An analysis of the UK personal injury market

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Analysis of the UK personal injury market

1. Executive summary

Weightmans LLP is a Top 45 law firm with extensive experience in the insurance claims field. Over recent years this market has undergone significant transformation and these changes have had a profound effect on claimant solicitors’ firms and their business models resulting in market consolidation and domination by a relatively small number of large claimant firms.

In conjunction with our Management Information and Business Intelligence teams, Weightmans’ Market Affairs Group has conducted an analysis of the latest claims data from the Claims Portal (“Portal”) and the Compensation Recovery Unit (“CRU”) to identify trends within the various classes of claims to assist compensators with forecasting in terms of reserves and deployment of operational resources.

Our high level findings are as follows:

Motor

The RTA claim numbers for 2015 are expected to show a modest increase on the 2014 figures despite a reported reduction in the number of accidents.

CRU data indicates that repudiation rates have increased from 13% (2011) to 22% (2014). A further increase is expected in 2015, with a repudiation rate of 23% as at 31 March 2015.

Public liability

Analysis of the CRU data indicates that there has been only a marginal reduction in public liability claims. Registered claims have remained at around 100,000 since 2011. The Portal is relatively new for these claims and the data does not yet cover a sufficient time period to enable a reasoned analysis. However, it is notable that after a bedding-in period of 12 months, volumes of monthly Claim Notification Forms (“CNFs”) appear to have plateaued at around 6,000–7,000 with limited deviation.

Repudiation rates have historically been high for public liability claims and the CRU data shows an increase from 44% in 2011 to 50% in 2014. Repudiation rates continue to increase into 2015 (53%).

Employers’ liability (accident)

The CRU data indicates a modest decline in employers’ liability claims since 2011. As with public liability claims, there has been limited deviation in monthly CNF volumes into the Portal since August 2014 (monthly CNFs have largely been in the region of 4,000–5,000).

Whilst the claims market has come to expect lower repudiation rates in employers’ liability accident claims compared with public liability and disease claims, the CRU data indicates that repudiation rates are increasing. In 2011 the repudiation rate for employers’ liability claims was 23% and by 2014 this had increased to 30%. Repudiation rates continue their upward trajectory into 2015 (33%).
Disease

The raw data evidences a dramatic rise in disease claims registered with the CRU. Headline figures show a rise of 139% between 2011 and 2014 from 18,570 claims to 44,158 claims.

The rise gives credence to anecdotal observations within the market that the large number of noise-induced hearing loss (‘NIHL’) claims intimated could be fuelled by a number of claimant solicitor firms moving into NIHL claims handling, although the rise has been due, in part, to changes by some insurers to how they register NIHL claims. Despite there being no mandatory requirement to register claims unless the loss exceeds 50 dBs in one or both ears or there is a complaint of tinnitus, some insurers have chosen regardless to register all NIHL claims with the CRU.

Our research confirms that a number of insurers still do not register all NIHL claims. It is therefore apparent that the volume recorded by CRU represents a significant underestimate of the true position.

The extension of the EL Portal to some specific types of disease has resulted in less than 4% of claims settling within the process. There is universal acceptance that the disease protocol is unsuitable and unworkable and reform is needed.

Repudiation rates have continued to rise to 51% in 2014 from 41% in 2012. From the data available up to 31 March 2015, early indications predict that this upward trend is likely to continue, perhaps to 56% by the end of the year.

Claims for other occupational diseases have remained largely steady since 2011 save for the anticipated rise in asbestos claims.

Abuse

There has been an increase in the number of claims registered with the CRU as “sexual abuse” or “physical claims.” In 2014, 156 claims were registered under these categories compared with 57 claims in 2013 and 20 in 2012. Whilst the overall numbers appear low and are likely to be as a result of inconsistent categorisation on registration, the significant increase in abuse claims in 2014 is in line with a trend identifiable from our own claims data.

Clinical negligence

The CRU data indicates a significant increase in clinical negligence claims since 2011; 13,078 clinical negligence claims were registered with CRU in 2011 and this increased to 17,404 in 2014 (peaking at 18,292 claims in 2013). 5,572 clinical negligence claims have already been registered between 1 January and 31 March 2015. This is the highest number of claims in this category registered in any quarter, indicating that this increase in claim volumes is likely to continue.

