



Institute
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UK Deafness Working Party Update

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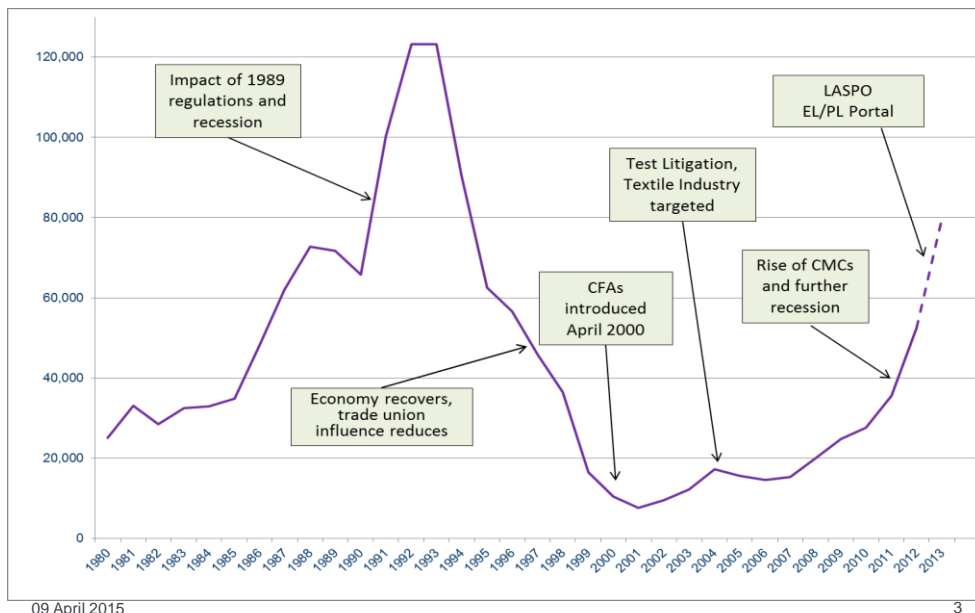
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Artise
Mentorship
Thought leadership
Progress
Community
Sessional Meetings
Education
Working parties
Volunteering
Research
Shaping the future
Networking
Professional support
Enterprise and risk
Learned society
Opportunity
International profile
Journals
Support

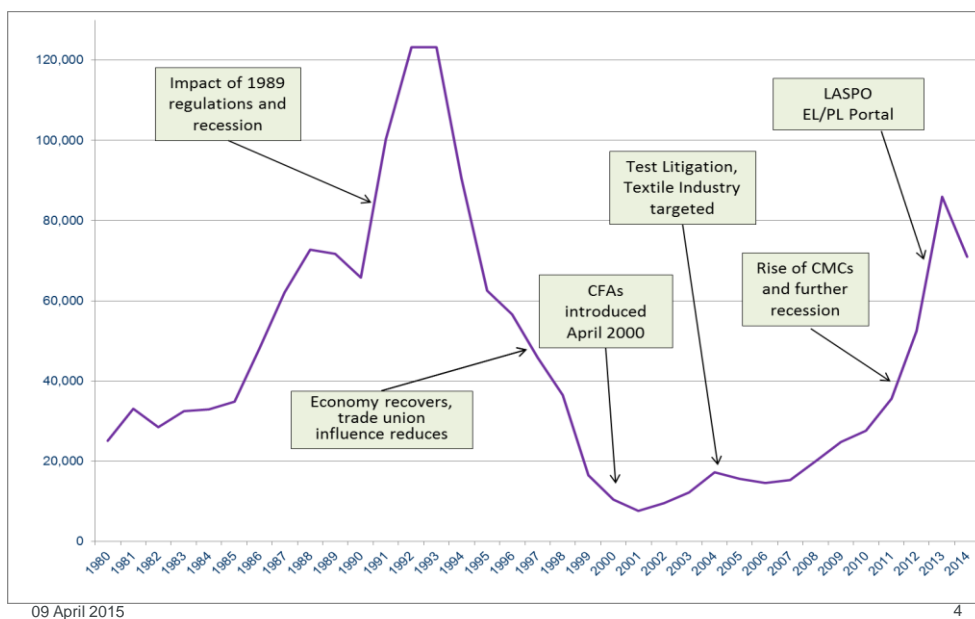
Agenda

- Recap as at 2013 Q3.
- What has happened since?
- Key changes – LASPO / MOJ / Claimant solicitors.
- What does this mean for a Reserving Actuary?
 - Nil rate analysis
 - Other issues.

