



**The Actuarial Profession**

making financial sense of the future

## **GIRO conference and exhibition 2010**

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# **UK Asbestos Working Party**

12-15 October 2010

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# Introduction

## What has the Working Party done?

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- Since 2009 market estimate - entered working party passive phase
- Continued to collect survey and government data
- Comparing data against estimates
- Maintained contact with HSE and Prof. Peto
- Consultation responses such as ELIB

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# Agenda

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- Recap on 2009 UK Asbestos Working Party Projections
- Experience since 2008
- Legal and Other Developments
- Next steps

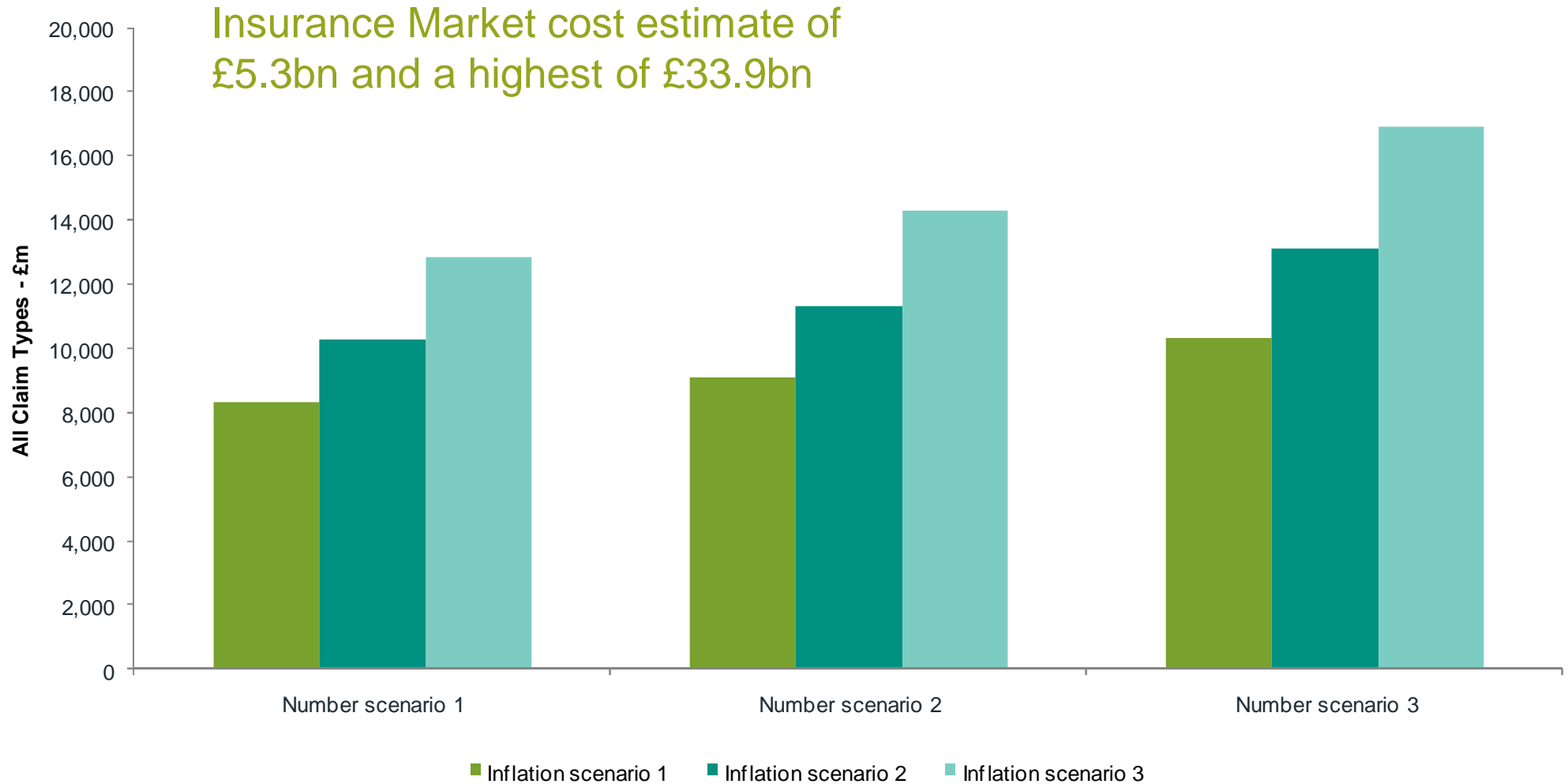
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# Recap on 2009 UK Asbestos Working Party Projections

# 2009 UK Asbestos Working Party Estimates

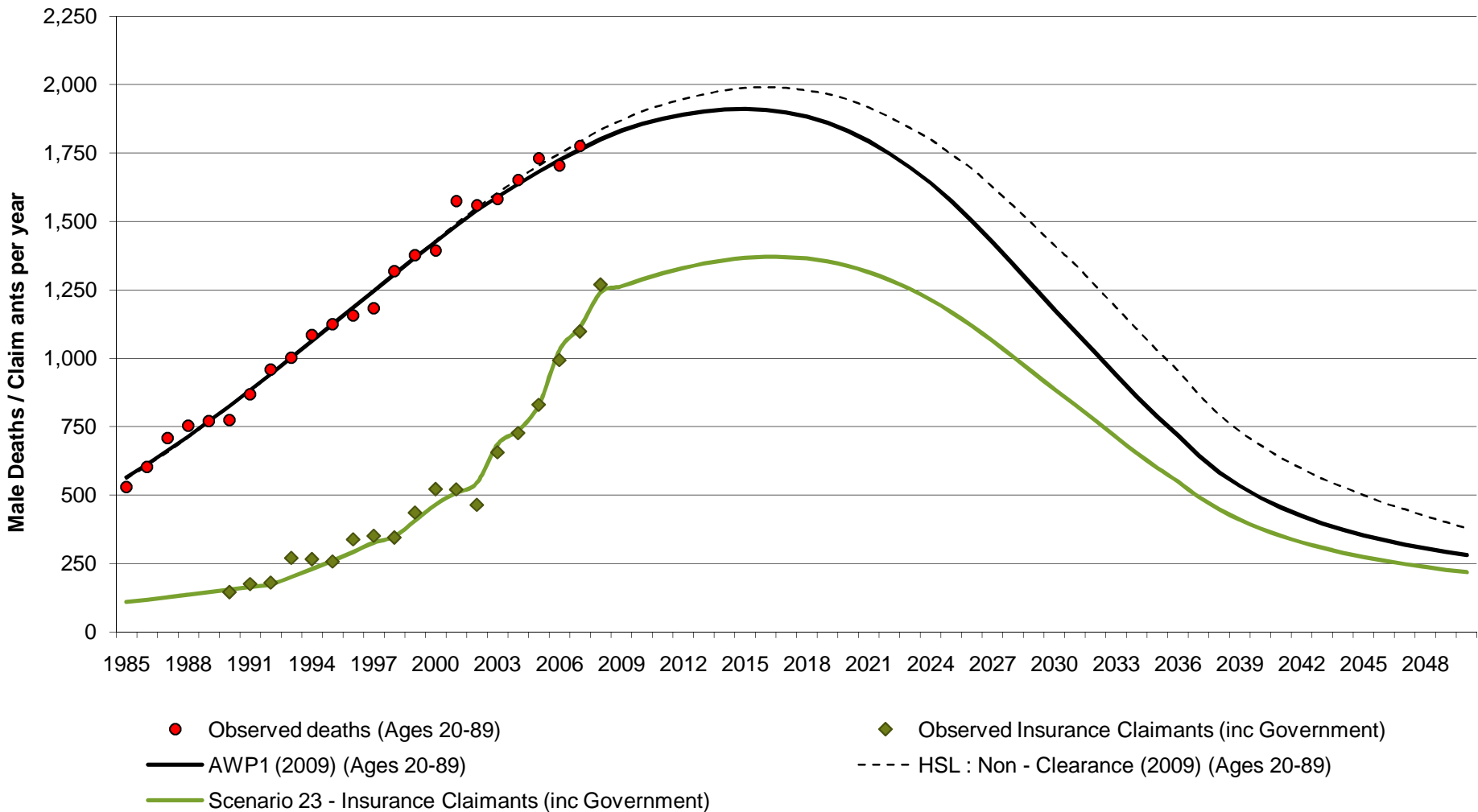
## Total Insurance Market Estimates



# Summary of the Changes in the UK Insurance Market Estimate 2004-2009

	Impact on UK Insurance Market Cost (£bn)
<b>2004 Estimate (2009 to 2040)</b>	<b>4.7</b>
Change due to Projection of Population Mesothelioma Deaths	0.6
Change due to Proportion of Deaths that Result in a Claim	3.7
Change due to Mesothelioma Average Cost	0.7
Change due to Mesothelioma Claims Inflation	(0.6)
Change due to Extension of Projection Period to 2050	1.7
Change due to Non-Mesothelioma Claim Types	0.5
<b>2009 Estimate (2009 to 2050)</b>	<b>11.3</b>

