



Institute  
and Faculty  
of Actuaries

## GIRO40

8 – 11 October, Edinburgh



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## UK Deafness Working Party Update

Brian Gravelsons  
Daniel Sykes  
John Wilson

ertise  
ensorship  
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

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## Introduction

- Working party objectives
- Key facts
- What is the issue?
- Main trends
- What does a Reserving Actuary need to know?

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## Working Party Objectives

- Market wide data survey / collection
- Relationships with other parties
- Improve actuary's ability to reserve for deafness claims
- Insurance market projections NOT produced

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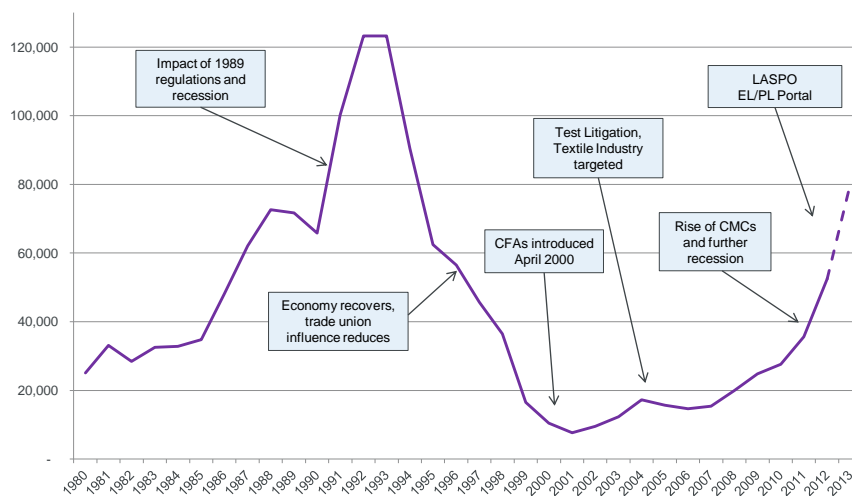
## Deafness Claims – Key Facts

- Claims from prolonged exposure to high noise levels in the work place.
- Key date of knowledge is 1963.
- Regulations in 1989 and 2005 reduced actionable noise levels.
- ‘Latency’ arises because NIHL becomes apparent around age 60-65.
- Current claims predominantly from 1970s to 1980s exposures.
- UK Insurance industry is currently paying around £70m per year.
- Total claim cost made up from 25% damages and 75% solicitor fees.

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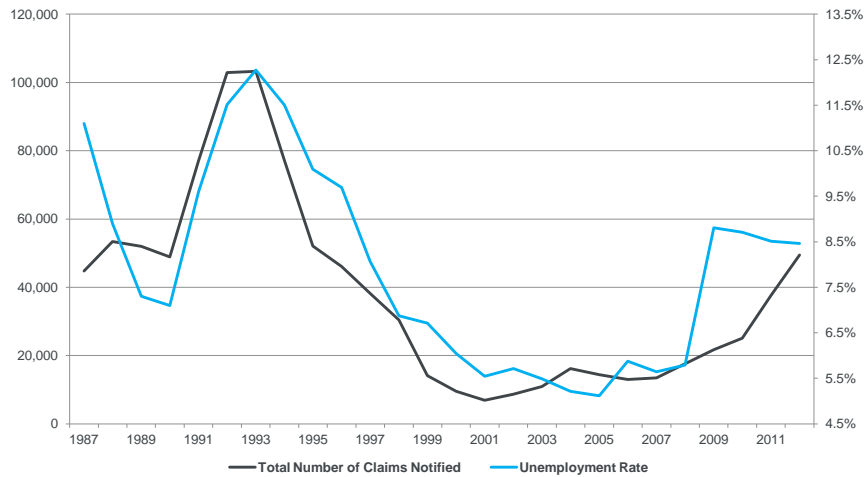
## The issue – claim notifications



