Introduction

• Working party objectives

• Key facts

• What is the issue?

• Main trends

• What does a Reserving Actuary need to know?

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
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.

The issue – claim notifications

Impact of 1989 regulations and recession
Test Litigation, Textile Industry targeted
CFAs introduced April 2000
Rise of CMCs and further recession
Economy recovers, trade union influence reduces
LASPO EL/PL Portal
Unemployment Influence

Claims Management Companies Influence
Claimant Solicitor Influence Post 2008 #1

Claimant Solicitor Influence Post 2008 #2
Key Legal and Market Influences

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

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.
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.

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.
Other Trends from Data Collection #1

Claim Numbers by Notification Year

- Total number of claims by NY
- Number of non-nil claims by NY
- Number of nil claims by NY
- Number of open claims by NY
- Number of Companies in NY survey (RHS)

Other Trends from Data Collection #2

Claim Numbers by Settlement Year

- Total Number of Claims Settled
- Number of Claims Settled at Cost
- Number of Claims Settled at Nil
- Number of Companies in SY survey (RHS)
Other Trends from Data Collection #3

ACPC by Year of Birth

Other Trends from Data Collection #4

ACPC by Exposure Year
Other Trends from Data Collection #5

Reserving Methods

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

this many claims

denials

limitation

liability

causation

this many settlements

letter of claim

employment details

medical report

settlement

claims go away

Claims Volumes

<table>
<thead>
<tr>
<th>Impact on data</th>
<th>Projecting forward</th>
</tr>
</thead>
<tbody>
<tr>
<td>Demographics/epidemiology</td>
<td>Likely to be gradual but important to establish 'underlying' claims level</td>
</tr>
<tr>
<td>Economic conditions</td>
<td>Relationship between past trends and economic conditions</td>
</tr>
<tr>
<td>Noise at work regulations/rulings</td>
<td>Exposure v changes, by industry?</td>
</tr>
<tr>
<td>CMC/Solicitor activity/LASPO/ELTO</td>
<td>Solicitor mix? Pre/post-LASPO?</td>
</tr>
<tr>
<td>Portal</td>
<td>Volume change on portal date</td>
</tr>
<tr>
<td>Business mix/exposure/volume</td>
<td>Likely to be gradual but specific policyholders, specific causes?</td>
</tr>
<tr>
<td>Claims handing practices</td>
<td>Outsourcing, changes in registration, bordereaux files etc</td>
</tr>
</tbody>
</table>
### Nil Rates

<table>
<thead>
<tr>
<th>Impact on data</th>
<th>Projecting forward</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Demographics/epidemiology</strong></td>
<td></td>
</tr>
<tr>
<td>Economic conditions</td>
<td>More speculative claims?</td>
</tr>
<tr>
<td>Noise at work regulations/rulings</td>
<td>Claim ‘quality’ can vary. Little post LASPO data to analyse?</td>
</tr>
<tr>
<td>CMC/Solicitor activity/LASPO/ELTO</td>
<td>Nil rate measure are distorted by changing claims volumes</td>
</tr>
<tr>
<td><strong>Portal</strong></td>
<td></td>
</tr>
<tr>
<td>Business mix/exposure/volume</td>
<td>Closure protocols, Coles, denial strategies</td>
</tr>
<tr>
<td>Claims handling practices</td>
<td></td>
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</tbody>
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### Average Cost

<table>
<thead>
<tr>
<th>Impact on data</th>
<th>Projecting forward</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Paid/incurred data</strong></td>
<td></td>
</tr>
<tr>
<td>How are claims reserved, e.g. on denial</td>
<td>Incurred is lead indicator but need to allow for IBNER</td>
</tr>
<tr>
<td>Damages/costs</td>
<td>Does data allow this split? How are outsourcing costs logged?</td>
</tr>
<tr>
<td>Share</td>
<td>Has the average share been changing?</td>
</tr>
<tr>
<td>CMC/Solicitor activity/LASPO/ELTO</td>
<td>Is there sufficient history to analyse?</td>
</tr>
<tr>
<td><strong>Portal</strong></td>
<td></td>
</tr>
<tr>
<td>Fixed costs</td>
<td></td>
</tr>
<tr>
<td><strong>Inflation</strong></td>
<td>Underlying rate. Costs v damages</td>
</tr>
<tr>
<td><strong>Other</strong></td>
<td>PADs. Bordereaux files. Heads of damage. Specific policyholders, issues</td>
</tr>
</tbody>
</table>
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.

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.