



The Actuarial Profession

making financial sense of the future

The 2007 GIRO Conference UK Asbestos Working Party II

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2-5 October 2007, Celtic Manor, Wales

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Terms of Reference

- Facilitate a more detailed data collection exercise
- Workshop presentation of recent trends for GIRO 2007
- Develop relationship with HSE
- Review of recent legal developments
- Develop relationship with DWP and Government
- Update insurance industry projections
- Summary paper of developments and implications for GIRO 2008

What has been achieved so far?

- Review of recent legal developments
- Development of relationship with the HSE
- Summary data collection completed
- Initial analysis of data collected and other relevant statistics

Caveats

- Today's presentation is very much work in progress
- Time has only allowed an initial review of the summary data collected
- Key trends have been identified for discussion, but...
- No conclusions can currently be made in relation to the AWP 2004 estimates
- Areas for further investigation have been identified

Asbestos Working Party 2004 Summary

- Cost of claims notified to end of 2003 £1.3b (£0.7b meso, £0.6b non-meso)
- Estimated future UK Insurance cost due to asbestos related claims £4-10b
- Central estimate of £6b (£4.4b meso, £1.6b non-meso)
- This was broken down as follows:

<u>Disease type</u>	<u>Number of claims</u>	<u>Cost of claims</u>
Pleural plaques/thickening	63,000	£0.8b
Asbestosis	30,000	£0.7b
Lung cancers	2,000	£0.1b
<u>Mesothelioma</u>	<u>43,000</u>	<u>£4.4b</u>
Total	138,000	£6.0b

Pleural Plaques

- High Court (February 2005)
 - Brought by Insurers and DTI who argued pleural plaques should not be categorised as an illness or disease
 - Judge found in favour of claimants
 - Argued although don't cause any physical harm, they do cause anxiety
 - Reduced levels of compensation
 - Reduced incentive for full and final settlement
- Overturned by Court of Appeal January 2006 (2 to 1)
 - Pleural Plaques do not amount to a compensatable injury
 - But clear statements made on general level of award of damages
 - Judges who decided not recoverable agreed with other's (higher) view on compensation
- Appeal to the House of Lords was heard end of June 2007
 - Judgement expected later this month (October 2007)
- Hindson – High Court (January 2007)
 - Higher award due to younger age and greater risk
 - Either: “Last man compensated or flag raiser for other victims”

Barker v Corus & Compensation Act

- House of Lords (May 2006)
 - Where employee exposed to dust by several employers need to seek proportionate share of compensation from each
 - Significant public outcry against decision
 - Effectively Overturns Fairchild (May 2002)
- Government agreed to address via Compensation Act (25 July 2006)
 - “Exceptional Step in Exceptional Circumstances”
 - Those suffering from Mesothelioma due to another’s negligence can receive full compensation from “any responsible person”
 - That person can recover contributions from other “responsible persons”
 - Effectively reinstates post Fairchild position
 - Insurers unable to recover uninsured/unknown periods of insurance
- Subsequent changes to FSCS
 - Previously FSCS could not contribute where claim settled in full by third party
- Intended changes to Pneumoconiosis Act
 - DWP intends to make Government payments recoverable against any party who subsequently compensates sufferer
 - Driven by desire to ensure Act payments available to all
 - Likely in 2008

Bolton MBC v MMI & CU – Public Liability

- High Court (May 2005)
- Court of Appeal (February 2006)
 - Mr Green worked for a sub-contractor carrying out demolition work on BMBC site between 1960 and 1963 where exposed to asbestos
 - Mesothelioma diagnosed 1991
 - BMBC purchased PL Cover from CU 1960-1965; MMI 1979-1991
 - Ruled that MMI liable based on wording of PL policy
 - “bodily injury or illness which occurs during currency of policy”
 - Ruled that injury did not occur during exposure but at manifestation of disease

Employers' Liability Insurance

- Following BMBC v MMI some Insurers have reviewed EL wordings
 - “Injury occurring”
 - “Injury sustained”
 - “Injury caused”

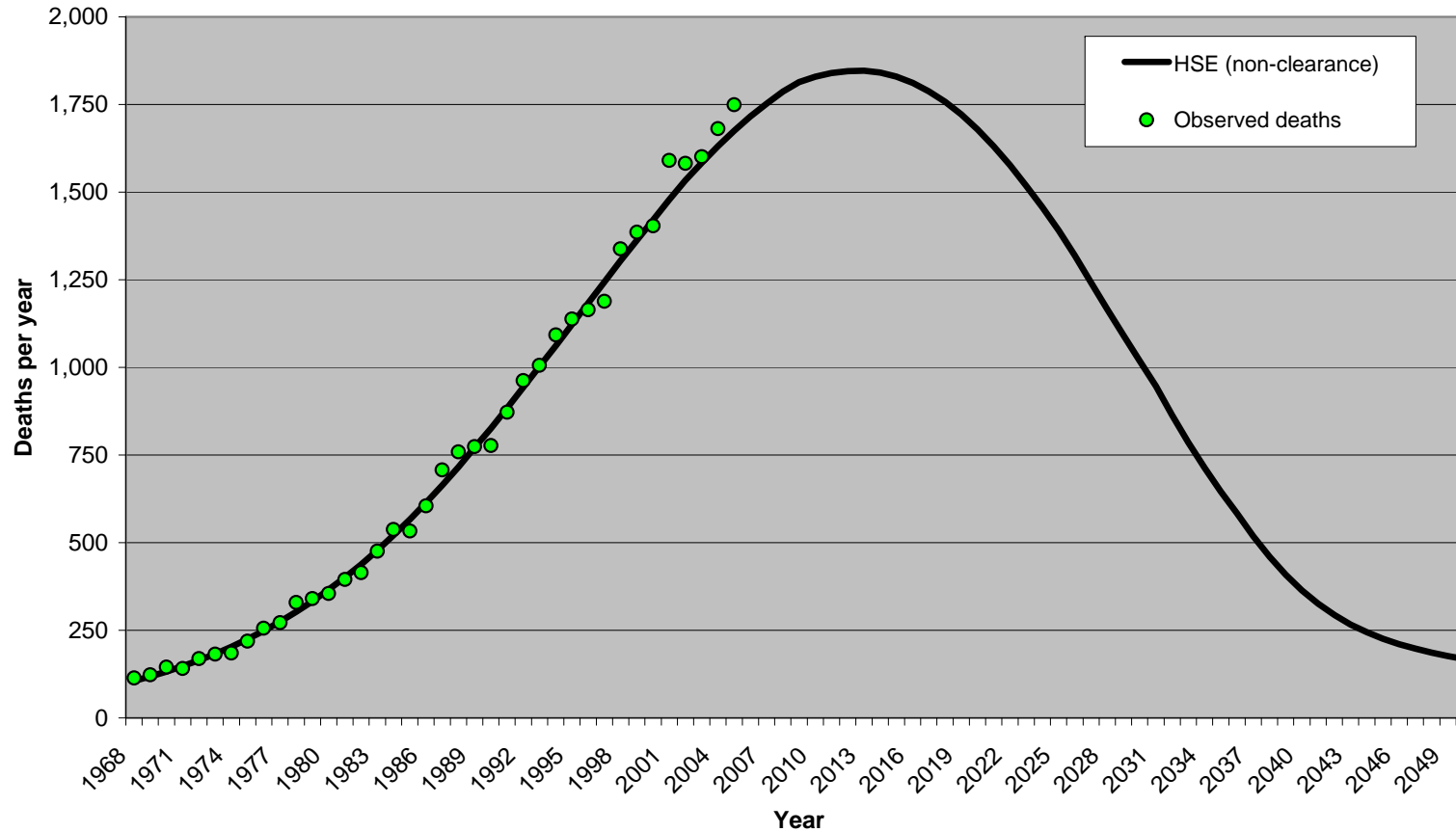
- First test cases have been submitted for consideration to High Court in 2008