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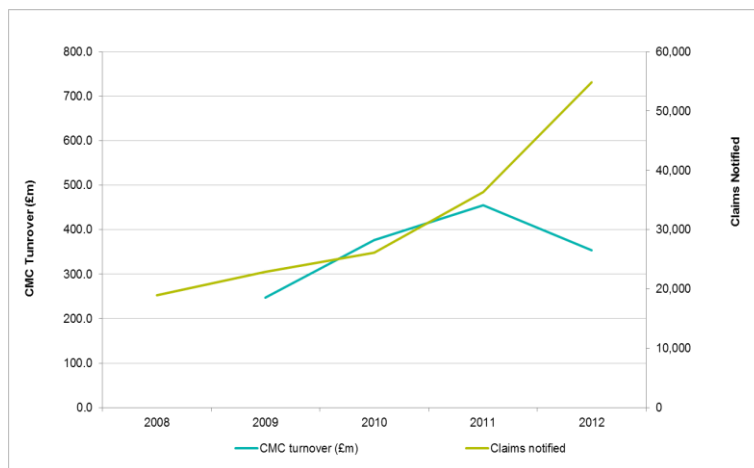
## Unemployment Influence



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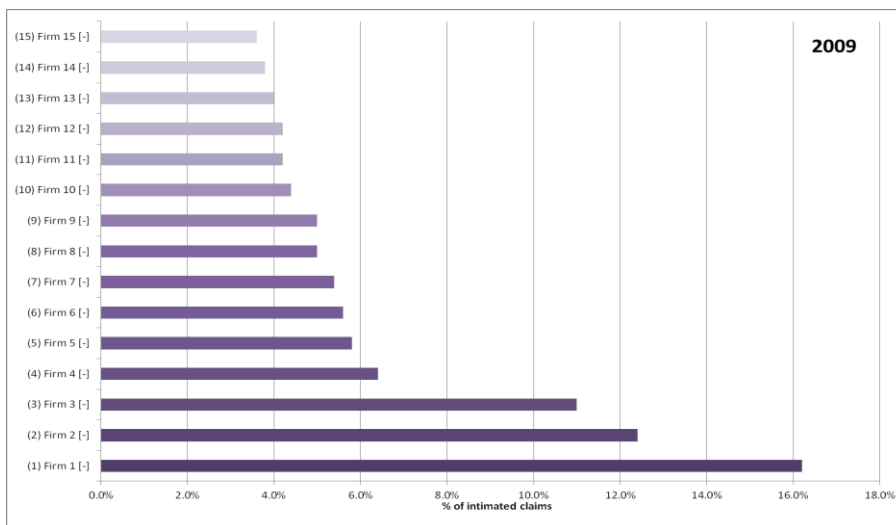
## Claims Management Companies Influence



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## Claimant Solicitor Influence Post 2008 #1

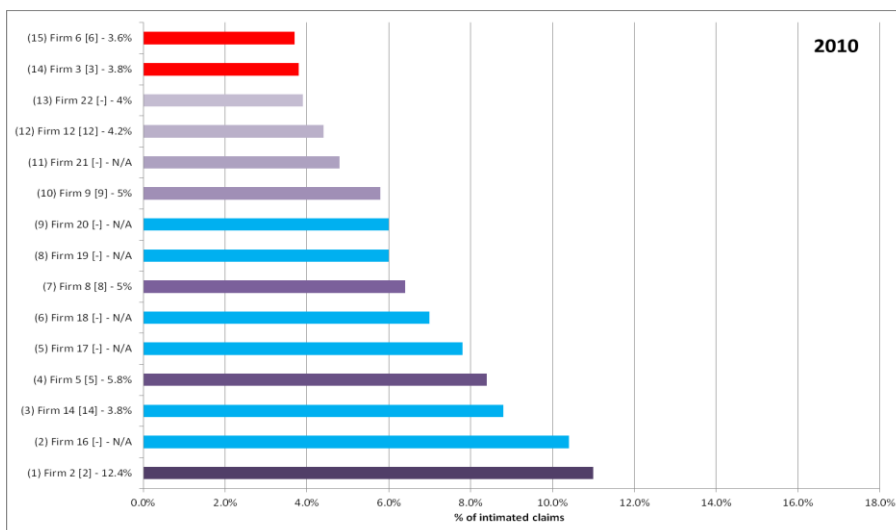


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## Claimant Solicitor Influence Post 2008 #2

