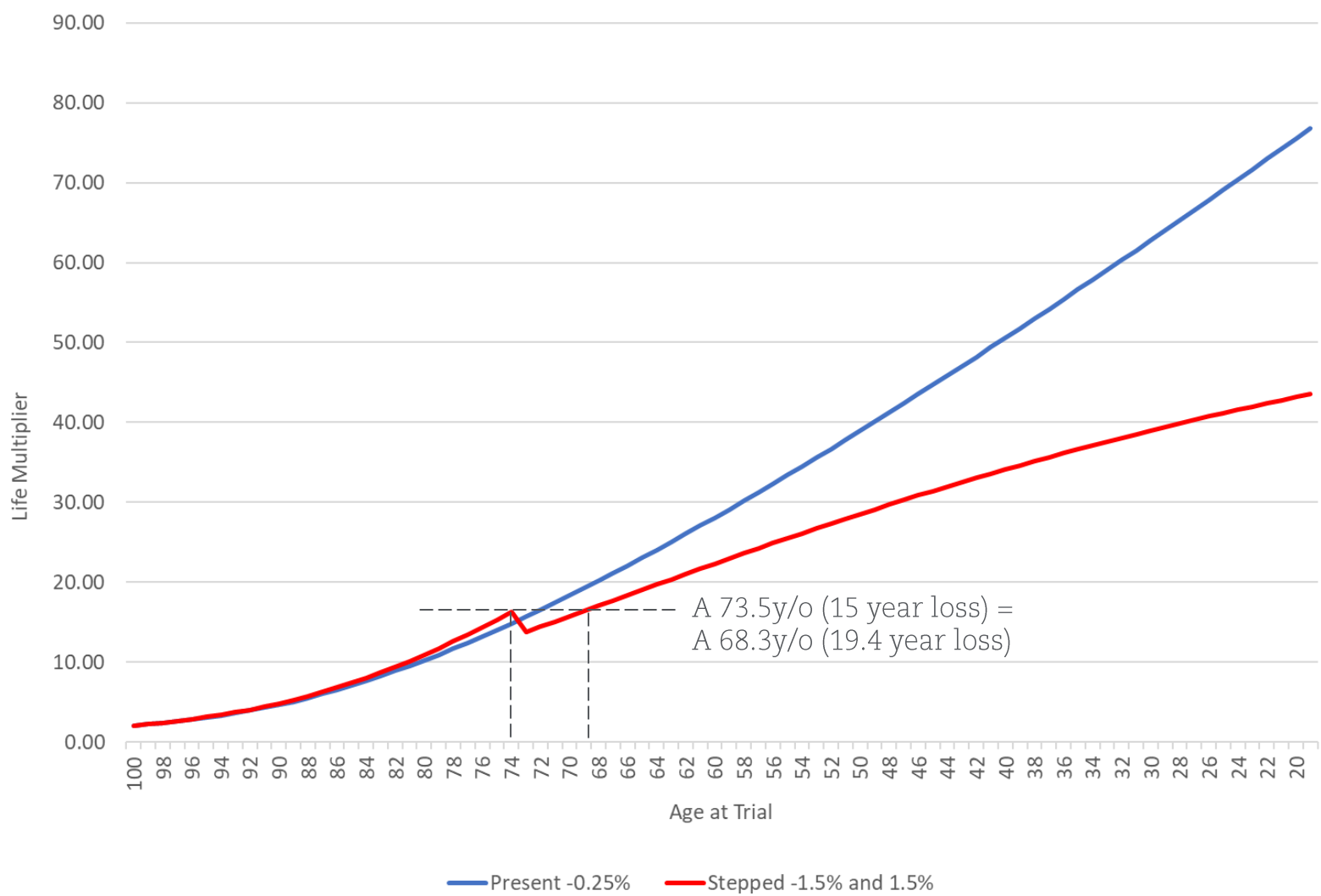
For a loss >15 years, then use the high discount rate – for all multiplicands