CRU data indicates a small increase in repudiation rates in 2014 (32.5%) compared with 2011 (28%). This upward trajectory has continued into 2015 and averaged at 38% year to date as at 31 March 2015.
2. **Analysis and methodology**

As part of this process we have analysed:

1. Data accessed from the Claims Portal website covering the period 1 January 2011 – 31 March 2015 for motor claims and 1 August 2013 – 31 March 2015 for all other claim types; and

2. Data supplied by the CRU covering the period of 1 January 2011 – 31 March 2015 which was provided in response to a request made by Weightmans under the Freedom of Information Act. In addition to providing claim registration and settlement volumes, this data also provided details of the following:
   - The disease type registered against disease claims;
   - The outcome of concluded claims; and
   - The area code of the claimant’s home address.

**Limitations and assumptions**

**Claims Portal data limitations and assumptions:**

- The Claims Portal was not used for employers’ liability, public liability and disease claims (limited to diseases occurring as a result of a one off event) until August 2013. Whilst trends can be identified, the data is not mature enough to draw any reliable conclusions. The analysis of the data relating to average general damages is therefore limited to motor claims.

- The Claims Portal data does not provide a breakdown of disease type on disease claims. Any analysis relating to disease types is therefore limited to the CRU data.

- Data in relation to “Settlements” is limited to the count of Stage 2 Settlement Packs where agreement has been reached during each monthly period. The Portal data does not provide details of the outcomes of claims that have exited the Portal and therefore repudiation rates cannot be calculated from this data.

- The Claims Portal does not provide post codes or area codes to assist with mapping the claimant’s address. Accordingly, the address analysis is limited to the CRU data.

**CRU data limitations and assumptions:**

- Data in relation to “Settlements” includes all concluded claims (irrespective of whether payments have been made).

- Withdrawals have been included with repudiated claims in the calculation of repudiation rates.

- The majority of disease claims have been registered under “employers’ liability”, however, 2,953 (2.22%) have been registered under other liability types. These claims have also been included in the analysis of CRU disease claims.

- Data in relation to occupational deafness claims is dependent upon insurers registering this claim type. A significant number of insurers do not register this type of claim (registration is not compulsory where hearing loss is less than 50dB).
We have also factored the potential for discrepancies between the two data sets into the comparative analysis of the CRU and Claims Portal data.

Monthly CNF volumes may exceed the monthly CRU registrations as a result of a number of factors, for example:

- Known duplicate submissions on the Portal caused by changes in the name of the claimant representative dealing with the claim;
- A delay or complete omission by compensators to notify new claims to the CRU; or
- Front loading of the Portal by claimant representatives in advance of CPR reforms (e.g. LASPO) to maximise revenue generation prior to the reduction in fixed fees.

Conversely, monthly CRU registrations may exceed monthly CNF volumes as a result of a number of factors, including:

- Claims involving litigants in person are dealt with outside of the Claims Portal but still require registration with CRU;
- Some claims may settle before notification to the Claims Portal but will have already been registered with CRU; and
- Higher value personal injury claims that are not eligible for the Claims Portal are registered with CRU.
3. The UK personal injury market

The UK personal injury market is both a lucrative and costly market depending mostly on which side of the claims fence you sit. There has been considerable consolidation over the last number of years of claimant work and the market share has increased for a smaller number of large claimant firms.

With the Government’s whiplash reforms reducing the profit for solicitors in RTA personal injury claims, smaller claimant firms (without the resources to run RTA claims efficiently and at a profit) are now focusing on other more lucrative classes of personal injury claim, most notably clinical negligence and employers’ liability disease claims.

The breakdown of CRU registered claims by liability type is set out in the table and the graphic below for each year. Motor claims continue to account for the majority of personal injury claims and this seems unlikely to change in the near future.