# Mesothelioma Deaths and Claimants



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# Claimants to Deaths Ratios - Mesothelioma only

## Compensation Recovery Unit (CRU)

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- CRU recovers amounts of social security benefits when a compensation payment made
- Responsible for recoveries in England, Scotland and Wales
- Notified of all asbestos-related claims that received compensation (both insurance industry the Government related)
- Data from Freedom of Information request
- Claimants (not claims) basis
- Only one-way grouping of data (i.e. Gender, Claim Status but not both)
- On financial years basis



# Claimants to Deaths Ratios - Mesothelioma only

## CRU - Nil claims

Report Year	Open Claims	Settled Claims	Withdrawn / Unsuccessful	Current Nil rate	Nil (ex Live) rate	Selected
2003	12	707	76	9.6%	9.7%	<b>10.0%</b>
2004	44	759	87	9.8%	10.3%	<b>10.0%</b>
2005	93	829	95	9.4%	10.3%	<b>10.0%</b>
2006	201	937	99	8.0%	9.6%	<b>10.0%</b>
2007	456	853	64	4.7%	7.0%	<b>10.0%</b>
2008	1,016	545	50	3.1%	8.4%	<b>10.0%</b>
<b>Future assumption (2009 onwards)</b>						<b>10.0%</b>

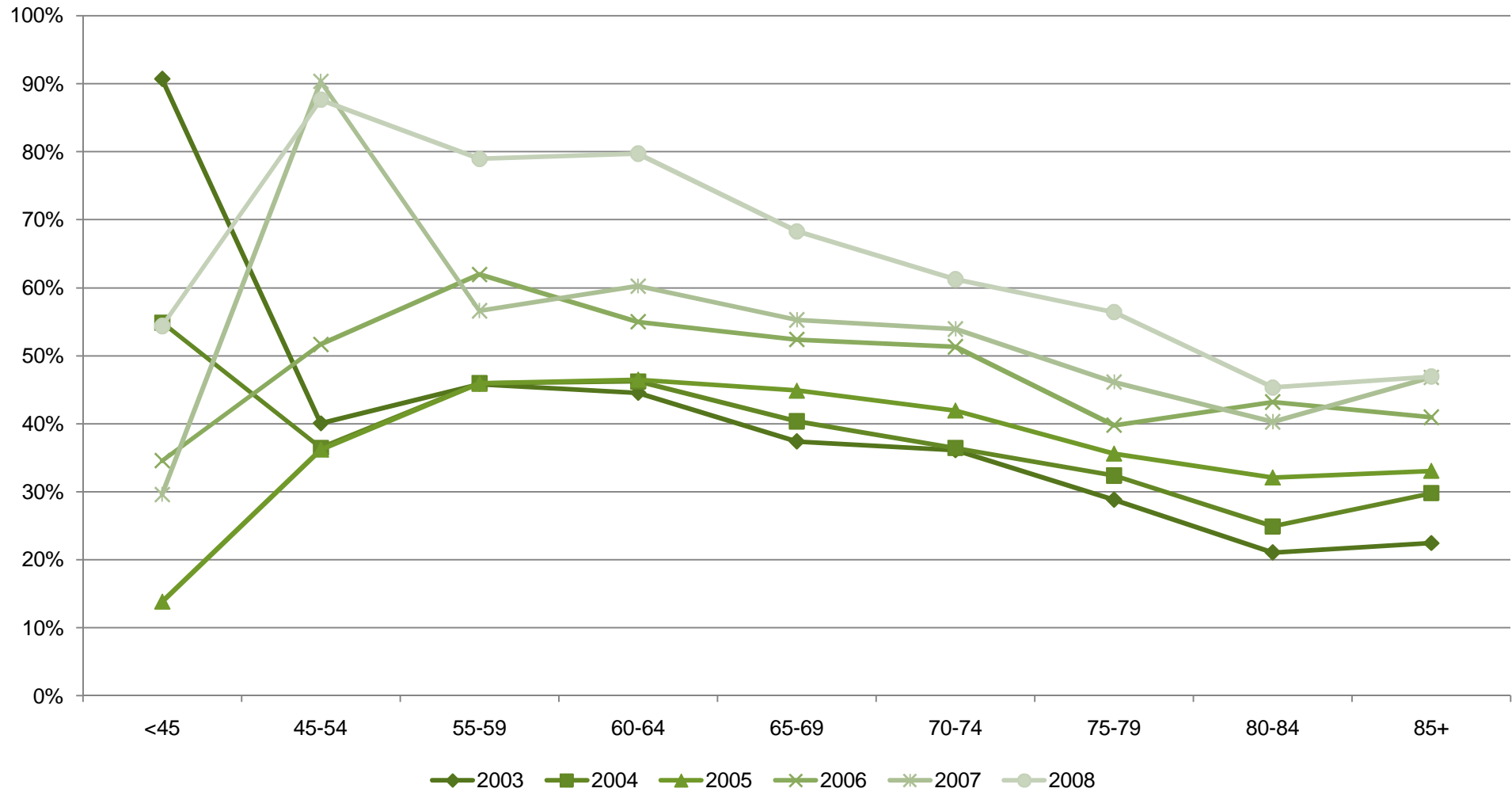
# Claimants to Deaths Ratios - Mesothelioma only

## CRU - Government share

Report Year	Non-State	Government	Mixture	Government (inc Mix) rate	Government (ex Mix) rate	Selected
2003	624	141	30	21.5%	18.4%	<b>20.0%</b>
2004	692	158	40	22.2%	18.6%	<b>20.0%</b>
2005	788	173	57	22.6%	18.0%	<b>20.0%</b>
2006	951	213	73	23.1%	18.3%	<b>20.0%</b>
2007	1,070	236	68	22.1%	18.1%	<b>20.0%</b>
2008	1,305	247	59	19.0%	15.9%	<b>16.0%</b>
<b>Future assumption (2009 onwards)</b>						<b>20.0%</b>

# Claimants to Deaths Ratios - Mesothelioma only

## Claimant Death Ratios - Males only



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# Claimants to Deaths Ratios - Mesothelioma only

## Grossing up CRU

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- Survey data for UK EL Insurance Market
- Need to allow for:
  - Female claimants
  - Claims from Northern Ireland
- Female claimants based on detailed survey data
  - Much lower propensity to make a claim than males
- Northern Ireland mesothelioma deaths from HSENI (The Health and Safety Executive for Northern Ireland)

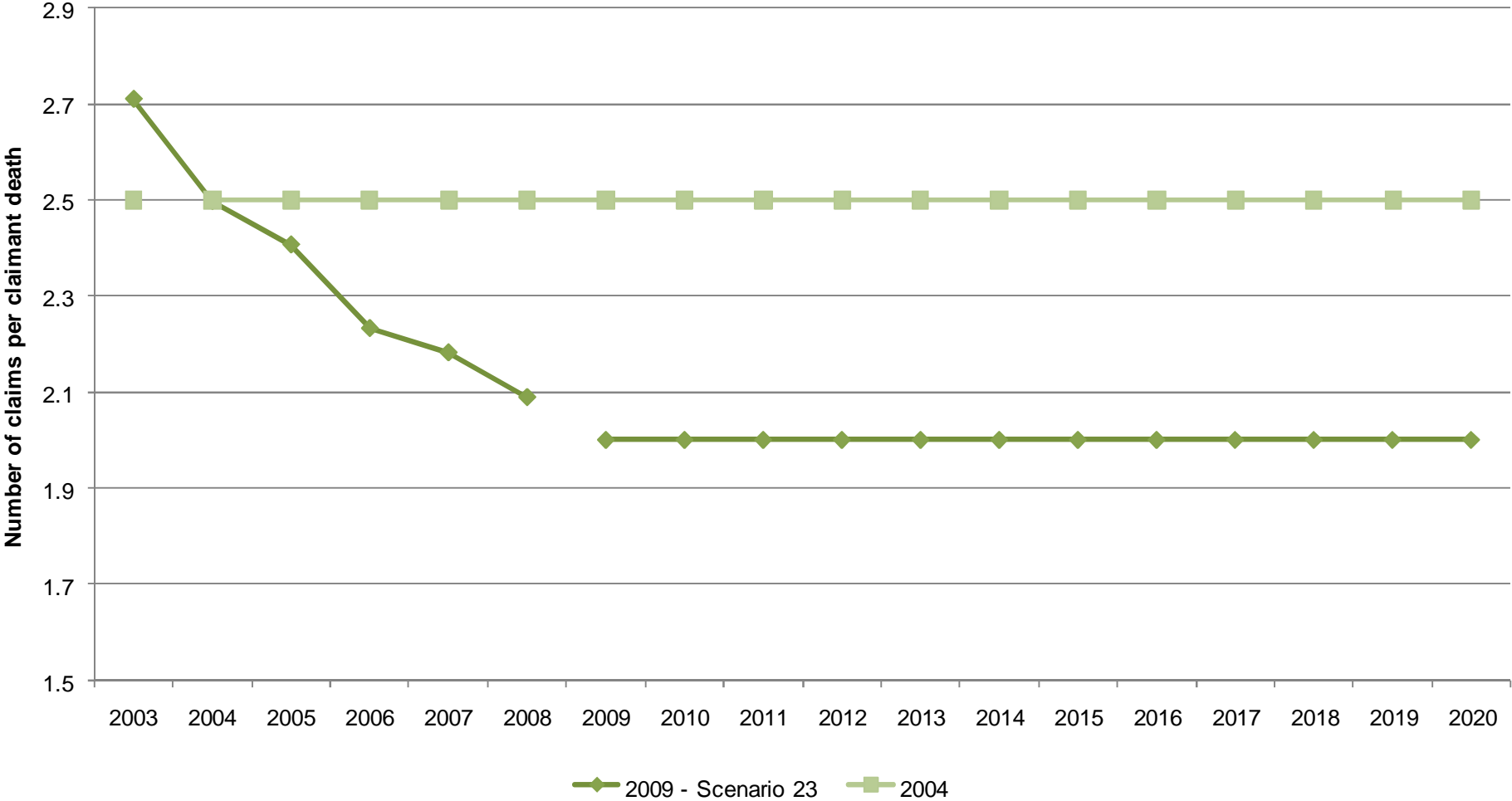
# Claimants to Deaths Ratios - Mesothelioma only