— Present -0.25%



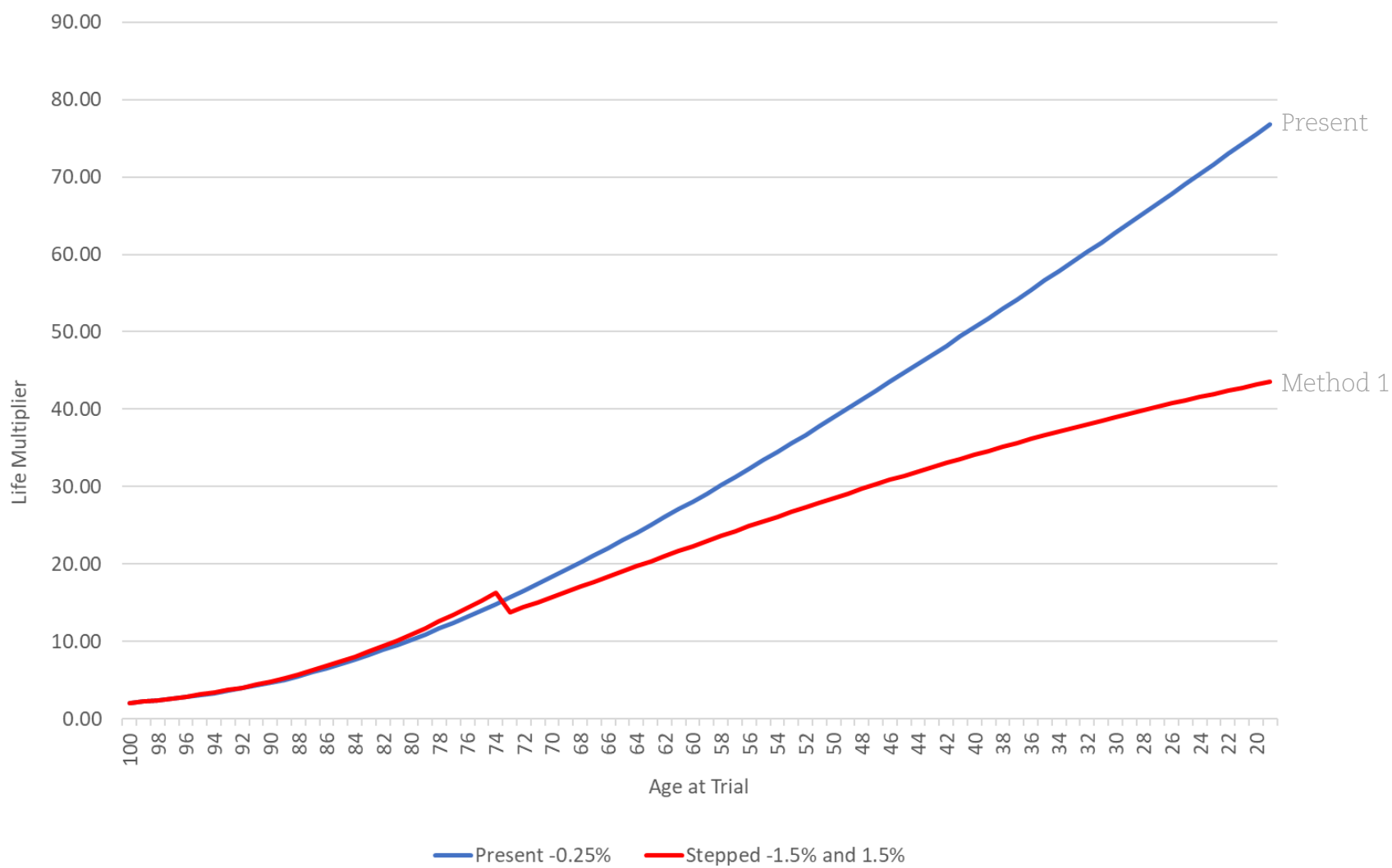
— Present -0.25% — Stepped -1.5% and 1.5%