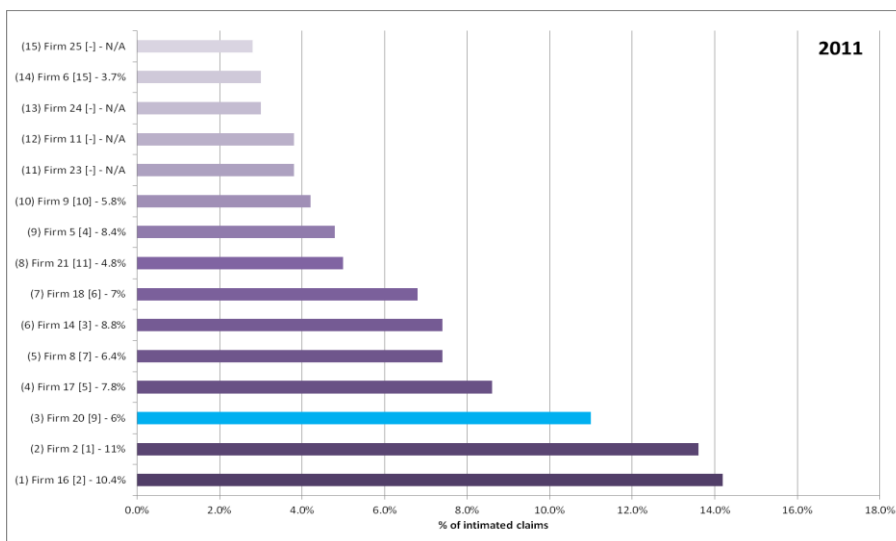


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## Claimant Solicitor Influence Post 2008 #3

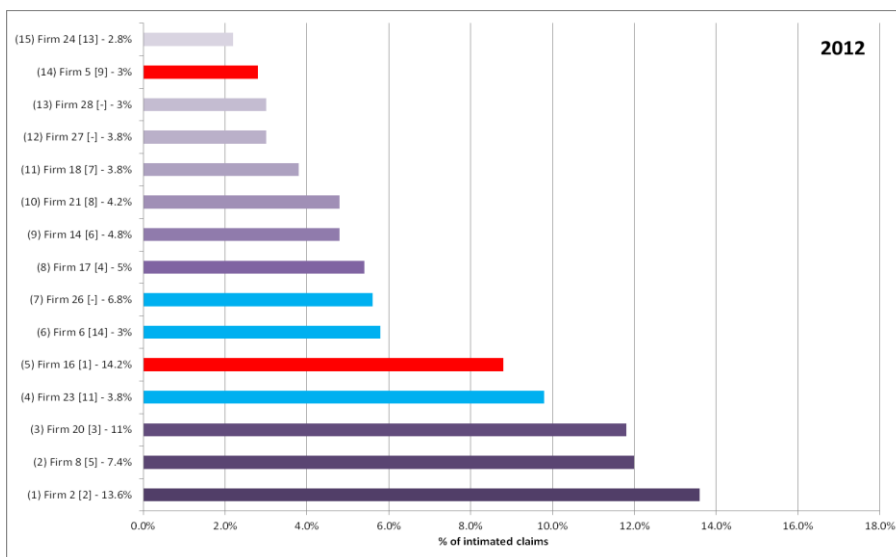


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## Claimant Solicitor Influence Post 2008 #4



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## Key Legal and Market Influences

- Noise at Work Regulations 2005
- Jackson Reforms
- LASPO Act
- EL Claims Portal

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## Jackson Reforms

- Level of legal fees are proportionate to the nature and complexity of the case in question.
- Transferring the payment of the lawyers' success fee from the defendant to the claimant by banning the recoverability of success fees while increasing the general damages awarded in personal injury cases by 10%.
- Making damages-based agreements admissible in civil litigation.
- Banning payment of referral fees for the details of injured claimants.
- Implementing "qualified one-way cost shifting" to protect claimants on an unsuccessful claim from having to pay a winning defendant's fees.
- Introducing fixed costs across all personal injury claims.
- Encouraging parties to make and accept reasonable offers.
- Recommendations for implementation of a Cost Council to review existing fixed and hourly solicitor costs.