Annual CRU registrations:

<table>
<thead>
<tr>
<th>Liability type</th>
<th>2011</th>
<th>2012</th>
<th>2013</th>
<th>2014</th>
<th>2015 (up to 31 March)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Motor</td>
<td>819,120</td>
<td>824,117</td>
<td>796,030</td>
<td>760,292</td>
<td>207,617</td>
</tr>
<tr>
<td>Public</td>
<td>99,860</td>
<td>106,066</td>
<td>104,235</td>
<td>101,569</td>
<td>26,141</td>
</tr>
<tr>
<td>Employer (Accident)</td>
<td>66,871</td>
<td>66,410</td>
<td>65,275</td>
<td>64,017</td>
<td>17,331</td>
</tr>
<tr>
<td>Employer (Disease)</td>
<td>17,695</td>
<td>23,809</td>
<td>35,952</td>
<td>43,463</td>
<td>9,364</td>
</tr>
<tr>
<td>Other</td>
<td>3,914</td>
<td>14,241</td>
<td>15,638</td>
<td>13,478</td>
<td>3,297</td>
</tr>
</tbody>
</table>
4. Analysis of data sets by class of claim

a. Motor

The main peaks and troughs in the data can be attributed to changes in legislation (e.g. LASPO), process and procedure (amendments to RTA protocol and Portal) as well as known seasonal trends.

New claims

<table>
<thead>
<tr>
<th>Year</th>
<th>CRU Notifications</th>
<th>Portal Submissions</th>
</tr>
</thead>
<tbody>
<tr>
<td>2011</td>
<td>819120</td>
<td>774350</td>
</tr>
<tr>
<td>2012</td>
<td>824117</td>
<td>833170</td>
</tr>
<tr>
<td>2013</td>
<td>796030</td>
<td>820789</td>
</tr>
<tr>
<td>2014</td>
<td>760292</td>
<td>835648</td>
</tr>
<tr>
<td>2015</td>
<td>207617 (to end of March)</td>
<td>233270 (to end of March)</td>
</tr>
</tbody>
</table>

The volumes of new RTA personal injury claims have remained largely static with some notable increases in Q4 2014 and Q1 2015 which saw the highest level of claims since 2013. Whilst we do not have CRU data for April 2015, the Claims Portal has recorded a decrease in the number of RTA CNFs (73,007), indicating that a return to 2013 claim levels is unlikely. The short-lived increase in Q1 2015 preceded the introduction of the new MedCo processes in April 2015 which appears to have prompted claimant solicitors to submit claims prior to the new process.
That said, if we project the CRU data forward, we expect a modest increase in RTA personal injury claims (estimated at 1.80%) in 2015. This gives some support to anecdotal comments made by the ABI and other key commentators in the market that the improving economy and lower fuel prices has brought more vehicles onto the road and that could trigger an increase in RTA personal injury claims.

**Repudiation rates**

CRU data indicates that repudiation rates have slowly increased from 13% (2011) up to 22% (2014). A further rise is expected in 2015, with a repudiation rate of 23% as at 31 March 2015:

We consider that there are two primary factors that have contributed to the increasing repudiation rates:

- With the reduced potential to make profit on these claims, there is less incentive for claimants’ solicitors to pursue weaker claims; and
- Technological advances and an increase in fraud detection have resulted in greater success rates for insurers.
There has been a 35.54% increase in average general damages from 2011 to end of 2014. The majority of the increase occurred during the years 2013 and 2014 which is accounted for by corresponding increases to the Judicial College guidelines on general damages as well as the 10% uplift introduced by LASPO to compensate for the removal of the ability to recover success fees and ATE premiums from defendants.

The 2015 figures are demonstrating an increase that could be evidence of an inflationary change.
b. Public liability

Despite the Portal being extended to PL claims as of August 2013, utilisation has been slow. This mirrors the trend shown by motor claims when the portal was first introduced.

New claims

Whilst Portal data is yet to mature and will need to be kept under review, it is notable that after a bedding-in period of 12 months, volumes of monthly Claim Notification Forms ("CNFs") appear to have plateaued at around 6,000–7,000 with limited deviation.

<table>
<thead>
<tr>
<th>Year</th>
<th>CRU Notifications</th>
<th>Percentage Change</th>
<th>Portal Submissions</th>
</tr>
</thead>
<tbody>
<tr>
<td>2011</td>
<td>99860</td>
<td></td>
<td></td>
</tr>
<tr>
<td>2012</td>
<td>106066</td>
<td>+6.21%</td>
<td></td>
</tr>
<tr>
<td>2013</td>
<td>104235</td>
<td>-1.73%</td>
<td>12867</td>
</tr>
<tr>
<td>2014</td>
<td>101569</td>
<td>-2.56%</td>
<td>73842</td>
</tr>
<tr>
<td>2015</td>
<td>26141 (to end of March)</td>
<td></td>
<td>19456 (to end of March)</td>
</tr>
</tbody>
</table>

In comparison, if we look at CRU data, which is arguably more reliable, there is an indication of a marginal decrease in claims over the last 3 years, which have remained at around 100,000 per year. There has been a 2.56% reduction of public liability claims notified to the CRU in 2014 compared to 2013.
Repudiation rates have increased over the last 4 years and the figures available for Q1 2015 suggest that this is likely to continue.