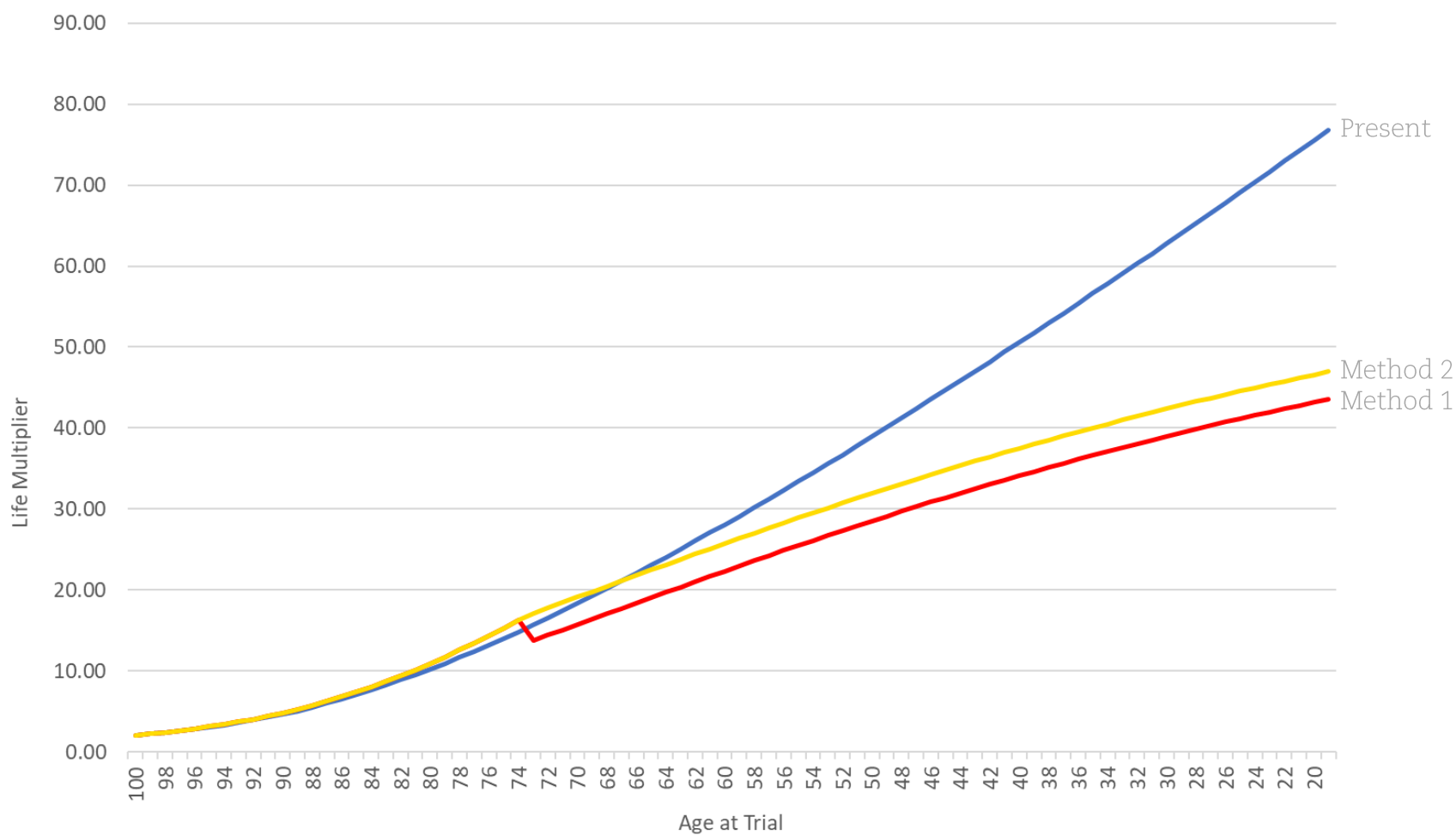


If the loss is >15 years

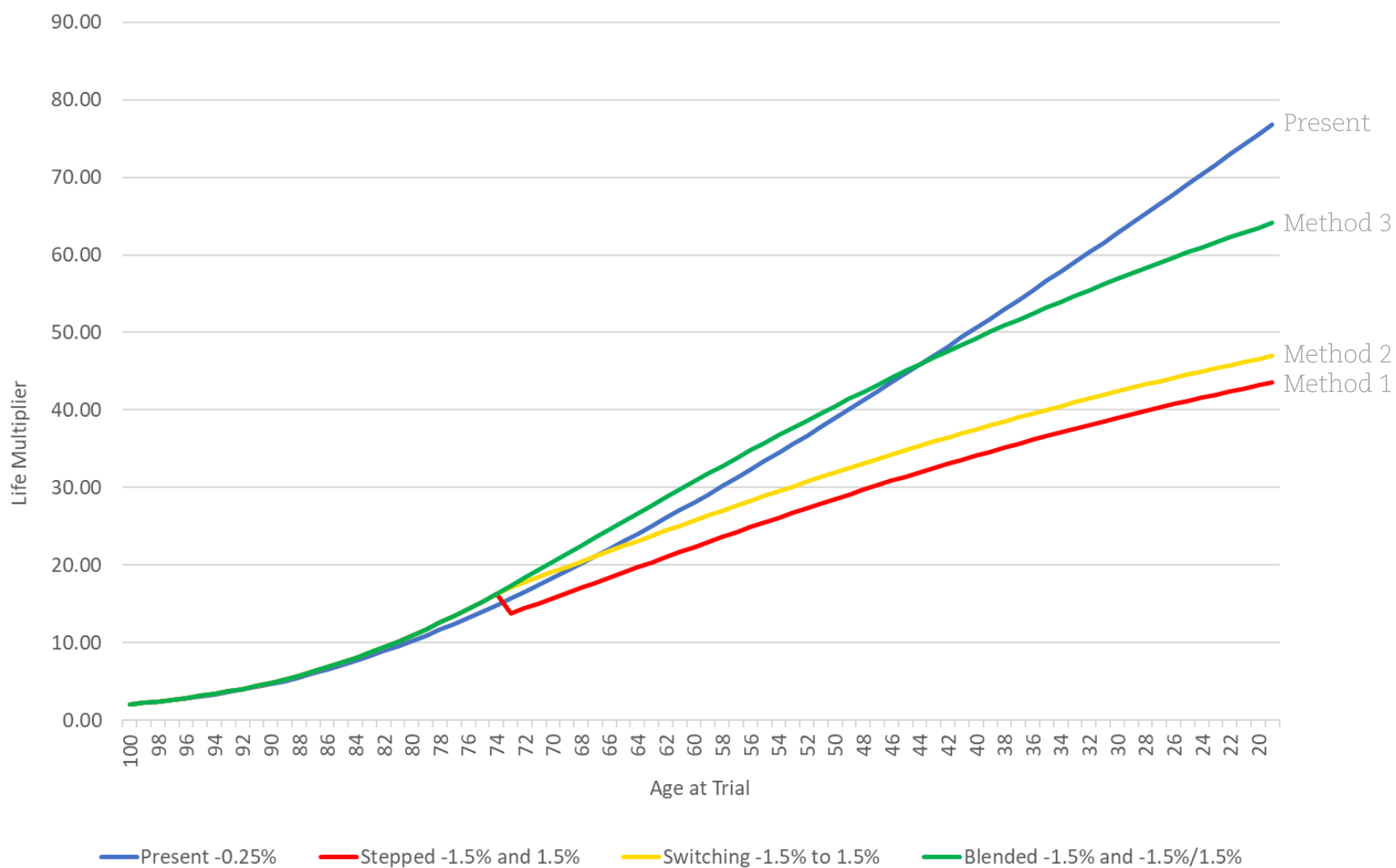
(Remember, if the loss is <15 years,)
then all at low discount rate.