## Claims to Claimant

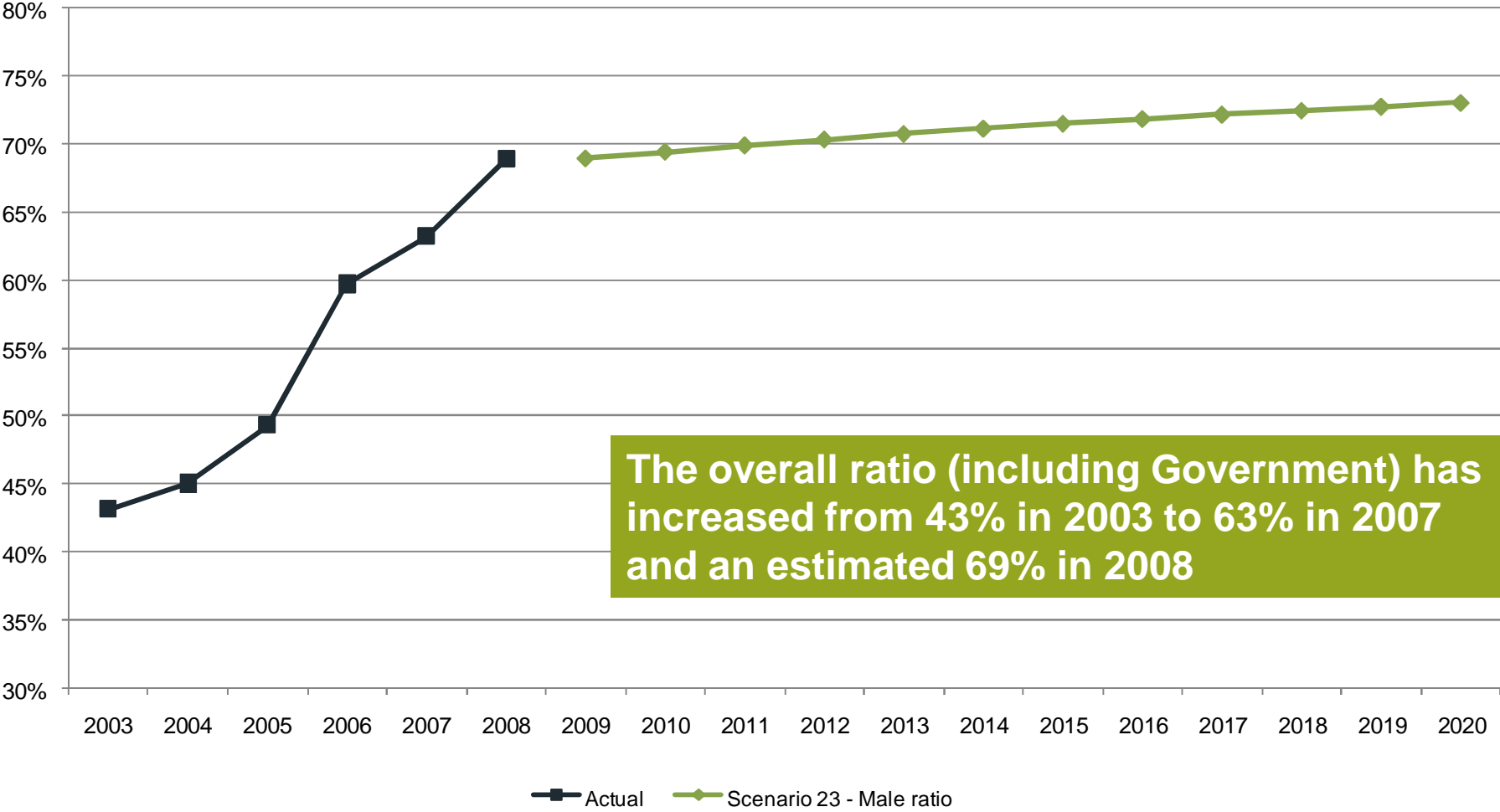
Report Year	UK Insurance Market Claims (ex Nils) <sup>1</sup>	CRU Claimants Male GB (ex Nils and Government)	Female (to Male) percentage	GB Estimated Claimants	Northern Ireland (to GB) percentage	UK Estimated Claimants
2003	1,540	547	0.8%	551	3.1%	568
2004	1,584	605	1.5%	615	3.2%	634
2005	1,723	692	1.1%	700	2.3%	716
2006	1,931	828	1.5%	841	2.9%	865
2007	2,086	915	2.4%	937	2.0%	956
2008	2,411	1,095	3.2%	1,130	2.2%	1,154
<b>Future assumption (2009 onwards)</b>			<b>5.0%</b>		<b>2.3%</b>	

<sup>1</sup> 2009 survey data assuming the survey covered 80% and nil rate of 21%

# Claims per claimant - Mesothelioma only



# Claimant to Death Ratios - Mesothelioma only



The overall ratio (including Government) has increased from 43% in 2003 to 63% in 2007 and an estimated 69% in 2008

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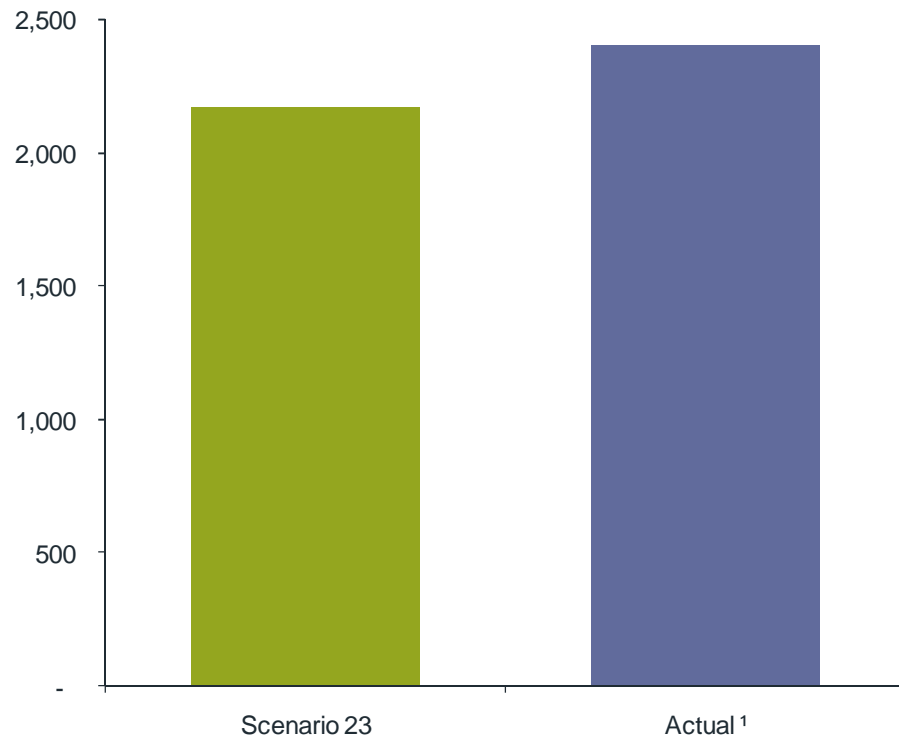
# Experience since 2008