HSE update

- Case Control Study run by Julian Peto
 - Results based on full occupational histories
 - Potential for results to alter HSE model projections
- Lung asbestos burden analyses
 - Electron microscopy of lungs from mesothelioma cases lung cancer controls plus younger workers without heavy past exposures
 - Determine whether evidence for continuing asbestos exposure, particularly in construction industry.
 - Three years before complete
- Further update to HSE mesothelioma projections may need to consider:
 - Incorporating “background” mesothelioma deaths – 50 to 100 a year
 - Possible effects of exposure early and later on in life
 - Confidence intervals, based on MCMC – however, not this year
- HSE are also in process of assessing what can reliably be said about risks due to low level asbestos exposure

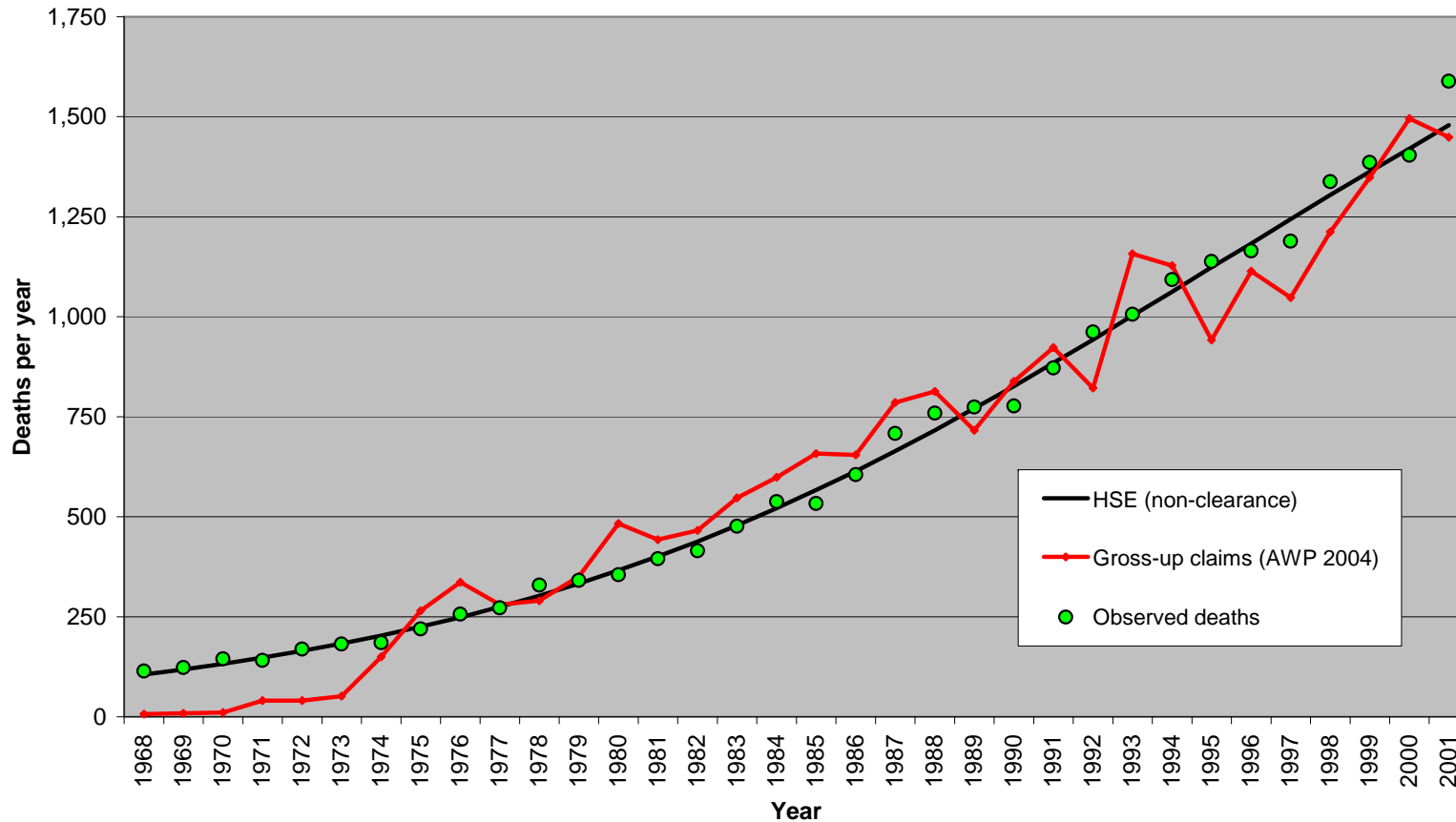
HSE projection (2001) vs. 2005 deaths

Male mesothelioma deaths



AWP 2004 – Mesothelioma claims

Modelled male mesothelioma deaths and claims

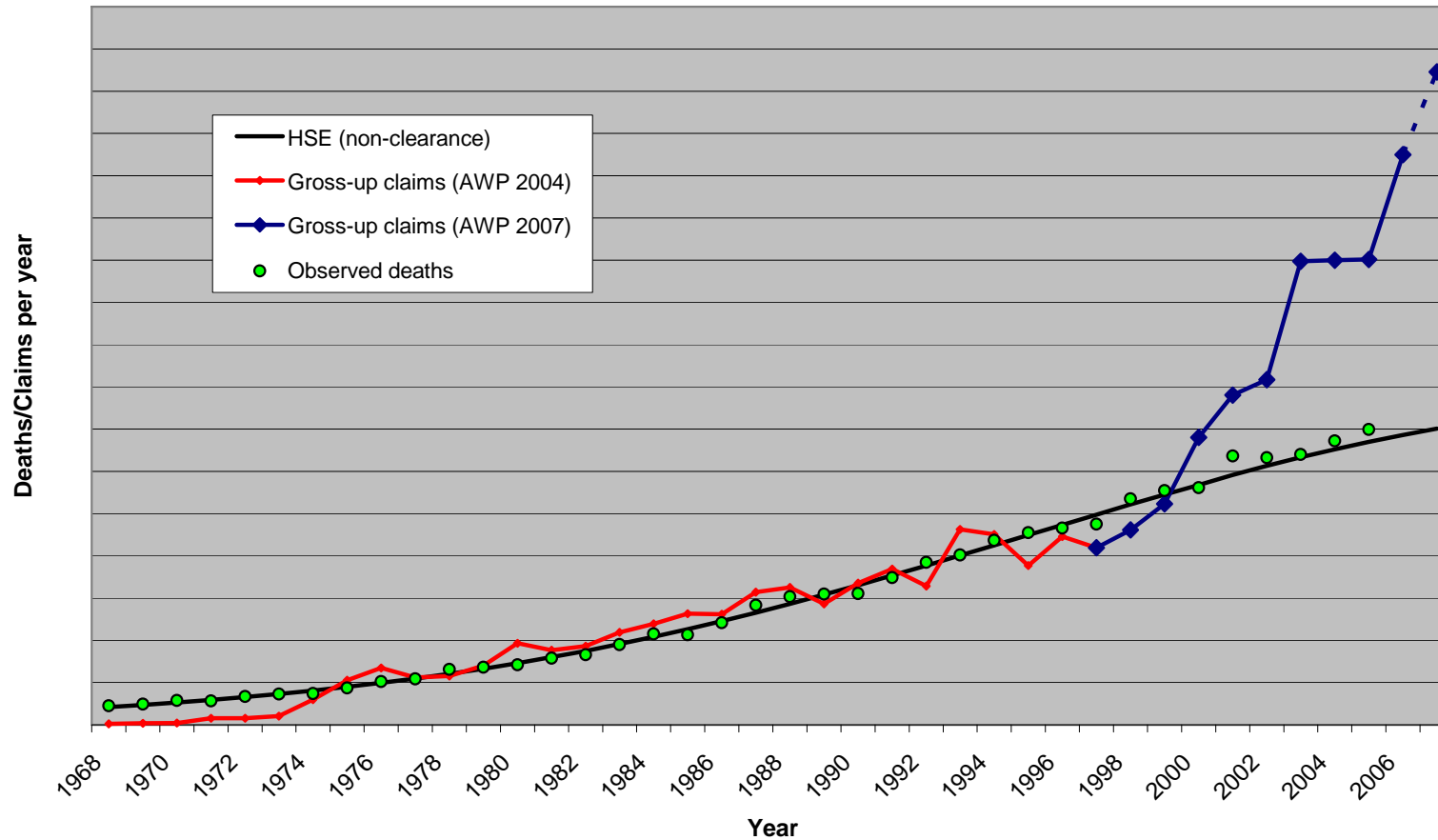


AWP 2004 – Headlines & assumptions

- Mesothelioma projections very uncertain
 - HSE model used to project future claims
 - Future numbers very dependent on the over 80's
 - Assumed each case has claims with around 2.5 companies - only about a third of people are making insurance claims
- Lung cancer numbers based on HSE model / judgement
- Asbestosis numbers peaking?
 - Numbers based on exposure / latency model
- Pleural plaques based on judgement

AWP 2007 – Mesothelioma claims

Modelled male mesothelioma deaths and claims

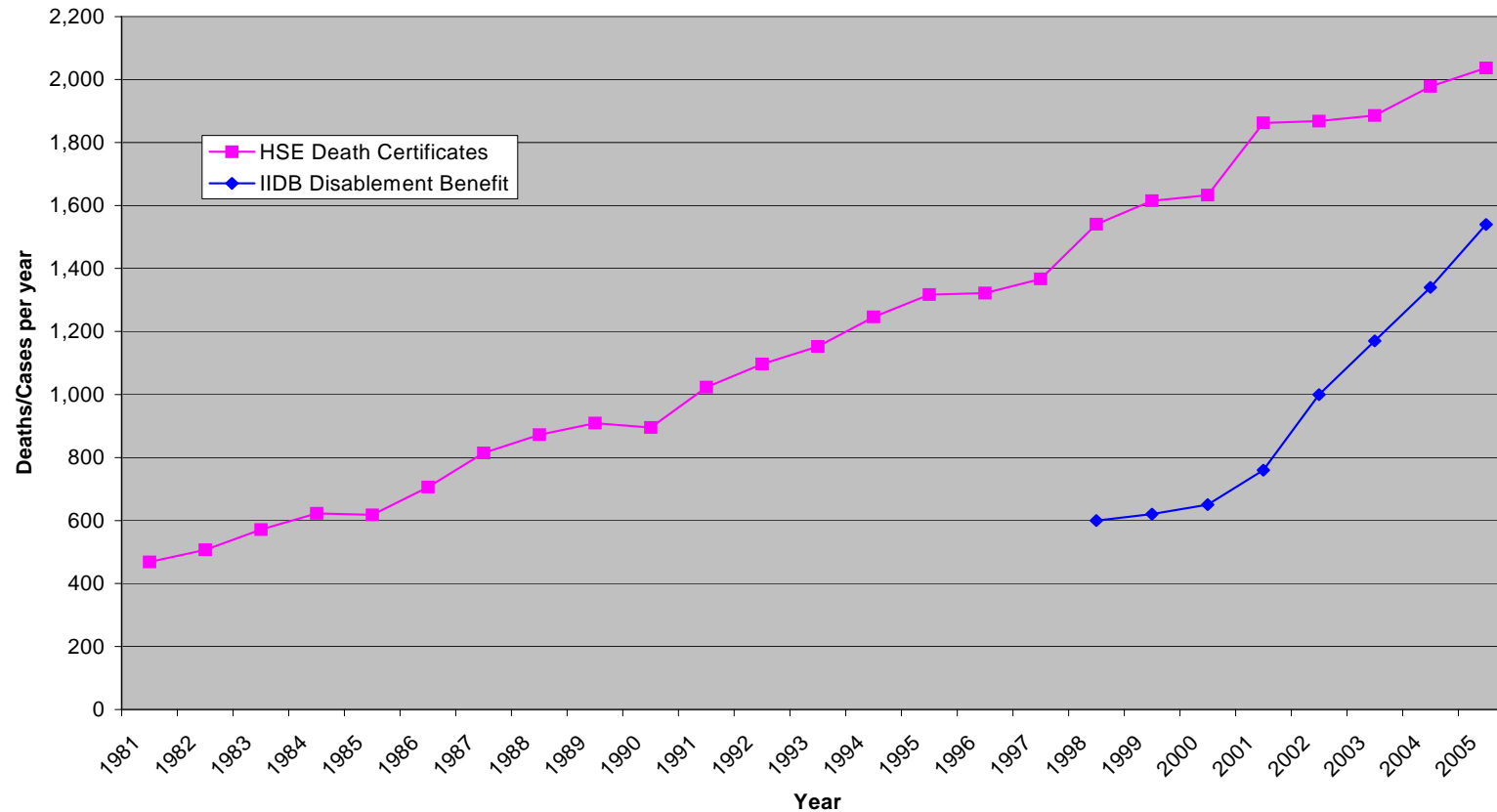


Theories for increase?