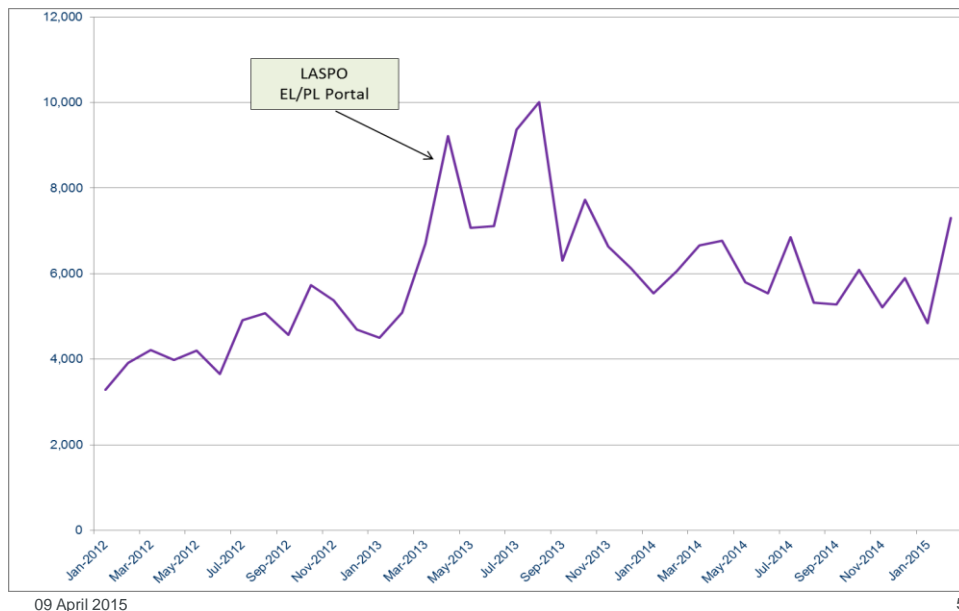
Recap as at 2013 Q3 – Claim Notification Trends



What has happened since – Yearly View



What has happened since – Monthly View



LASPO – The Act

- Legal Aid, Sentencing and Punishment of Offenders Act 2012.
- Gave flexibility to Judges in their sentencing of 'first offenders' and the use and methods of remand, especially for young offenders.
- Replaced the Legal Services Commission (what used to be the Legal Aid Board) with a new body and restricted the availability of Legal Aid for classes of cases including immigration, medical negligence, employment disputes.
- Increased powers of deportation of foreign criminals once their sentence has been served.
- Created a new offence of 'squatting'.
- **Of importance and relevance to insurers, it was also the vehicle used to enact changes to the funding arrangements for third party injury claims.**
- **Under the originating Jackson Reforms, a 10% uplift in general damages was also mooted. This was not enshrined in The Act, rather through a 2012 Court of Appeal ruling in *Simmons v Castle*. The interrelation between the ruling in this case and LASPO has subsequently been clarified by the MOJ.**

LASPO – Funding of Injury Claims

- For injury claims for which Conditional Fee Arrangements are signed on or after 1 April 2013:
 - no 'success fee' uplift on costs is claimable from the losing Defendant (this amendment does not apply to mesothelioma)
 - 'success fees' remain capable of agreement between the Claimant and his/her lawyer but these are payable by the Claimant and not recoverable from Defendants. they are also limited to 25% of Damages excluding any award for future losses.
- In general, defendants who successfully avoid liability for injury claims are not permitted to recover their defence costs. This is commonly referred to as Qualified One Way Costs Shifting (QOCS). Instances where this does not apply include claims demonstrated to involve "fundamental dishonesty" on the part of the claimant and instances where a claimant fails to beat a defendant Part 36 offer of settlement.