# Actual vs. Projected Experience 2009

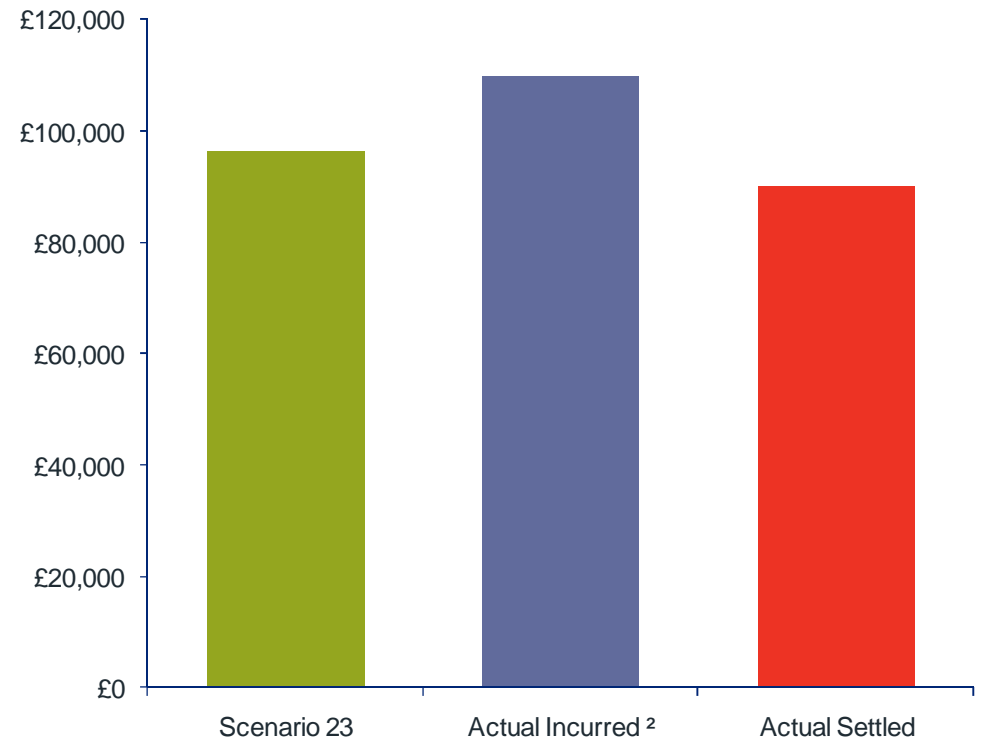
## Mesothelioma

### Number of Claims (excludes nils)



<sup>1</sup> 2010 survey data assuming the survey covered 80% and nil rate of 21%