- A. Increase in propensity to sue
 - B. More claims per death
 - Claims being shared more between insurers
 - C. Insurers exposure different from UK exposure
 - Take up of EL cover by companies (compulsory 1972)
 - Moving from nationalised industries to private firms
 - D. Speed-up and backlog of claims
 - Claims being identified faster
 - Catch-up from claims on hold due to legal cases
 - E. HSE curve is under-estimating recent deaths
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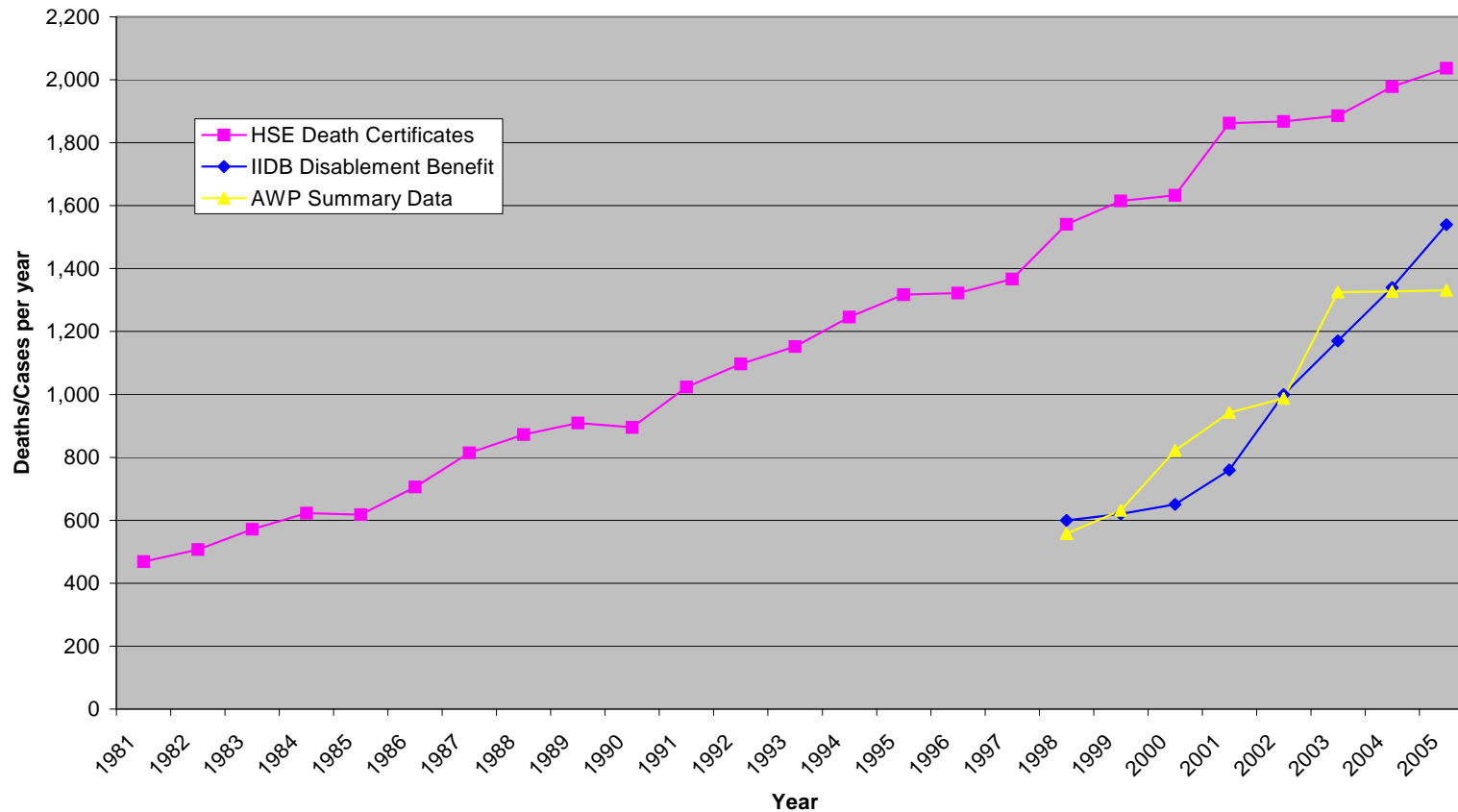
Industrial Injuries Disablement Benefit Statistics (IIDB)