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LASPO – Referral Fees/ATEs

- LASPO banned solicitors from paying referral fees to claims management companies for personal injury claims. There is no direct impact on insurance claims because referral fees could not be recovered from insurers prior to LASPO.
- LASPO did not ban ATEs ('after the event insurances') as such but narrowed the circumstances under which ATEs are recoverable from insurance. The major part of the costs incurred would be recovered defendants legal costs but under QOCS these are in general not recoverable anyway. Other items such as claimant solicitor disbursements and expert costs remain however and ATEs may still be purchased to cover these.

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MOJ Portal

- The Portal was extended to include single Defendant disease claims and all other injury claims valued up to £25K and notified on or after 31 July 2013.
- All claims settled within the Portal attract restricted Portal fixed fees.
- Importantly, however, all injury claims (but not disease claims) also include a secondary, improved fixed fee regime ('Annex B') if they drop out of the Portal for any reason other than increased value potential (over £25k).
- As such, the influence of the Portal was to:
 - restrict the volume of NIHL claims to which fixed fees ever apply (single defendant only)
 - allow any NIHL claim to attract hourly rate calculated bills if they were never Portal applicable or exit the Portal for any reason.
- The low success rates and restricted evidential requirements of the Portal mean that the overwhelming majority of Portal applicable NIHL claims (perhaps 90%) fall out.

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LASPO/MOJ – Expected Changes

- Volumes
 - Long term impact on profitability of some claims
 - Short term influx of 'pre-LASPO' claims.
- Nil Rate
 - Nil definition
 - Impact of QOCS.
- Average Cost
 - Alignment of interest between claimant and solicitor
 - Focus on damages.

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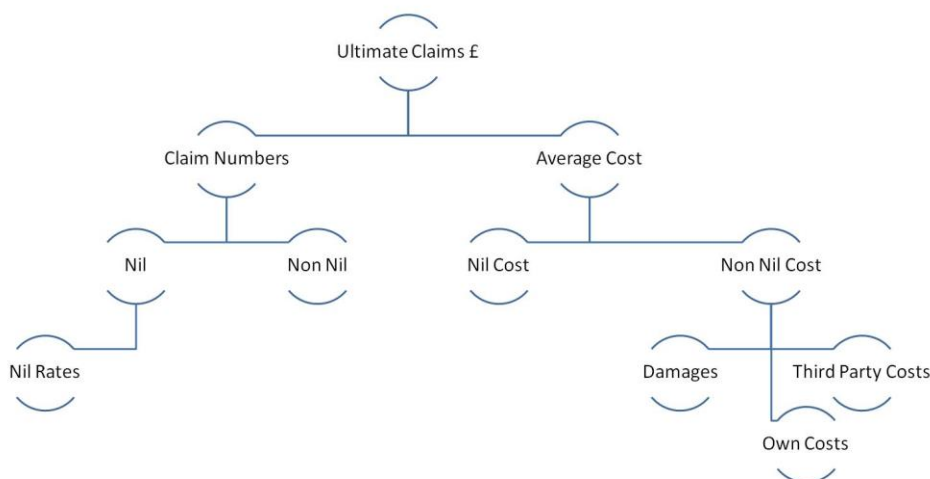
LASPO/MOJ – Actual Changes to Date

- Referral fees
 - Vertical integrations.
- Success fees and ATEs
 - Business model impact
 - ‘Quality v quantity’
 - Consolidation.
- Portal
 - Relative attractiveness of disease v injury claims.
- Quindell 2014 market statement and activity since.

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What does this mean for the Reserving Actuary?



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What does this mean for the Reserving Actuary?

MODELLING CONSIDERATIONS		
COMPONENT	DIAGNOSTICS	CURRENT CONSIDERATIONS
Reported Claim Numbers	Monthly Tracking	Exposure Pool Claimant Solicitor Market Behaviour Claimant Behaviour / Awareness
Nil Claim Numbers / Nil Rates	Development Tracking - Operational	Claims Quality Claimant Solicitor Market Behaviour
Damage Costs	Settlement Cost Tracking Average Hearing Loss Level Tracking	JSB Guidelines Average Hearing Loss Levels 10% Uplift - Simmons vs Castle Success Fees come out of damages (25% cap)
Third Party Costs	Settlement Cost Tracking @ Total or by Component: - Hourly Fees - Disbursements - Medical Experts	LASPO: - CFAs no longer allowed - QOCS - ATE recovery no longer allowed - Referral fees banned MOJ Portal Impact
Own Costs	Settlement Cost Tracking @ Total or by Component: - Third Party Administrator (TPA) Costs - Own Disbursements - Medical Experts	Own Internal Considerations