### Average Claim Size (£) (excludes nils)

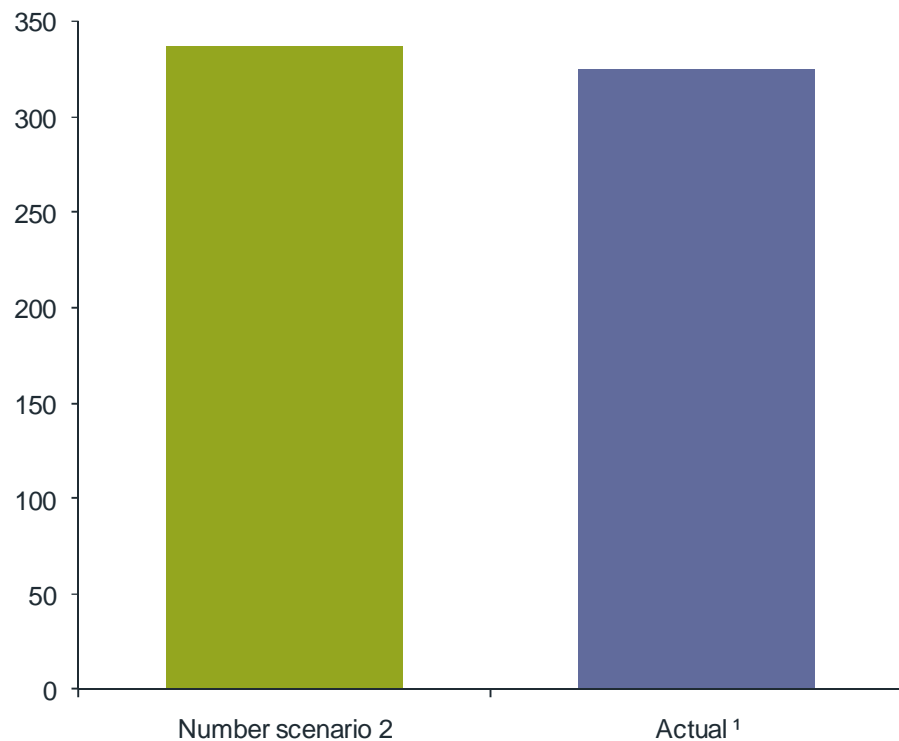


<sup>2</sup> Assuming nil claims rate of 21%

# Actual vs. Projected Experience 2009

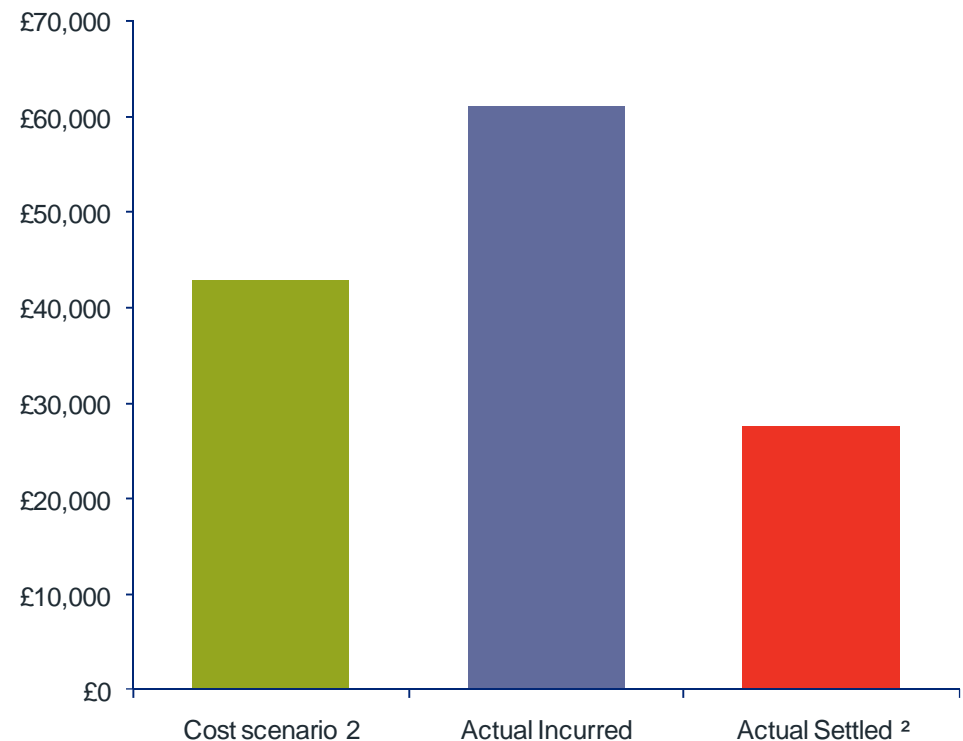
## Lung Cancer

### Number of Claims (includes nils)



<sup>1</sup> 2010 survey data assuming the survey covered 80%

### Average Claim Size (£) (includes nils)

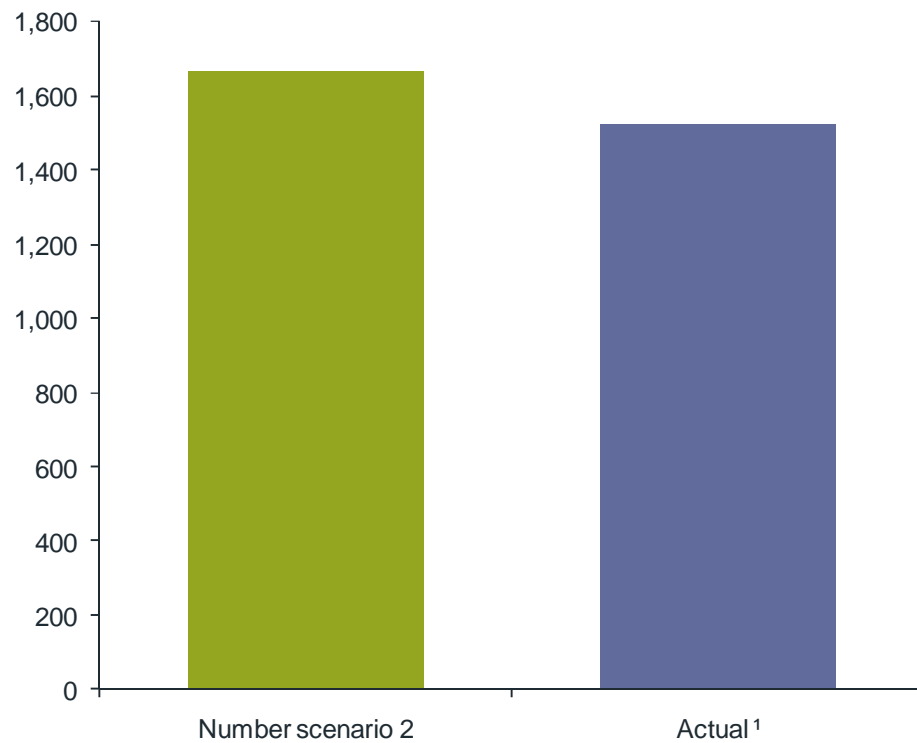


<sup>2</sup> Assuming nil claims rate of 33%

# Actual vs. Projected Experience 2009

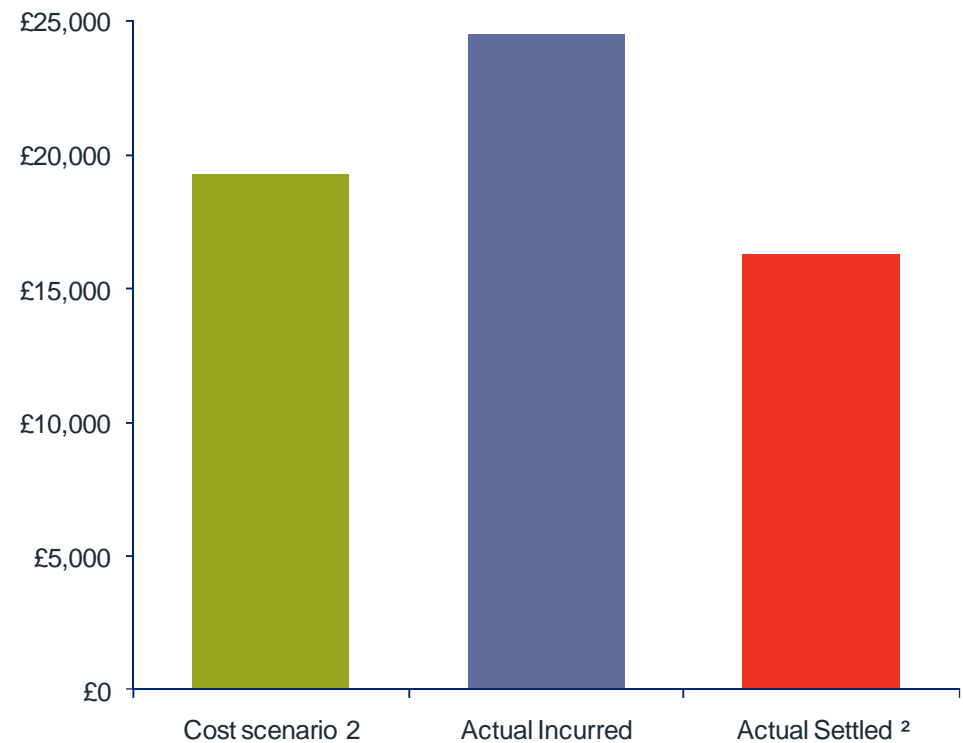
## Asbestosis

### Number of Claims (includes nils)



<sup>1</sup> 2010 survey data assuming the survey covered 80%

### Average Claim Size (£) (includes nils)

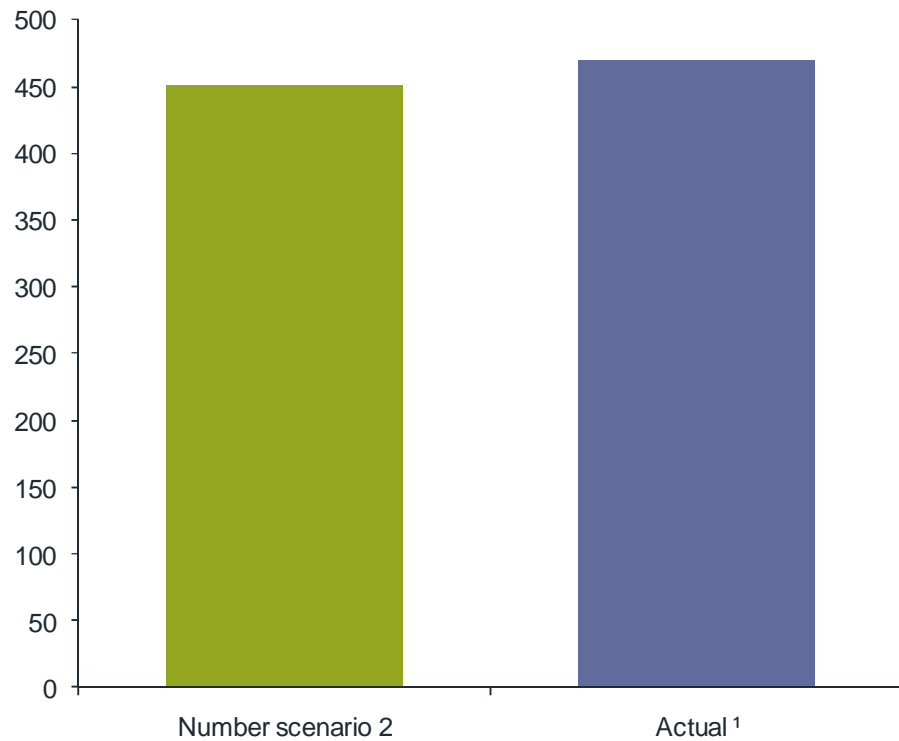


<sup>2</sup> Assuming nil claims rate of 33%

# Actual vs. Projected Experience 2009

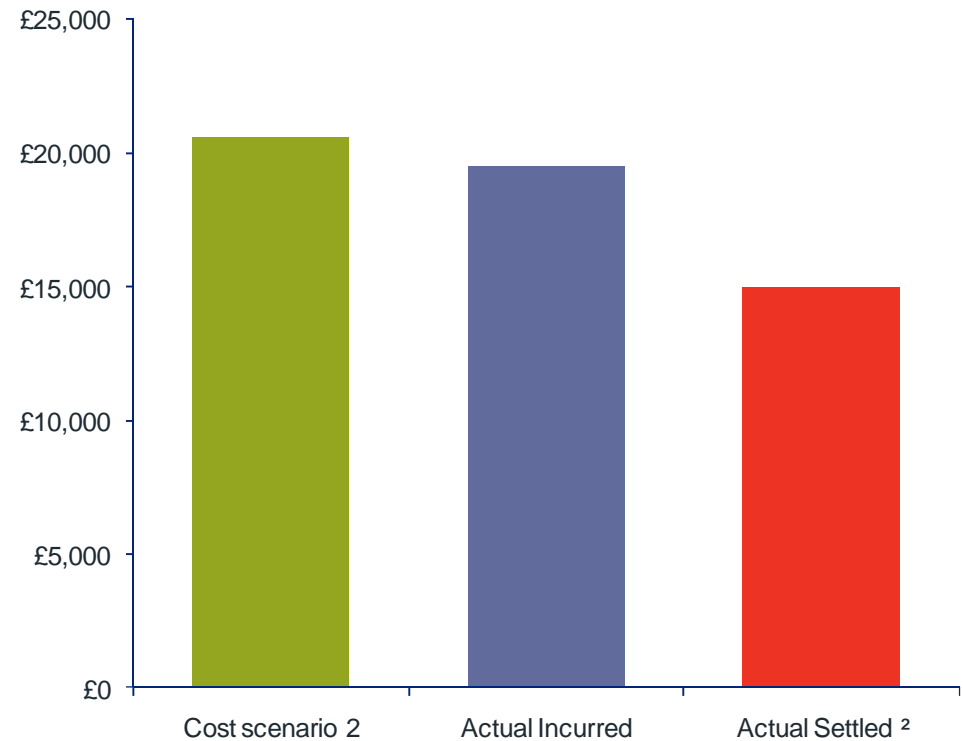
## Pleural Thickening

### Number of Claims (includes nils)



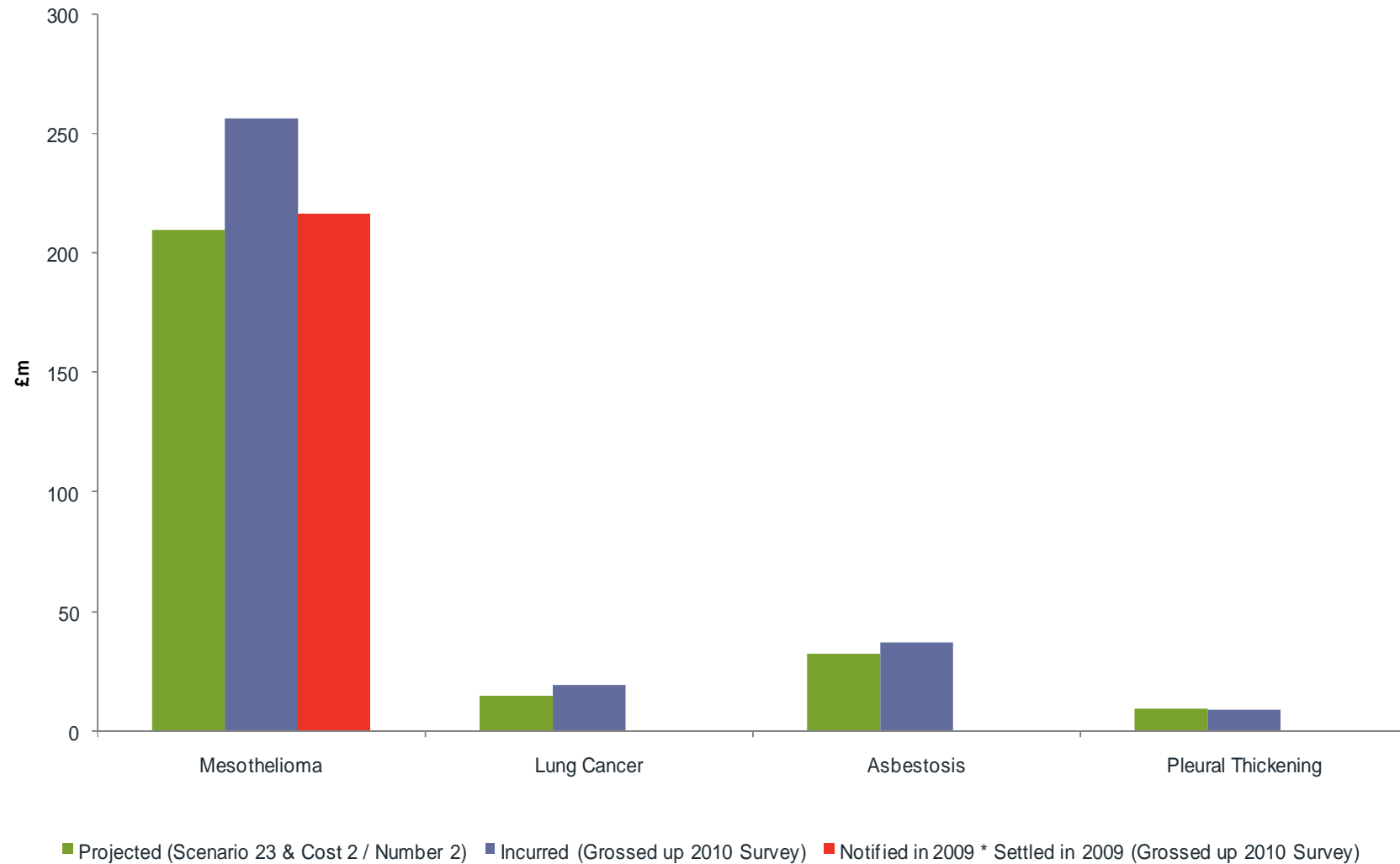
<sup>1</sup> 2010 survey data assuming the survey covered 80%