Mesothelioma deaths and disablement benefit cases 1981-2005



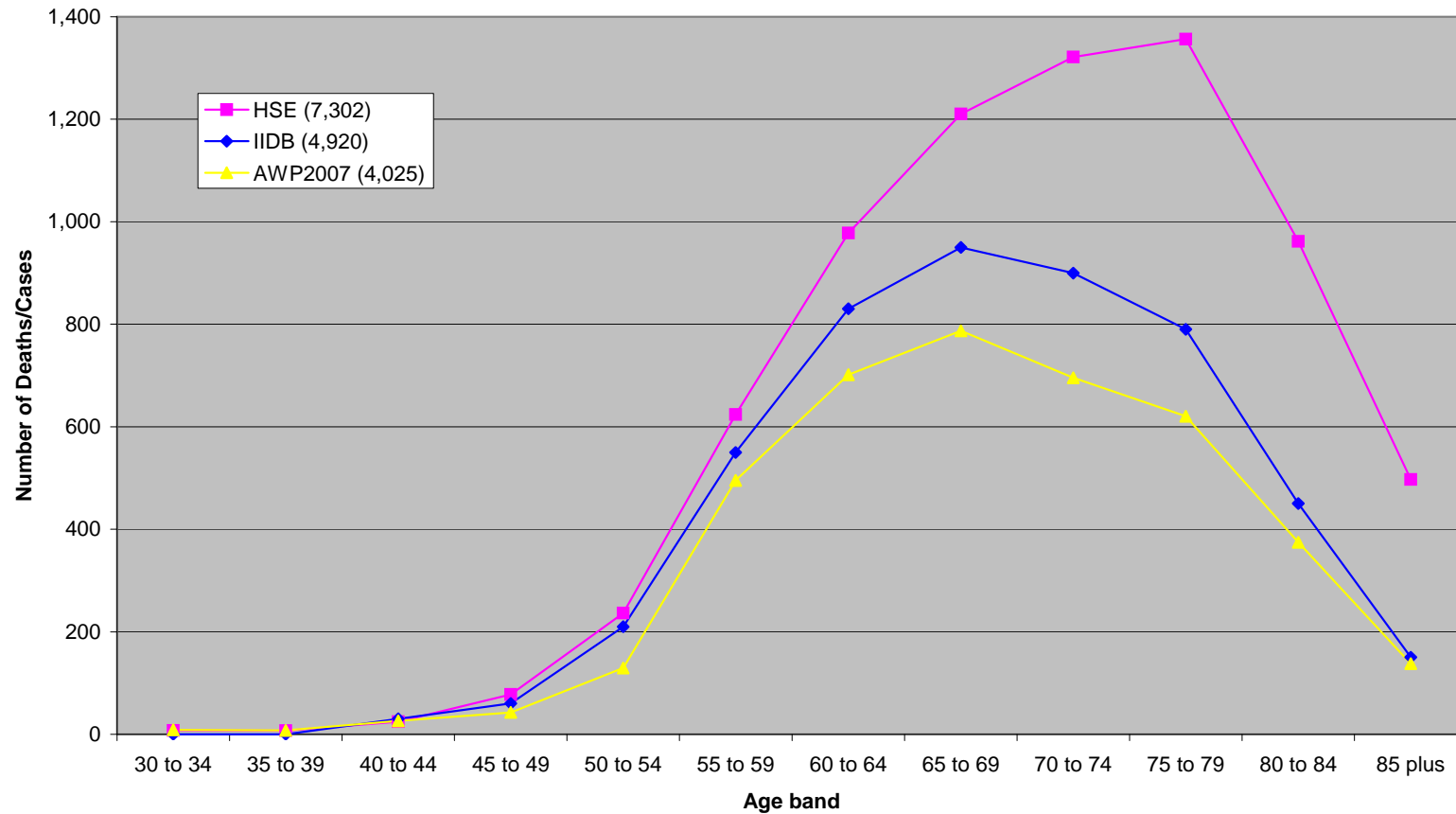
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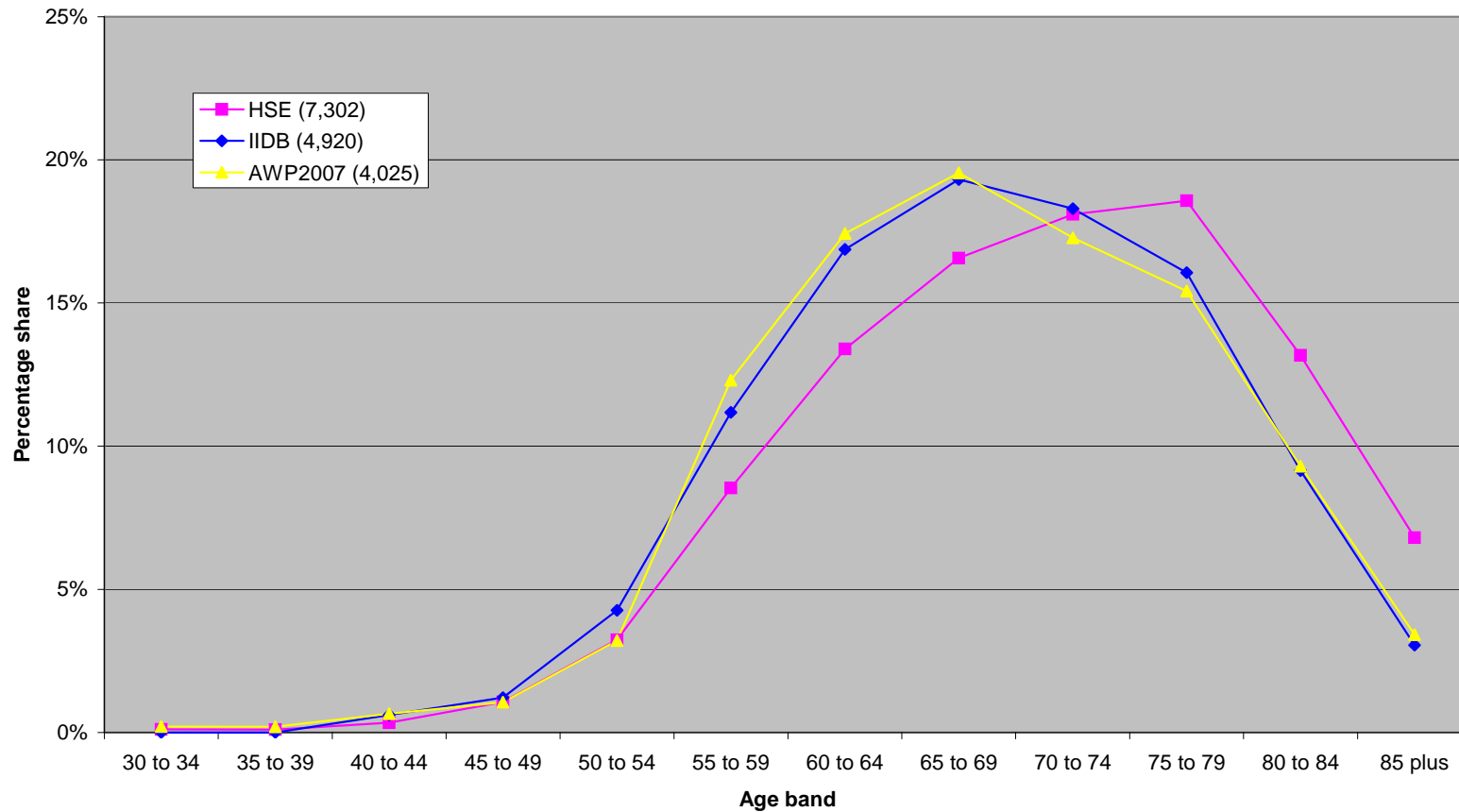
Incidence by age