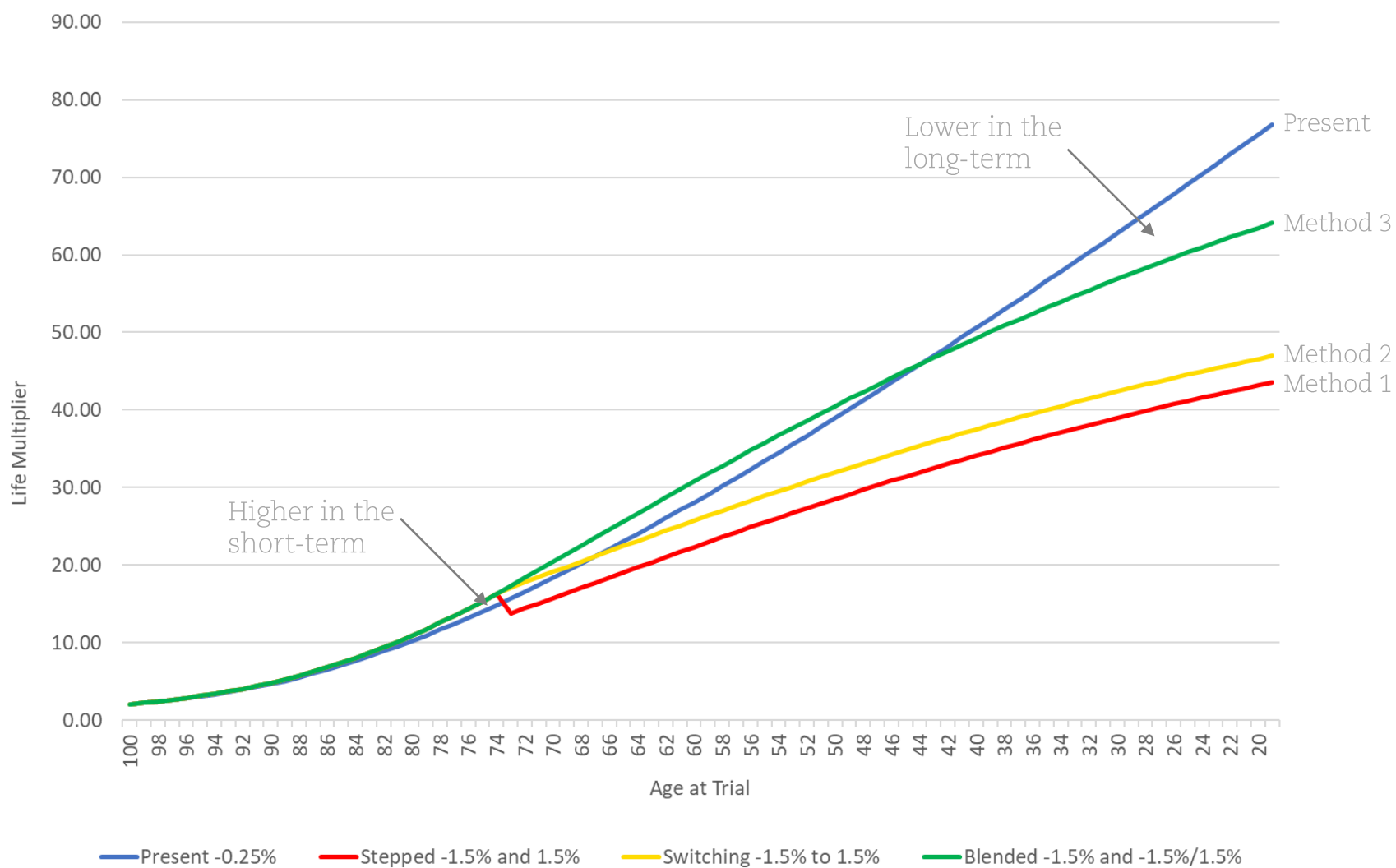
	MOJ term	Years 1 to 15	Years 16+
Method 1	“Stepped”	All at high discount rate.	All at high discount rate.
Method 2	“Switching”	Low discount rate	All at high discount rate.
Method 3	“Blended”	Low discount rate	15 years low discount rate, then use high discount rate