### Average Claim Size (£) (includes nils)



<sup>2</sup> Assuming nil claims rate of 35%

# Actual vs. Projected Experience 2009



# Claimants to Deaths Ratios - Mesothelioma only

## CRU - Nil claims

Report Year	Open Claims	Settled Claims	Withdrawn / Unsuccessful	Current Nil rate	Nil (ex Live) rate	Selected
2003	7	712	78	9.8%	9.9%	<b>10.0%</b>
2004	22	776	93	10.4%	10.7%	<b>10.0%</b>
2005	41	871	107	10.5%	11.0%	<b>10.0%</b>
2006	86	1,031	123	9.9%	10.7%	<b>10.0%</b>
2007	188	1,073	115	8.3%	9.7%	<b>10.0%</b>
2008	449	1,011	150	9.3%	12.9%	<b>10.0%</b>
2009	916	566	76	4.9%	11.9%	<b>10.0%</b>

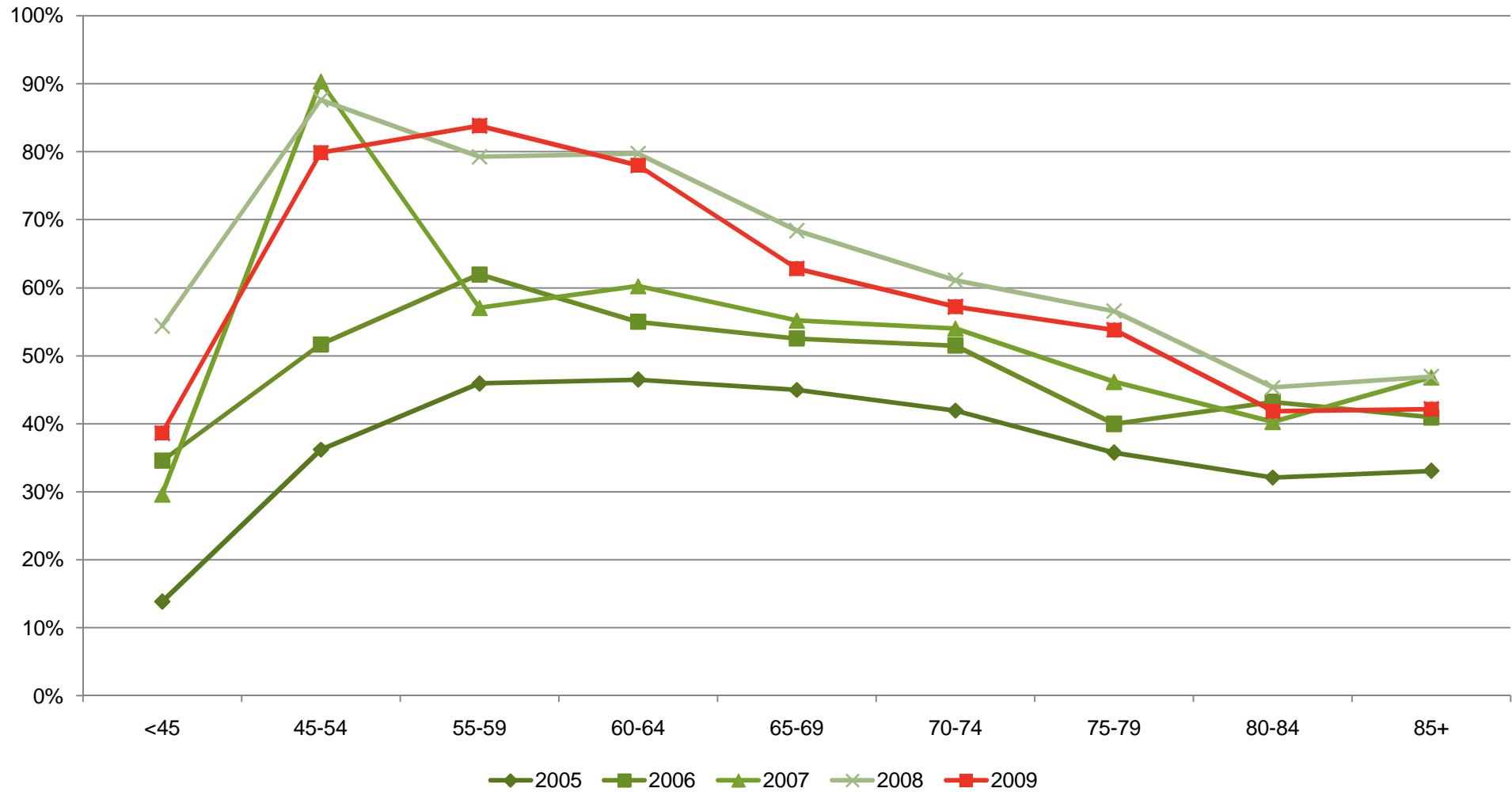
# Claimants to Deaths Ratios - Mesothelioma only

## CRU - Government share

Report Year	Non-State	Government	Mixture	Current Government rate	Government (ex Mix) rate	Selected
2003	622	142	32	21.8%	18.6%	<b>20.0%</b>
2004	689	160	43	22.7%	18.8%	<b>20.0%</b>
2005	786	175	59	22.9%	18.2%	<b>20.0%</b>
2006	947	217	76	23.6%	18.6%	<b>20.0%</b>
2007	1,069	233	73	22.3%	17.9%	<b>20.0%</b>
2008	1,298	241	71	19.4%	15.7%	<b>16.0%</b>
2009	1,250	242	66	19.8%	16.2%	<b>18.0%</b>