Mesothelioma by age band Apr 2002 - Dec 2005



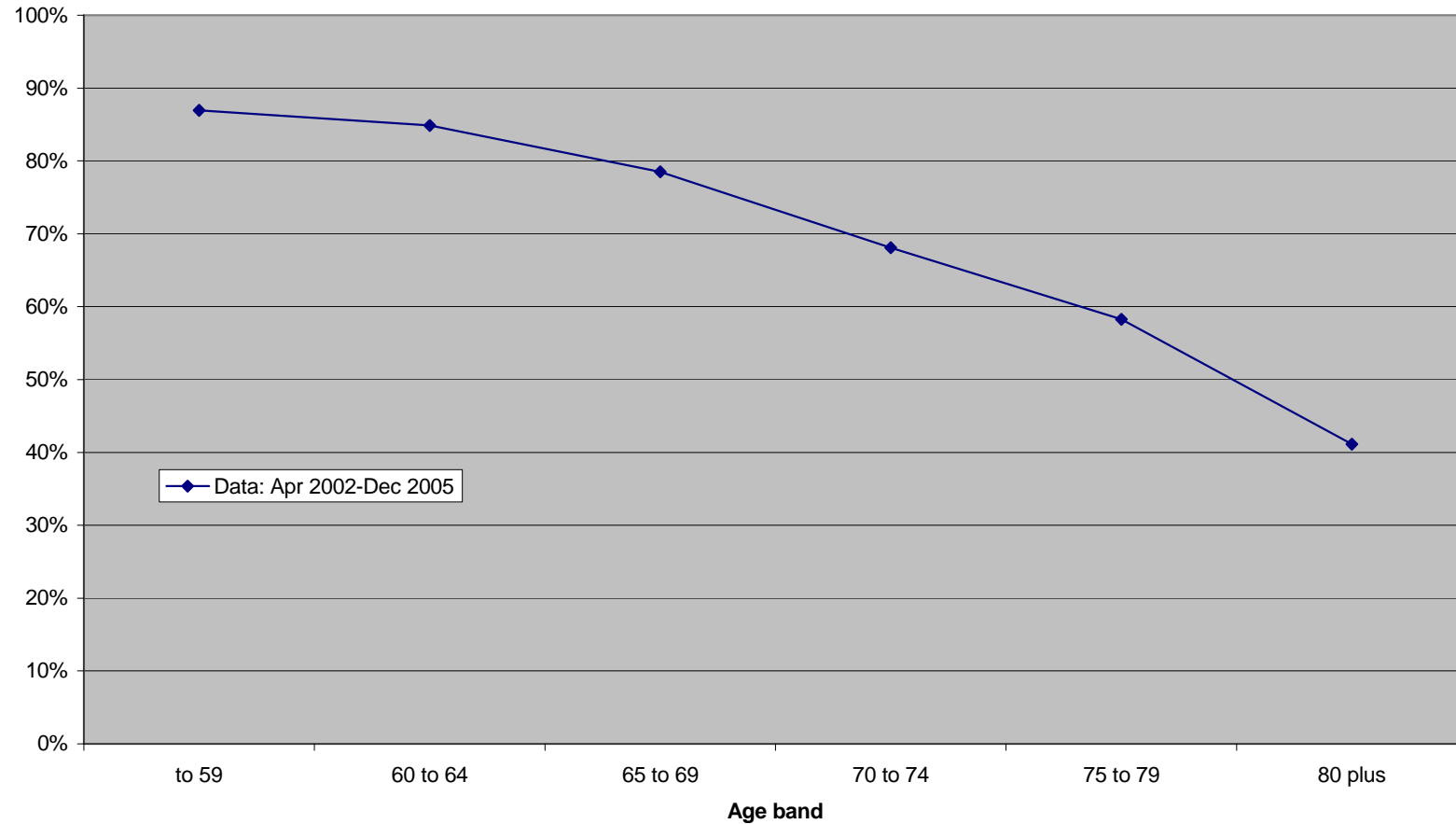
Age distribution

Mesotheliomas by age band Apr 2002 - Dec 2005



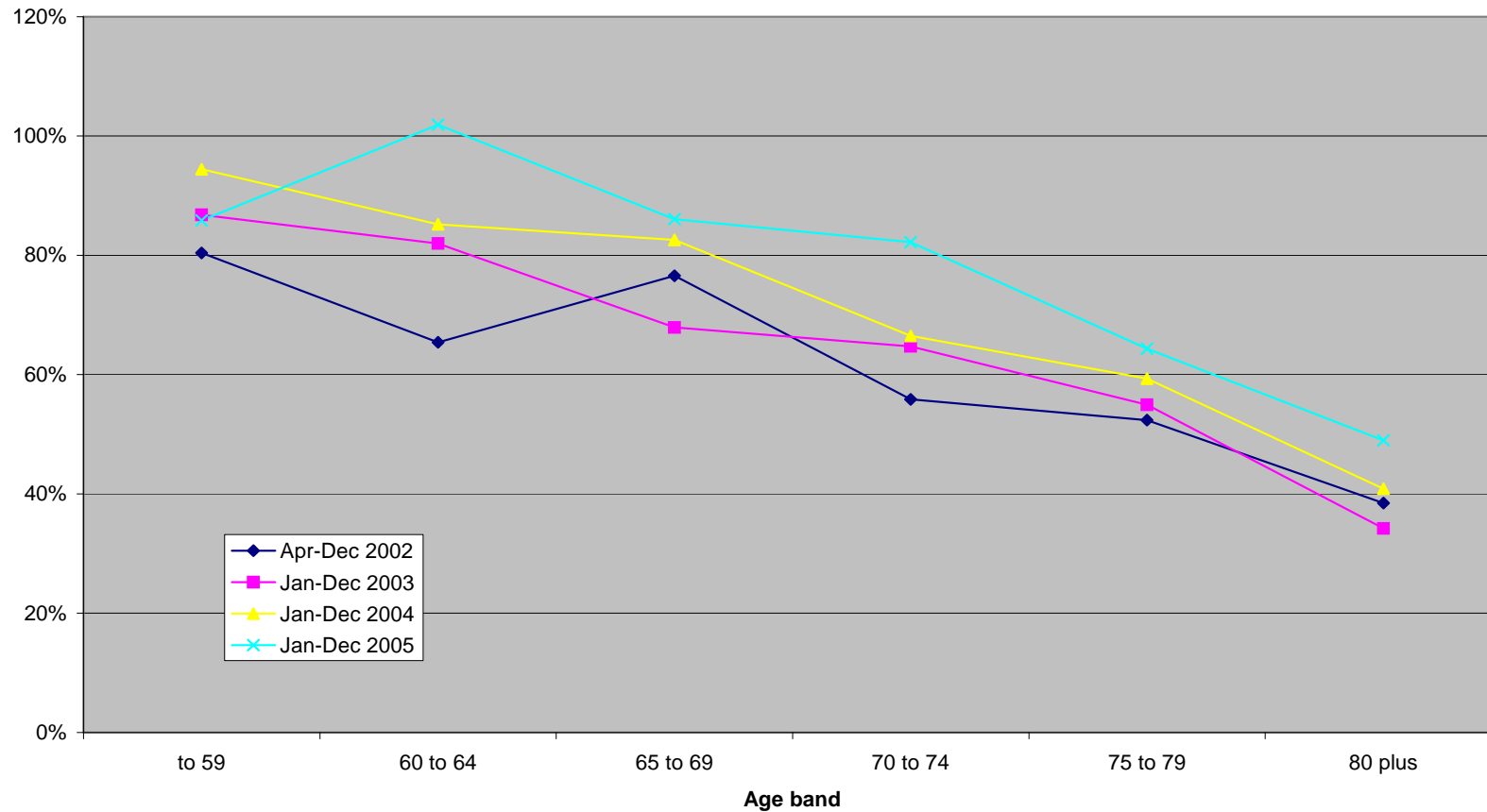
Propensity to claim

Propensity to claim IIDB by age band



Propensity to claim by year

Propensity to claim IIDB by age band by notification year

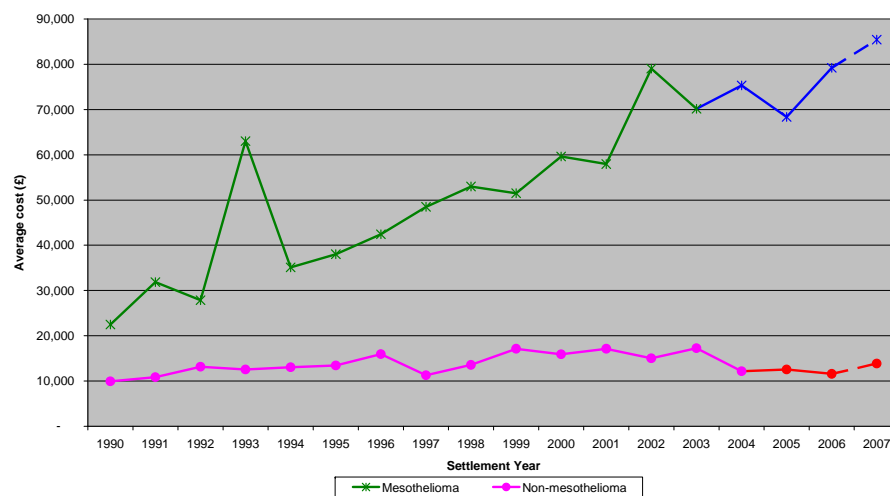


Average costs

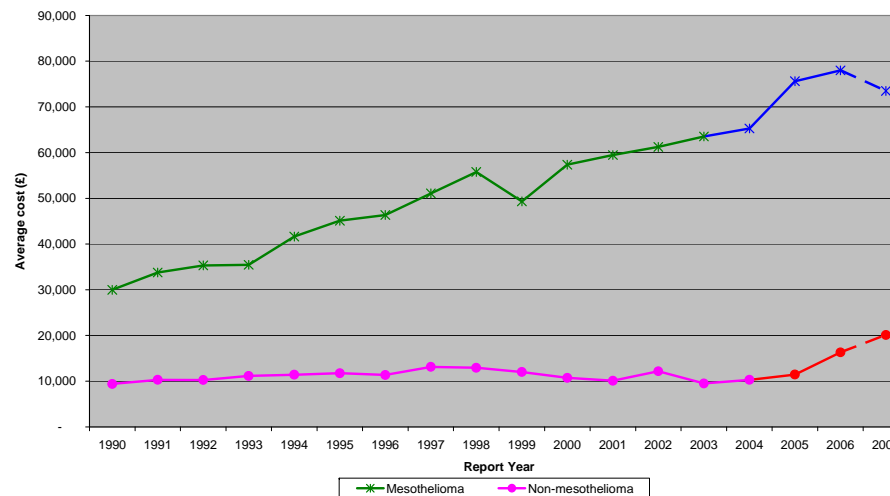