<table>
<thead>
<tr>
<th>Year</th>
<th>Average Repudiation Rates</th>
</tr>
</thead>
<tbody>
<tr>
<td>2011</td>
<td>44%</td>
</tr>
<tr>
<td>2012</td>
<td>46%</td>
</tr>
<tr>
<td>2013</td>
<td>47%</td>
</tr>
<tr>
<td>2014</td>
<td>50%</td>
</tr>
<tr>
<td>2015</td>
<td>53%</td>
</tr>
</tbody>
</table>

It is perhaps ominous that 50% of PL claims are repudiated and it is recommended that insurers conduct further analysis of the reasons for these repudiations as this may show additional areas where the market should focus its attention to take spurious claims and cost out of the system.

We recommend a watching brief over the next six months and should the increase be maintained, a deep dive into the causes and triggers for these claims is recommended.
c. Employers’ liability – accident

New claims

Looking at the volume of claims notified to CRU, we have seen a modest reduction in volumes of new claims from 2011 – 2014 (overall – 4.27%). As with public liability claims, there has been limited deviation in monthly CNF volumes into the Portal since August 2014 (monthly CNFs have largely been in the region of 4,000–5,000).

<table>
<thead>
<tr>
<th>Year</th>
<th>CRU Notifications</th>
<th>% change</th>
<th>Portal Submissions</th>
</tr>
</thead>
<tbody>
<tr>
<td>2011</td>
<td>66871</td>
<td></td>
<td></td>
</tr>
<tr>
<td>2012</td>
<td>66410</td>
<td>-0.69%</td>
<td>7281</td>
</tr>
<tr>
<td>2013</td>
<td>65275</td>
<td>-1.71%</td>
<td>47755</td>
</tr>
<tr>
<td>2014</td>
<td>64017</td>
<td>-1.93%</td>
<td></td>
</tr>
<tr>
<td>2015</td>
<td>17331 (to end of March)</td>
<td></td>
<td>14431 (to end of March)</td>
</tr>
</tbody>
</table>

This relatively static position is likely to be attributable to the continued decline in numbers employed in heavy manufacturing in the UK, coupled with higher health and safety standards.

However, projecting the CRU data forward to the end of 2015, the claims numbers look set to marginally increase (+1.74% from 2014 to the end of 2015). This may coincide with the shift in focus of claimant firms from RTA personal injury claims to other claim types.
Repudiation rates

Whilst the claims market has come to expect lower repudiation rates in employers’ liability accident claims compared with public liability and disease claims, the CRU data indicates that repudiation rates are improving. In 2011 the repudiation rate for employers’ liability claims was 23% and by 2014, this had increased to 30%. Repudiation rates continued to increase into 2014 (33%).

One explanation for the improving repudiation rates is that, in light of the anecdotal reports of the shift in focus of RTA claimant firms towards other claim types, insurers have also shifted their focus and resources to repudiating these claims.
**Claimant location**

We have used the area codes for claimants’ addresses provided in the CRU data to identify hotspots for employers’ liability (accident) claims.

The 10 areas which have given rise to the greatest number of employers’ liability (accident) claims are as follows:

1. Birmingham (4%)
2. Manchester (3%)
3. Sheffield (3%)
4. Liverpool (3%)
5. Newcastle (2%)
6. Doncaster (2%)
7. Cardiff (2%)
8. Nottingham (2%)
9. Peterborough (2%)
10. Warrington (2%)

Whilst heavy manufacturing has declined in the UK, the majority of these areas have historically been industrial/manufacturing bases.

There would be value in combining this data with population statistics to calculate estimated claims per head of population in each area code and to review any unusual demographics.
d. Disease

New claims
The raw data evidences a dramatic rise in disease claims registered with the CRU. Headline figures show a rise of 139% between 2011 and 2014 from 18,570 claims to 44,158 claims.