# Claimants to Deaths Ratios - Mesothelioma only

## Claimant Death Ratios - Males only





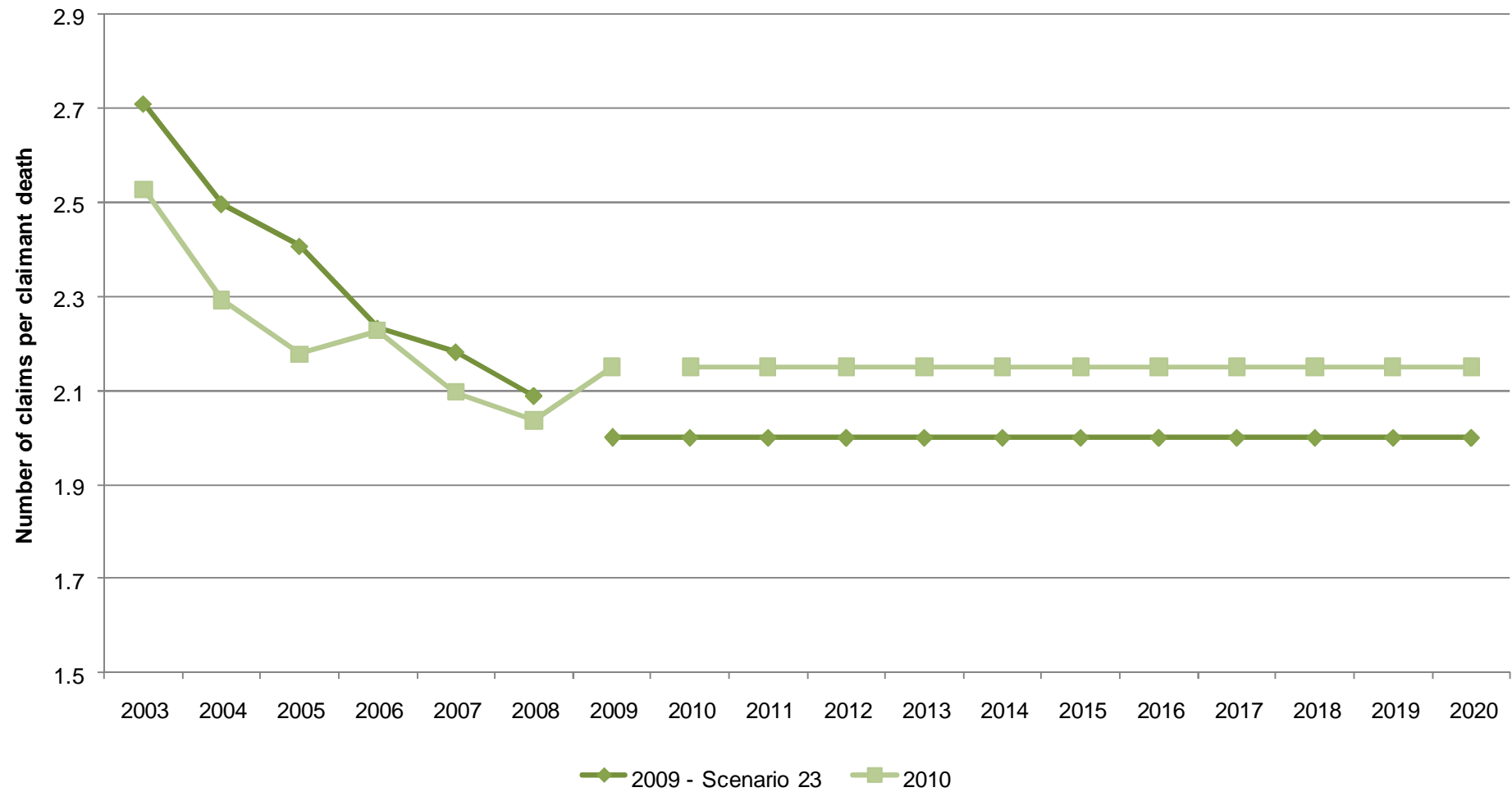
# Claimants to Deaths Ratios - Mesothelioma only

## Claims to Claimant

Report Year	UK Insurance Market Claims (ex Nils) <sup>1</sup>	CRU Claimants Male GB (ex Nils and Government)	Female (to Male) percentage	GB Estimated Claimants	Northern Ireland (to GB) percentage	UK Estimated Claimants
2003	1,438	547	0.8%	552	3.1%	569
2004	1,465	609	1.5%	619	3.2%	639
2005	1,561	693	1.1%	701	2.3%	717
2006	1,931	830	1.5%	842	2.9%	867
2007	2,006	916	2.4%	938	2.0%	957
2008	2,353	1,095	3.2%	1,130	2.2%	1,155
2009	2,402	1,040	5.0%	1,092	2.2%	1,117

<sup>1</sup> 2010 survey data assuming the market survey covered 80% and nil rate of 21%

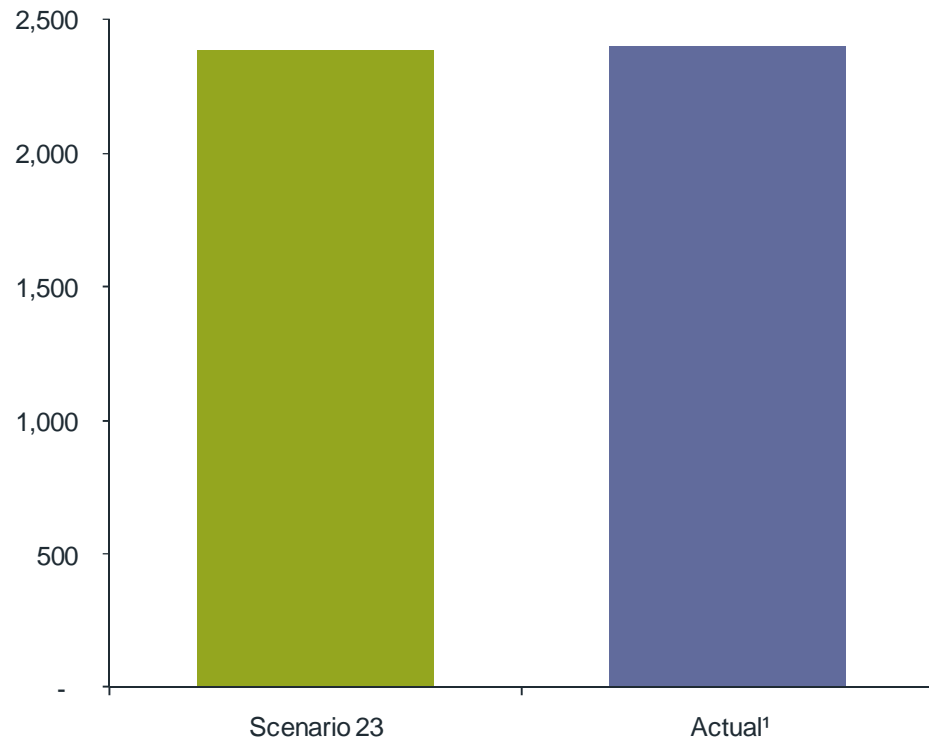
# Claims per claimant - Mesothelioma only



# Actual vs. Projected Experience 2009

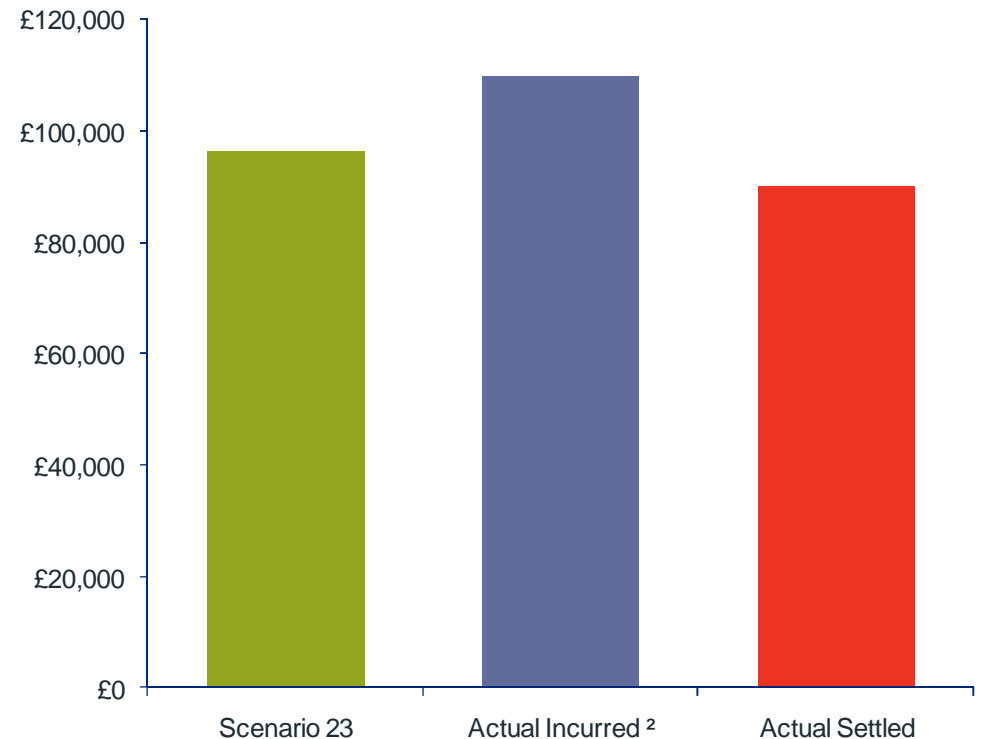
## Mesothelioma - Allowing for Claim to Claimant