Consistent data within companies from

- 2003 for mesothelioma; and
- 2004 for non-mesothelioma claims.

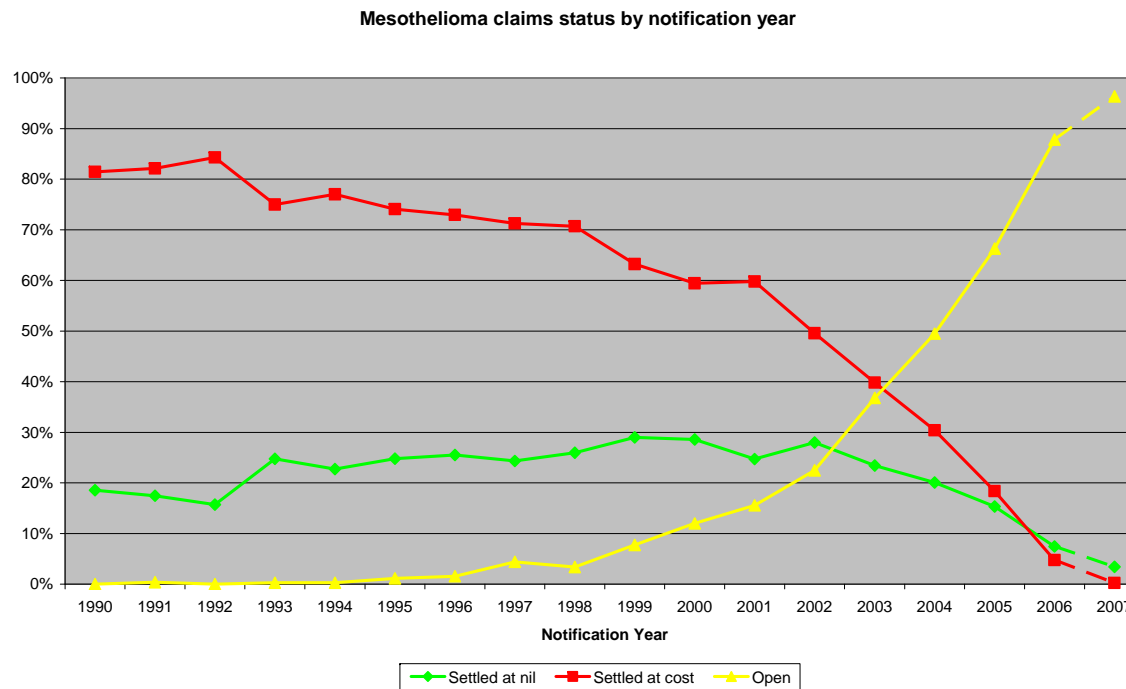
Average settled (non-zero) claim cost



Average incurred (includes nil) claim cost



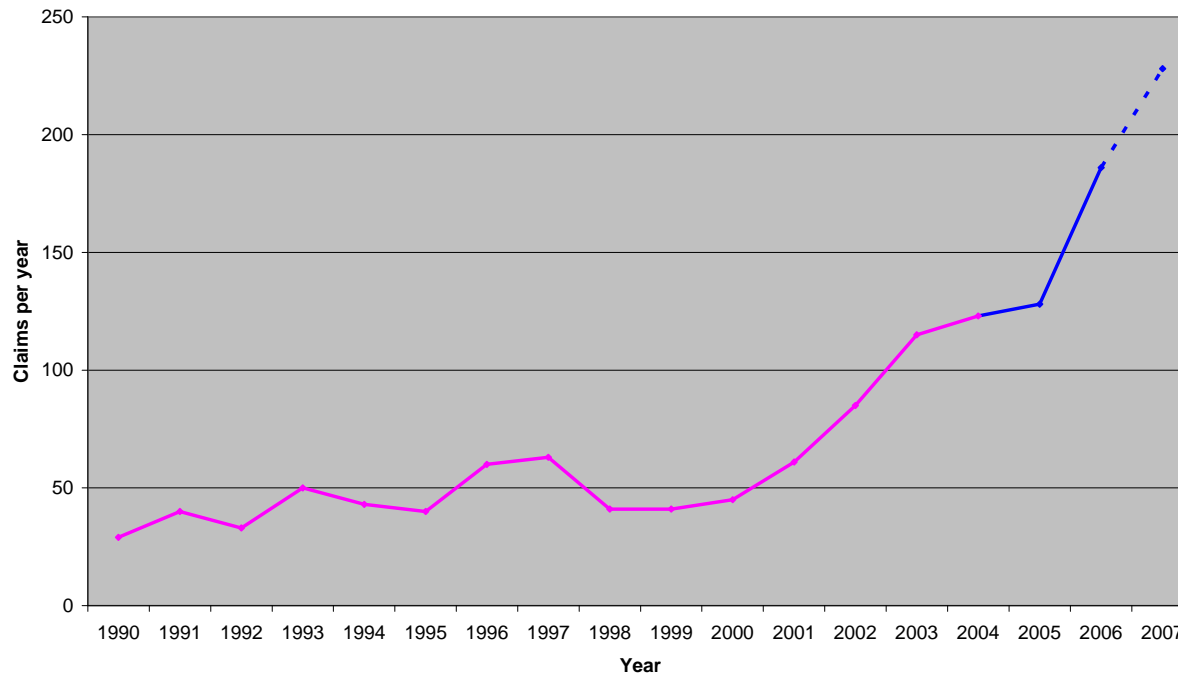
Mesothelioma claims status



- 43% of mesothelioma claims notified still open
- 18% of claims settled at no cost
- At 2003 37% of claims from still open