The rise gives credence to anecdotal observations within the market that the large number of NIHL claims intimated could be fuelled by a number of claimant solicitor firms moving into NIHL claims handling although the rise could also be due, in part, to changes by some insurers on how they register NIHL claims. Despite there being no mandatory requirement to register claims unless the loss exceeds 50 dBs in one or both ears or where there is a complaint of tinnitus, some insurers have chosen to register all NIHL claims with the CRU.
The graphic below demonstrates how the make up of the disease claims market has changed over the years. Asbestosis, pleural thickening, mesothelioma and pleural plaques have been grouped together as "asbestos related" claims.

<table>
<thead>
<tr>
<th>Liability type</th>
<th>2011</th>
<th>2012</th>
<th>2013</th>
<th>2014</th>
<th>2015 (up to 31 March)</th>
</tr>
</thead>
<tbody>
<tr>
<td>NIHL</td>
<td>8,248</td>
<td>13,358</td>
<td>24,763</td>
<td>32,225</td>
<td>6,314</td>
</tr>
<tr>
<td>Asbestos related</td>
<td>4,667</td>
<td>5,473</td>
<td>5,189</td>
<td>5,886</td>
<td>1,554</td>
</tr>
<tr>
<td>WRULD</td>
<td>388</td>
<td>283</td>
<td>409</td>
<td>316</td>
<td>89</td>
</tr>
<tr>
<td>HAVS</td>
<td>1,840</td>
<td>1,838</td>
<td>1,806</td>
<td>1,634</td>
<td>518</td>
</tr>
<tr>
<td>Carpal Tunnel</td>
<td>322</td>
<td>295</td>
<td>327</td>
<td>302</td>
<td>88</td>
</tr>
<tr>
<td>Other</td>
<td>3,005</td>
<td>3,245</td>
<td>4,088</td>
<td>3,795</td>
<td>971</td>
</tr>
</tbody>
</table>

The CRU data indicates that occupational deafness claims (NIHL) account for the majority of the disease claims and the number has increased from 45% of the total disease claims in 2011 to 73% in 2014. The reasons for this rise have been analysed earlier. There has been limited fluctuation in CRU registrations for the other disease types across the previous 4 years.

- Mesothelioma claims continue to rise (albeit steadily) ahead of the anticipated peak forecast by Insurance Actuaries (Working Party Report, January 2010) and this contributes to the rise in asbestos related claims year-on-year.

- HAVS claims have remained in steady volumes at around 1,700 claims per calendar year although there is some evidence of a gradual decline.

- There has been a significant rise in asthma claims over the last three years although numbers remain modest in comparison to NIHL and asbestos. The rise is likely to be due to an increased willingness to diagnose an occupational cause.
Looking at the quarterly breakdown, a rise in occupational deafness claims registration in 2013 and 2014 is clearly identified.

These claims continue to remain attractive to claimant firms largely due to the ability to recover costs at an hourly rate in successful matters. This area has also seen significant and sustained marketing activity by claimant firms and CMC’s.

**Repudiation rates**

CRU data indicates a marked increase in repudiation rates in 2014 (51%) compared with 2012 (41%) and 2013 (42%).

This mirrors the increase in repudiation rates on occupational deafness claims in 2014 (59%) compared with 2012 (42%). Although the high repudiation rates can be explained, in part, by the rise in poor quality NIHL claims intimated to the market.
This repudiation rate continues its upward trajectory into 2015 (56% for all disease claims and 63% for occupational deafness claims).

**Portal EL disease**

Just over 28,000 CNF’s have been submitted over a 21 month period and this is only a relatively small proportion of the overall disease market.

Less than 4% of EL disease claims intimated through the Portal settle within the process. This is largely due to an unsuitable and unworkable protocol. The overwhelming majority of claims exit the process as a consequence of a conscious decision on the part of the compensator.
We have used the area codes for claimants’ addresses provided in the CRU data to identify hotspots for occupational deafness claims.