### Number of Claims (excludes nils)



<sup>1</sup> 2010 survey data assuming the survey covered 80% and nil rate of 21%

### Average Claim Size (£) (excludes nils)



<sup>2</sup> Assuming nil claims rate of 21%

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# Legal and Other Developments

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# Legal and Other Developments

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- What the HSE is doing
- ELTO/ELIB and the issue of tracing
- Pleural Plaques
- Trigger Litigation

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# What is the HSE doing

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- HSE/HSL models key components of our 2004 and 2009 projections
- December 2010 report
  - Fit female mortality data using previous statistical model
  - Develop alternative models
    - Alternative statistical model
    - Two Stage Clonal Expansion model

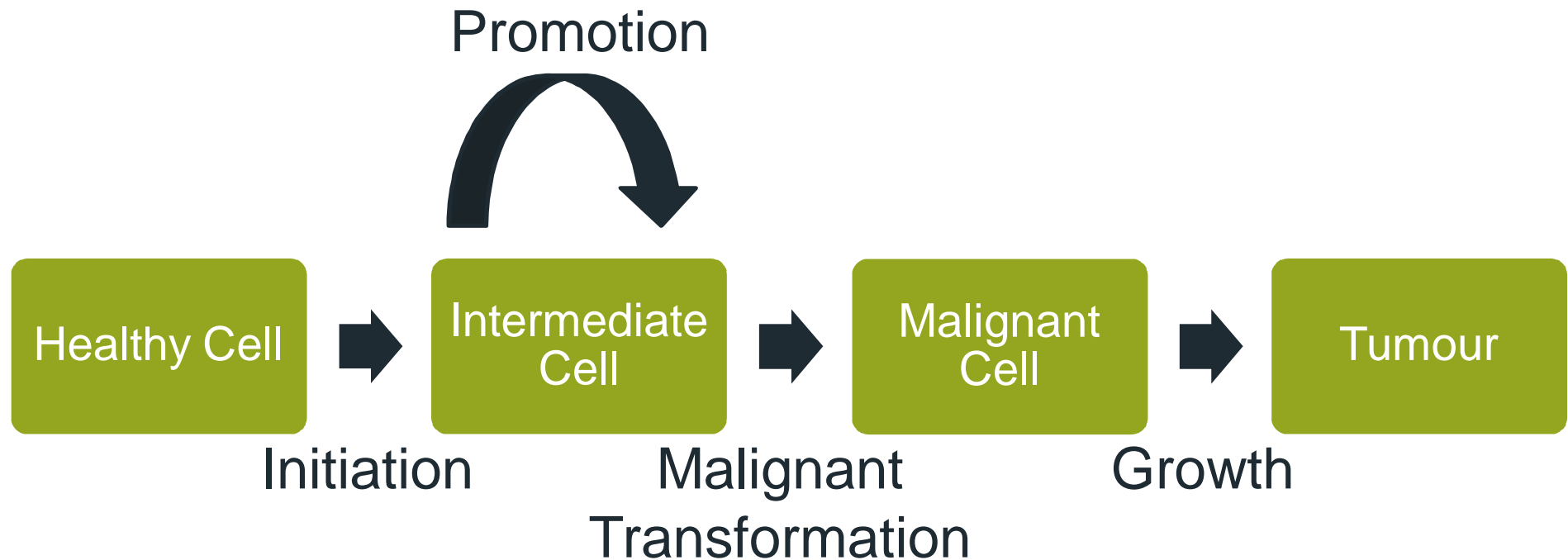
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# Two-Stage Clonal Expansion (TSCE) Model

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- First proposed by Moolgavkar and Kudson in 1981
- Motivated by biological considerations
- Two events:
  - Activation of genes that stimulate cell proliferation
  - The deactivation of tumour suppressor genes (genes that keep proliferation in check)

# Two-Stage Clonal Expansion (TSCE) Model





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# Employers' Liability Tracing Office (ELTO)

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- ELCOP launched in 1999 as a voluntary code of practice
- ELTO to include centralised database of EL policies
  - New and renewed EL policies
  - Old EL policies identified as a result of successful historical traces
- ABI launched ELTO in April 2010
  - Most EL insurers have signed up (voluntary)
  - Run by Tracing Service Ltd, a subsidiary of Motor Insurance Bureau

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# Employers' Liability Insurance Bureau (ELIB)

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- Proposed fund of last resort for those unable to trace a former employer or insurer
- Main Issues:
  - Funding
  - Compensation
  - Types of Claims Covered
  - Determining valid claims

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# Employers' Liability Insurance Bureau (ELIB)

## DWP estimated costs

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- All claims
  - Estimated cost of £20.0m per annum
  - 3,210 untraced claimants each year for next 10 years
- Mesothelioma claims
  - Estimated cost of £11.6m per annum
  - 387 untraced claimants each year for next 10 years
- Compensation based on success rate for current civil cases (76%)

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# Employers' Liability Insurance Bureau (ELIB)

## AWP estimated costs

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- Five Projections (all mesothelioma only)
  - 1) Future claims compensated by the insurance/government
  - 2) Uncompensated sufferers including non-occupational exposure
  - 3) Uncompensated sufferers excluding non-occupational exposure
  - 4) Total cost compensated by the ELIB
  - 5) 10 year breakdown of the fourth projection
- Key assumptions
  - 13% of male deaths due to non-occupational exposure
  - Introduction of ELIB will not increase number of sufferers attempting to trace

# Employers Liability Insurance Bureau (ELIB)

## AWP estimated costs – 10 Year Projection

Year	Projected Number of Claimants	RPI Inflation		
		1.50%	2.50%	3.50%
2011	148	£29m	£30m	£32m
2012	148	£29m	£31m	£33m
2013	147	£29m	£32m	£34m
2014	146	£30m	£32m	£35m
2015	145	£30m	£33m	£36m
2016	143	£30m	£34m	£37m
2017	141	£30m	£34m	£38m
2018	139	£30m	£34m	£39m
2019	136	£30m	£35m	£40m
2020	132	£30m	£35m	£40m
<b>Total</b>	<b>1,425</b>	<b>£299m</b>	<b>£331m</b>	<b>£366m</b>
<b>Discounted</b>	<b>1,425</b>	<b>£246m</b>	<b>£272m</b>	<b>£300m</b>

# Pleural plaques

## House of Lords ruled pleural plaques were not compensable (Oct 2007)

### Scotland

- Scottish Parliament introduced a bill to reverse the House of Lords ruling in Scotland - in force from June 2009
- Insurers' appeal was heard in July 2010, with decision expected at the end of the year

### England and Wales

- Government announced it will not be legislating to make PP claims compensable
- Extra-statutory Payments of £5,000 for unresolved cases

### Northern Ireland

- Currently not compensable
- Consultation paper published by Dept of Finance and Personnel (NI) Oct 2008
- DFPNI recommend legislation to allow PP claims

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# Employers' Liability 'Trigger Litigation'

## Background

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- Seeking to clarify what triggers a policy to pay a claim to victims of mesothelioma
- Bolton Metropolitan Borough Council v MMI and CU
  - Public liability policies
  - “Injury occurring” wording
- Durham v BAI (run-off) and others (“Trigger Litigation”)
  - Employers liability policies
  - “Injury ‘sustained’ or disease contracted” wording

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# Employers' Liability 'Trigger Litigation'

## Court of Appeal Judgement

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- Court of Appeal judges took divergent approaches
- Following principles emerge
  - “Sustained” wording – policy responds when tumour starts to develop
  - “Contracted” wording – synonymous with caused, policy responds to exposure
  - Policies post 1972 (when EL became compulsory) will meet mesothelioma claims based on date of inhalation
- Leave to appeal to the Supreme Court was granted
  - Recommended that this appeal be expedited



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# Key points and Next steps

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## Key points

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- Given one year experience little cause for changes
- Number of claims and costs in-line with estimates
- Claim to claimant ratio is approximately 2.2 compared to the 2.0 assumed
- Is the Government share 20% in the future?
- Expected TSCE HSE/HSL projections for year-end
- EL trigger – Still uncertain

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# What will the AWP do now?

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- Discuss TSCE model with HSE/HSL
- Continue to collect market data on a yearly basis
  - Next due for March 2011

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## Questions or comments?

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Expressions of individual views by members of The Actuarial Profession and its staff are encouraged.

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