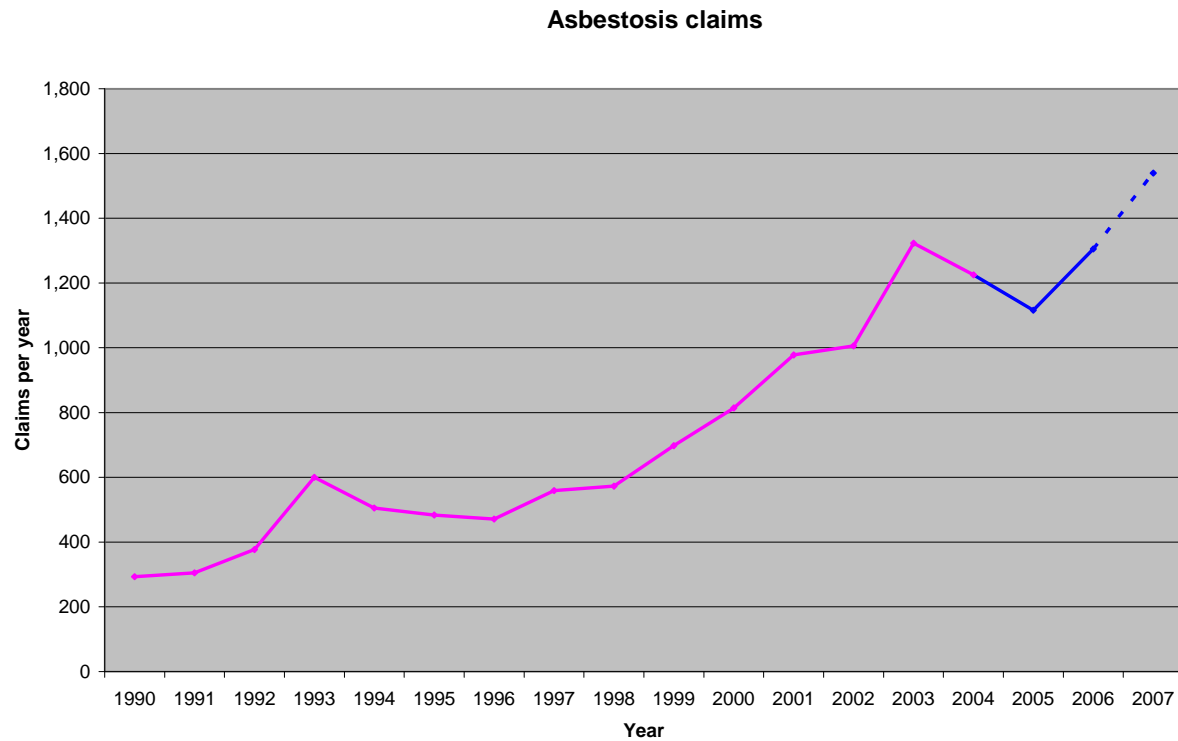
AWP 2007 – Lung cancer claims

Asbestos-related lung cancer claims



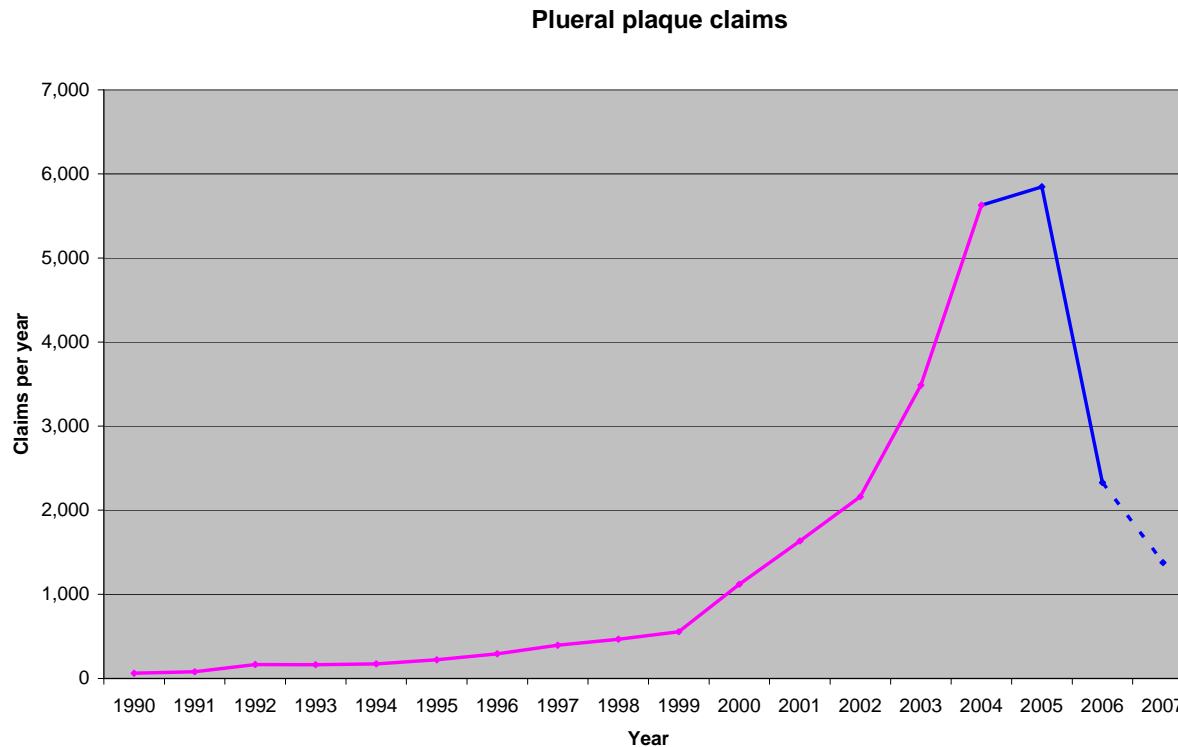
- Historically poor data capture
- Increase in number of claims possibly due to:
 - a) Helsinki criteria;
 - b) Improved data
- Projected figure for 2007 (based on partial data) continues this trend

AWP 2007 – Asbestosis claims



- Increase in claims based projected figure for 2007 (based on partial data)
- Consistent with previous years

AWP 2007 – Pleural plaques claims



- Drop off in claims from 2005 due to Court of Appeals verdict
- Projected figure for 2007 (based on partial data) continues this trend

Summary and Next Steps

- No conclusions can currently be made in relation to the assumptions underlying the AWP 2004 projections
- The questions raised in this workshop require answers
- Require more detailed data to help answer these questions
- Working Party key objective for 2008 is to review the previous working party projections and update where appropriate in light of the current trends identified
- Conclusions in GIRO 2008 Paper