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Nil Rate Example – Definition

Two most common definitions used in modelling:

1. Damages & Third Party Costs = 0
2. Whole Claim = 0.

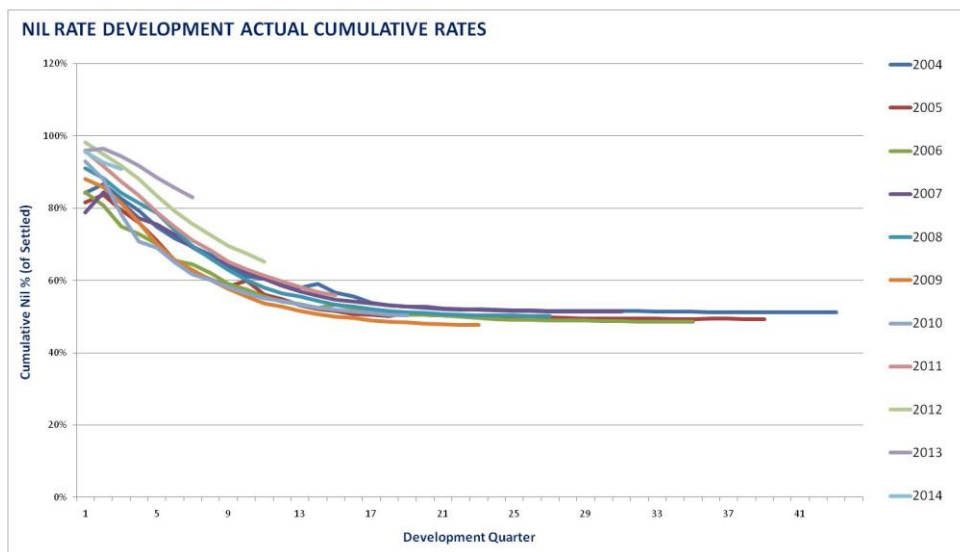
Stakeholders' differing perspectives on nil rates:

1. Actuary – ultimates & behaviours of cohorts
2. Claims – operational KPIs.

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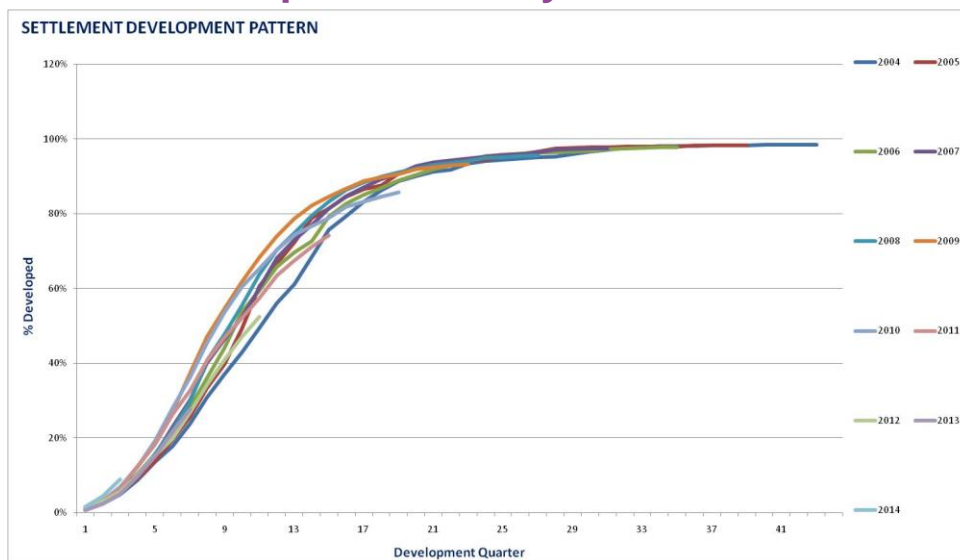
Nil Rate Example – Track by Time