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## LASPO

- 'Legal Aid, Sentencing and Punishment of Offenders Act 2010-12' ("LASPO") received Royal Assent May 2012 and came into effect on 1 April 2013.
- Within the bill the following components of the Jackson Review have been implemented:
  - Conditional Fee Agreements ("CFA" or success fees) and After the Event (ATE) premium are no longer recoverable.
  - Referral fees for Personal Injury claims are banned for companies regulated by the Financial Services Authority (FSA), SRA, the Bar Council and the claims management company regulator.
  - Damages based agreements have been implemented with solicitor's fees now capped at 25% of claimant damages.

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## Employers' Liability Portal

- Ministry of Justice (MOJ) claims portal expanded to include EL and PL claims in England and Wales effective on 31 July 2013.
- EL and PL claims with incidence dates on or after 31 July 2013 must be submitted into the portal.
- Portal should provide quicker, simpler and cheaper access to compensation and includes both fixed timetables and fixed costs to help reduce disputes and frivolous litigation.

For diseases claims:

- The key date for entry into the portal is the date of the letter of notification.
- Mesothelioma claims are excluded from the portal.
- Any disease claim where more than one defendant is named the claim automatically falls out of the claims portal.
- Any disease claim which falls out of the portal will go straight to open costs for both sides.

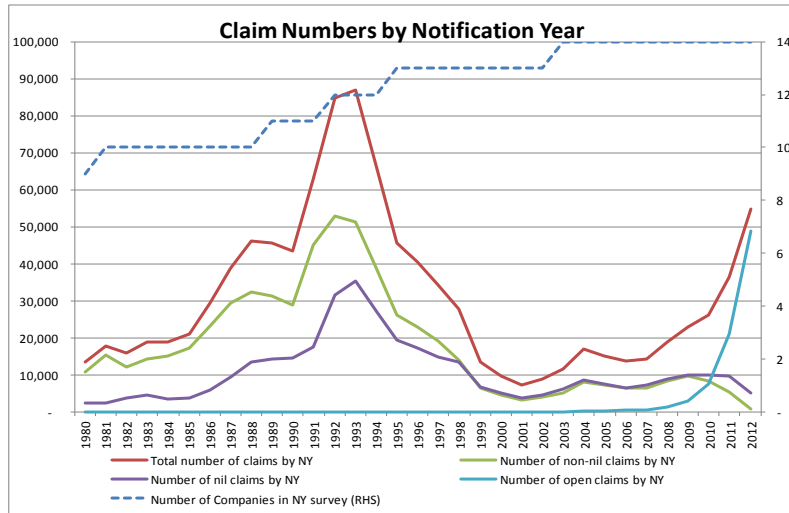
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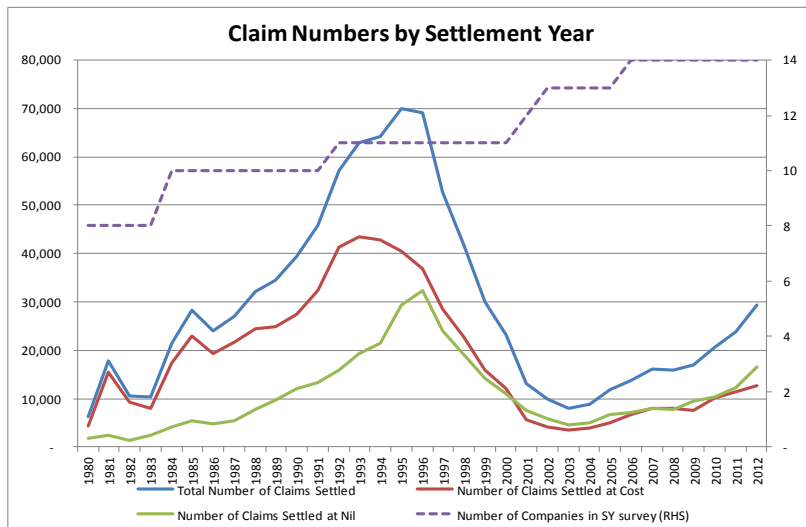
## Other Trends from Data Collection #1