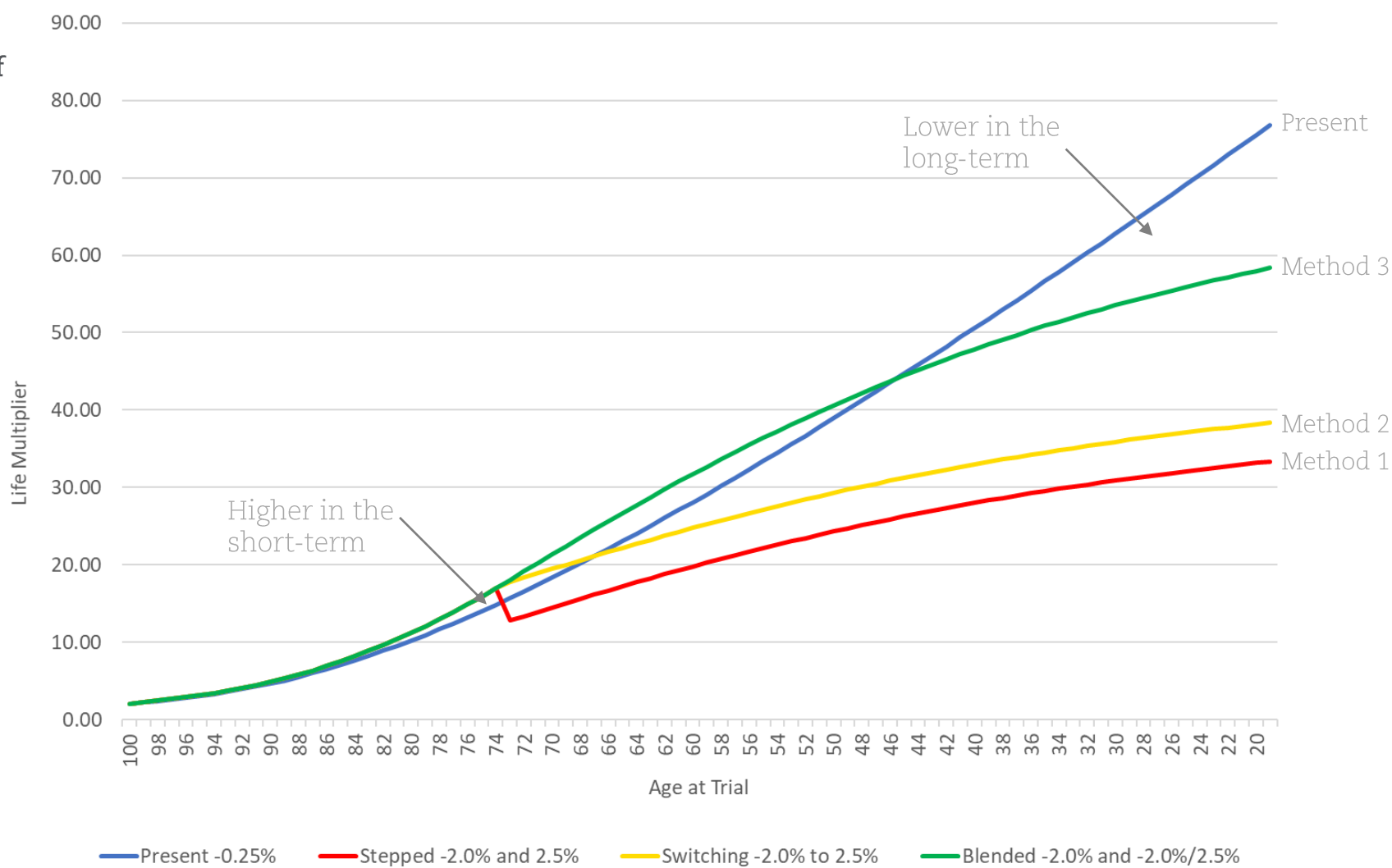


Present -0.25% Stepped -1.5% and 1.5% Switching -1.5% to 1.5%

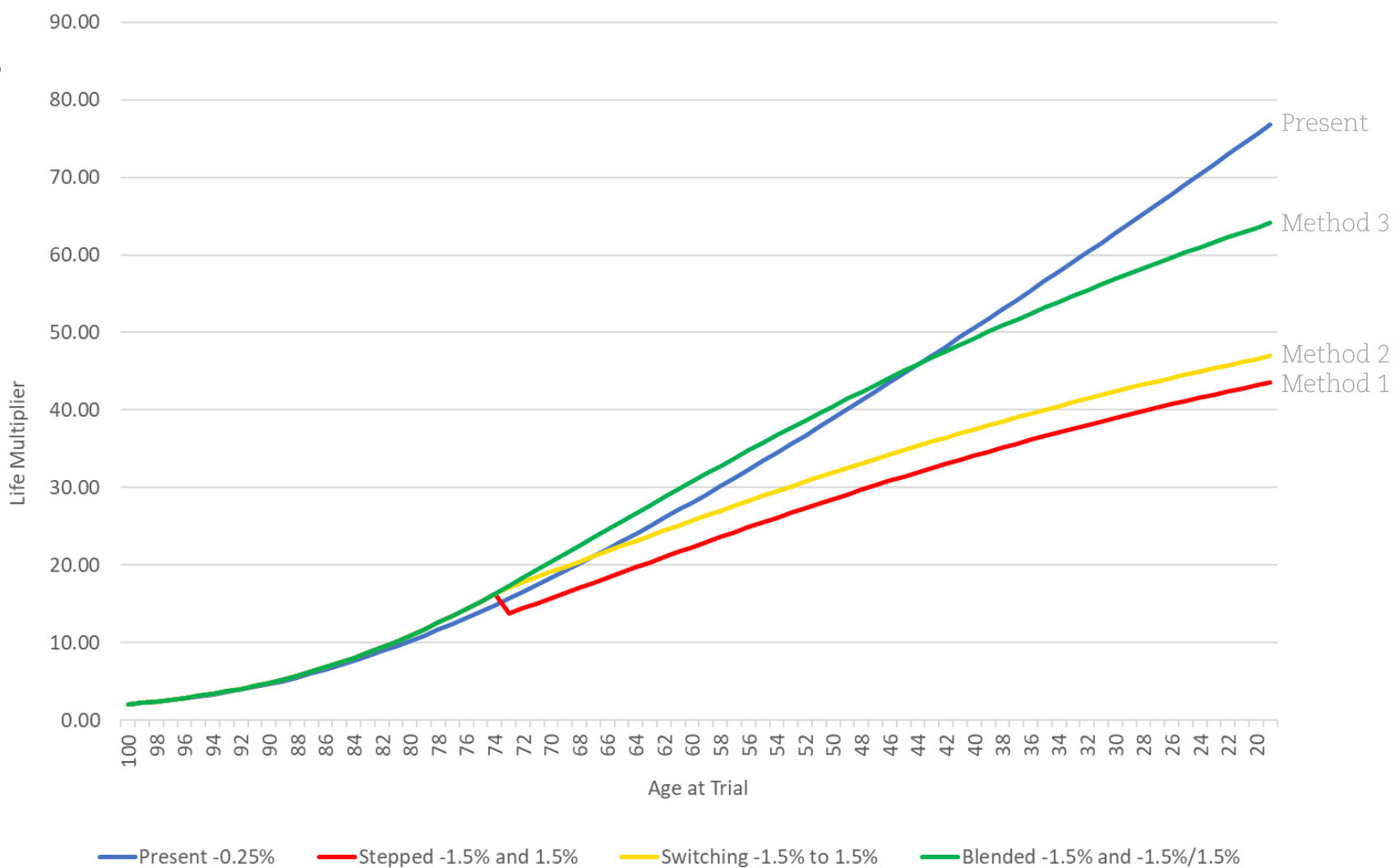


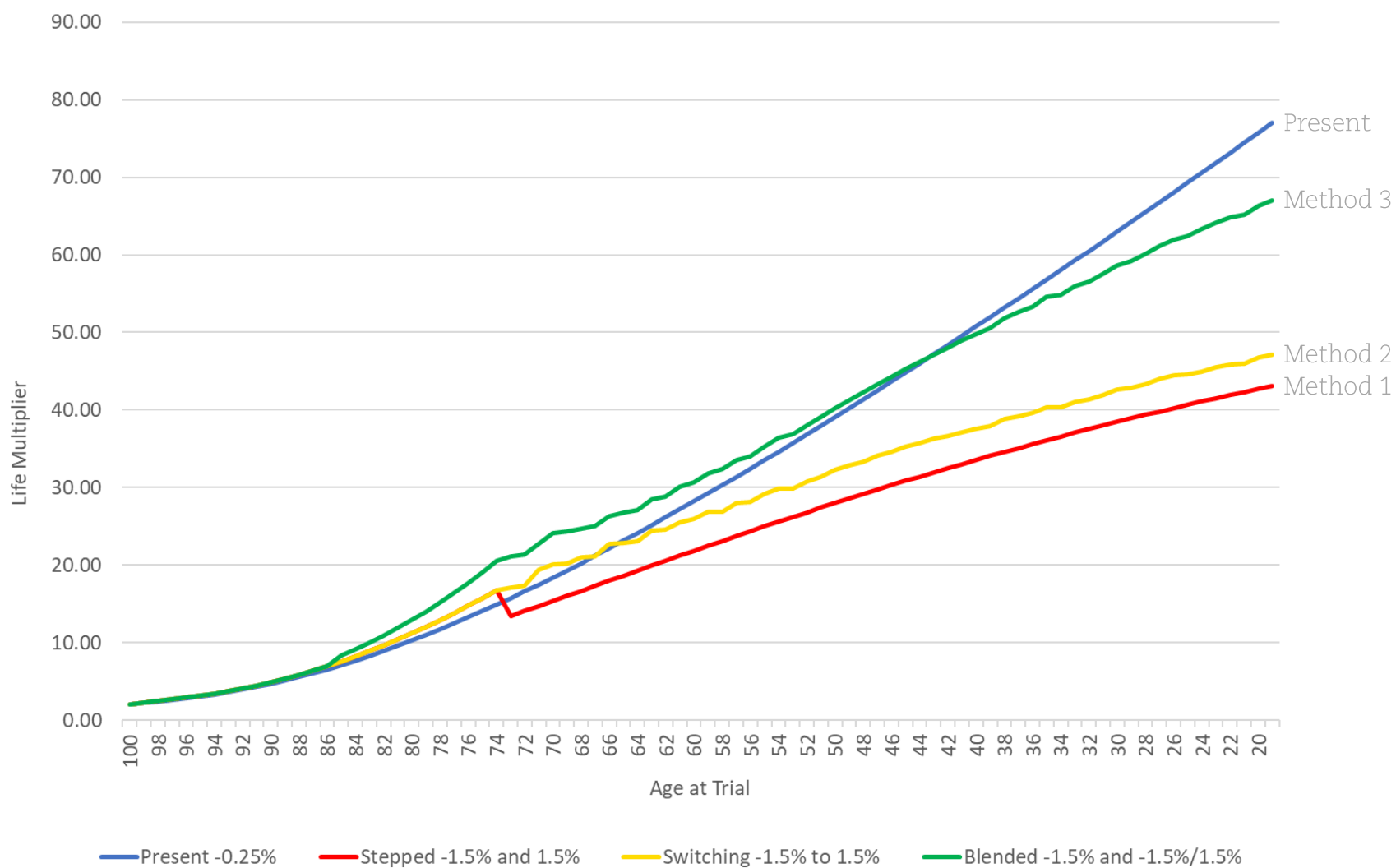


What if
-2.0%
+2.5%
DR?



Back to
-1.5%
+1.5%
DR?





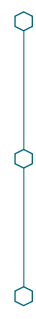
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Next steps

- 
- Tuesday 11 April – MoJ ‘call for evidence’ window closes
 - Summer 2023 – response from MoJ
 - 2024 – PIDR model for England & Wales confirmed

Personal Injury Discount Rate Hub

Our Casualty team continues to monitor activity relating to the Personal Injury Discount Rate (PIDR) with a collection of insights and a podcast housed on our PIDR hub page.



[Personal Injury Discount Rate | Clyde & Co : Clyde & Co \(clydeco.com\)](https://clydeco.com/personal-injury-discount-rate)

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Practical implications of the PIDR review

Tuesday 21 March 2023