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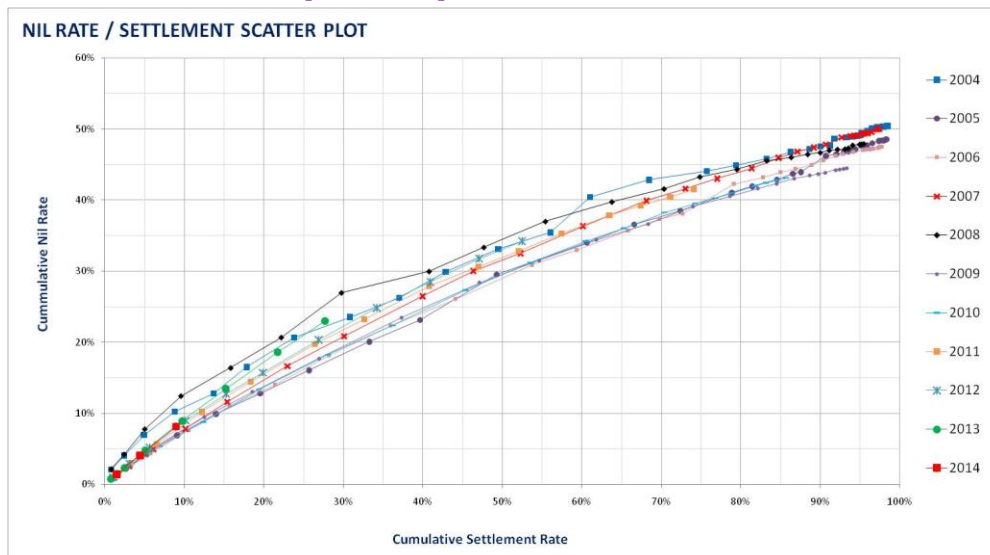
Nil Rate Example – Track by Time



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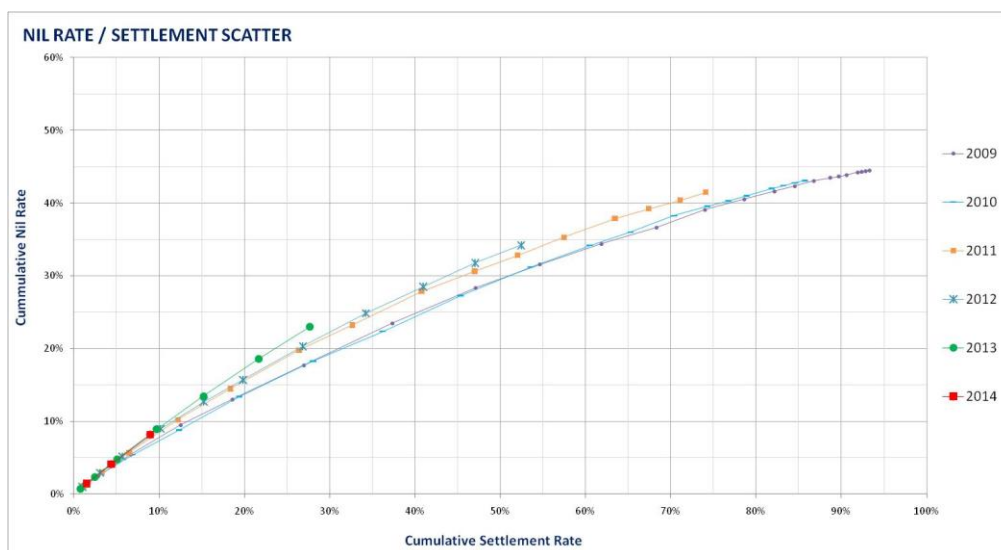
Nil Rate Example - Operational



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Nil Rate Example – Operational



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What does this mean for the Reserving Actuary? Round Up

MODELLING CONSIDERATIONS		
COMPONENT	DIAGNOSTICS	CURRENT CONSIDERATIONS

COMMUNICATION CONSIDERATIONS		
KEY CURRENT CONSIDERATIONS	THE CURRENT ESTIMATE	UNCERTAINTY



Expressions of individual views by members of the Institute and Faculty of Actuaries and its staff are encouraged.

The views expressed in this presentation are those of the presenter.



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Current Issues General Insurance (CIGI) 2015

Royal College of Physicians
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