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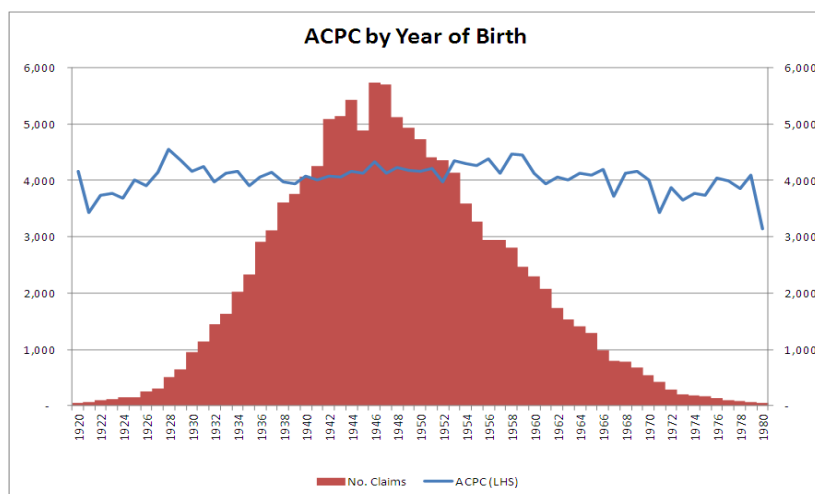
## Other Trends from Data Collection #2



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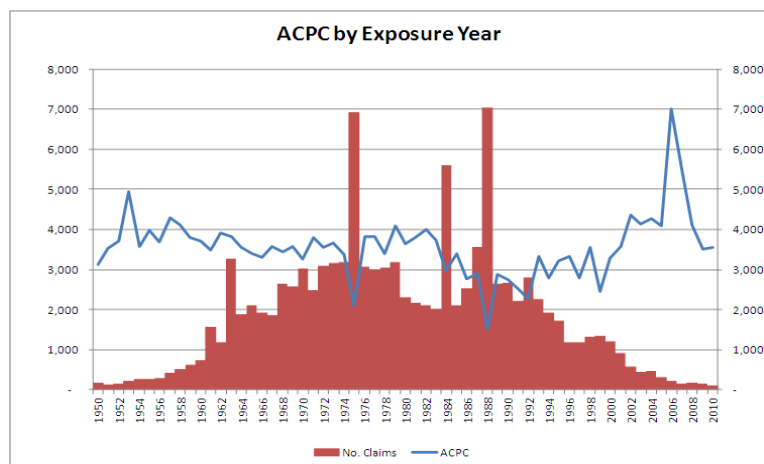
## Other Trends from Data Collection #3



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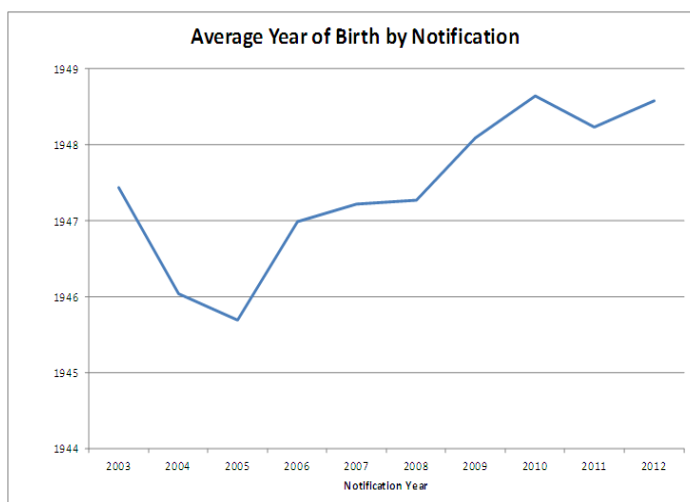
## Other Trends from Data Collection #4



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## Other Trends from Data Collection #5



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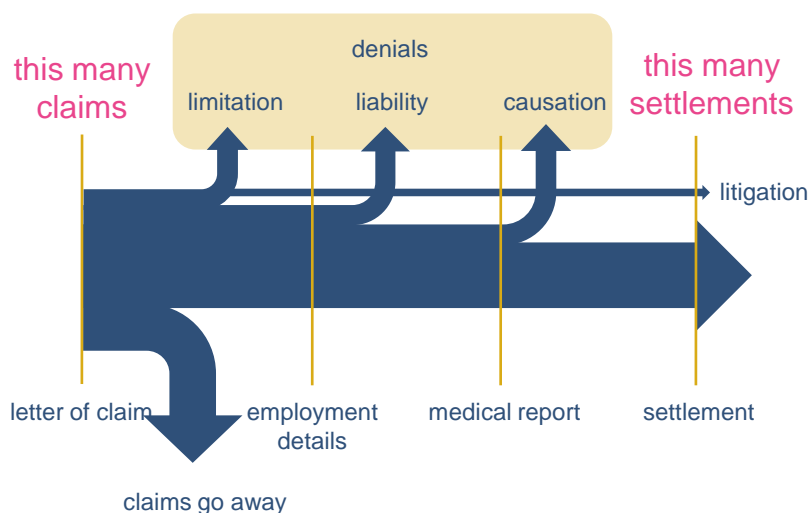
## Reserving Methods

- Standard Cohort Based Approaches (e.g. Chain Ladder)
- Exposure Based Methods
- Average Cost per Claim Method
  - Claims Volumes
  - Nil Rates
  - Average Cost

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## Nil Rates



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## Claims Volumes

	<i>Impact on data</i>	<i>Projecting forward</i>
<i>Demographics/epidemiology</i>	Likely to be gradual but important to establish 'underlying' claims level	Is data available e.g. actionable hearing loss levels, emergence of symptoms
<i>Economic conditions</i>	Relationship between past trends and economic conditions	View of link going forward
<i>Noise at work regulations/rulings</i>	Exposure v changes, by industry?	Regulations driving higher volumes or better risk management?
<i>CMC/Solicitor activity/LASPO/ELTO</i>	Solicitor mix? Pre/post-LASPO?	Solicitor business models, pre LASPO stockpiles, post LASPO behaviour
<i>Portal</i>	Volume change on portal date	Future volume of genuine portal cases
<i>Business mix/exposure/volume</i>	Likely to be gradual but specific policyholders, specific causes?	Specific causes may drive high volumes for short periods
<i>Claims handing practices</i>	Outsourcing, changes in registration, bordereaux files etc	Changes must be allowed for

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## Nil Rates

	<i>Impact on data</i>	<i>Projecting forward</i>
<i>Demographics/epidemiology</i>		
<i>Economic conditions</i>	More speculative claims?	If these reduce will nil rate return to historical levels?
<i>Noise at work regulations/rulings</i>		
<i>CMC/Solicitor activity/LASPO/ELTO</i>	Claim 'quality' can vary. Little post LASPO data to analyse?	Need to look at nils differently if Part 36 rules prevent cost recovery on denials
<i>Portal</i>		
<i>Business mix/exposure/volume</i>	Nil rate measure are distorted by changing claims volumes	Need to develop a measure that looks beyond changing volumes
<i>Claims handling practices</i>	Closure portocols, Coles, denial strategies	Link between changing denial strategies and nils

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## Average Cost

	<i>Impact on data</i>	<i>Projecting forward</i>
<i>Paid/incurred data</i>	How are claims reserved, e.g. on denial	Incurred is lead indicator but need to allow for IBNER
<i>Damages/costs</i>	Does data allow this split? How are outsourcing costs logged?	Changes due to outsourcing?
<i>Share</i>	Has the average share been changing?	Impact of ELTO?
<i>CMC/Solicitor activity/LASPO/ELTO</i>	Is there sufficient history to analyse?	Short term and longer term changes in the industry
<i>Portal</i>	Fixed costs	
<i>Inflation</i>	Underlying' rate. Costs v damages	Is there enough data to look at damages and costs separately?
<i>Other</i>	PADs. Bordereaux files. Heads of damage. Specific policyholders, issues	

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## Summary

- A number of influences driving recent experience.
- Large number of external changes taking place.
- Difficult to reserve as large amount of judgement required.
- Reserving actuary needs to consider a number of factors to help with this judgement.
- Monitor future experience carefully.

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**Questions**

**Comments**

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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