The 10 areas which have given rise to the greatest number of occupational deafness claims are as follows:

1. Newcastle (6%)
2. Sheffield (6%)
3. Birmingham (4%)
4. Liverpool (4%)
5. Blackburn (3%)
6. Stoke-on-Trent (3%)
7. Swansea (3%)
8. Cardiff (3%)
9. Nottingham (3%)
10. Cleveland (3%)

These findings are unsurprising as they mirror areas historically associated with manufacturing industry.
e. Abuse

The issue of abuse has been at the forefront of the news for some time. Coverage predominantly relates to abuse of vulnerable children on the fringes of the care system with a focus on sexual abuse and child sexual exploitation (‘CSE’), however, it includes physical abuse, neglect and inadequate care.

The most common claims relate to physical abuse and sexual abuse, less frequently the claims involve emotional abuse, sometimes referred to as neglect. The abuse is usually in a family setting. It is usually (but not always) claimed alongside either physical or sexual abuse.

Some simple ‘statistics’ illustrate the extent of the ‘abuse’ problem:

- **NSPCC (general facts and statistics)**
  - 1 in 20 children in the UK have been sexually abused
  - Over 2,700 children were identified as needing protection from sexual abuse in 2014
  - Over 23,000 sexual offences against children were recorded in the UK in 2014

  - 23,663 sexual offences against children recorded by police in UK in 2012/13
  - 7,964 cruelty and neglect offences recorded by the police in the UK in 2012/13

- **Professor Alexis Jay’s Rotherham CSE Report (August 2014)**
  - 1,400 children abused in Rotherham area between 1997 and 2013

- **Coffey report into Greater Manchester authorities (October 2014)**
  - A culture is emerging in some areas of CSE becoming a social norm
  - 260 ongoing investigations into CSE by GMP

- **Office of Children’s Commissioner Inquiry into CSE – One Year On report (February 2015)**
  - 2,092 known victims of CSE in 2013
  - 5669 children at risk of CSE in 2013

- **Oxfordshire Serious Case Review (March 2015)**
  - More than 370 victims of abuse over the last 16 years in Oxfordshire
  - Systemic failings across all agencies
  - The abuse discovered could be ‘the tip of the iceberg in Oxfordshire’
Data analysis

Abuse claims are not consistently categorised when notified to CRU with large numbers of abuse claims being registered under the general ‘Public Liability’ category. However, the significant increase in new claims during 2014 is consistent with the data recorded by Weightmans.

<table>
<thead>
<tr>
<th>Year</th>
<th>CRU “Physical abuse” or “Sexual abuse”</th>
<th>Notices</th>
<th>Percentage Increase</th>
</tr>
</thead>
<tbody>
<tr>
<td>2011</td>
<td>13</td>
<td></td>
<td></td>
</tr>
<tr>
<td>2012</td>
<td>20</td>
<td></td>
<td>53.85%</td>
</tr>
<tr>
<td>2013</td>
<td>57</td>
<td></td>
<td>185%</td>
</tr>
<tr>
<td>2014</td>
<td>156</td>
<td></td>
<td>173.68%</td>
</tr>
<tr>
<td>2015</td>
<td>48</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

There is evidence that the volumes of claims are increasing, particularly in relation to sexual abuse. Insurers continue to receive claims on a monthly basis long after the period of abuse and/or any usual limitation period.

- There has been a significant increase in the numbers of claims categorised as “sexual abuse” or “physical abuse” between 1 January 2011 and 31 December 2014.
- There were 156 claims registered during 2014 as against 57 in 2013 and 20 in 2012.
- Figures for Q1 2015 seem to suggest that this upwards trend may well continue.
f. Clinical negligence

There has been heightened CMC activity and advertising in recent years largely driven by the ability of claimant lawyers to recover costs on these cases at an hourly rate. This is evidenced by the increase in new CRU notifications from 2013 and this trend looks likely to continue into 2015. 5,572 clinical negligence claims have already been registered between 1 January and 31 March 2015 which is the highest number of claims in this category registered in any quarter.

<table>
<thead>
<tr>
<th>Year</th>
<th>CRU Notifications</th>
<th>% change</th>
</tr>
</thead>
<tbody>
<tr>
<td>2011</td>
<td>13078</td>
<td></td>
</tr>
<tr>
<td>2012</td>
<td>15494</td>
<td>+18.47%</td>
</tr>
<tr>
<td>2013</td>
<td>18292</td>
<td>+18.06%</td>
</tr>
<tr>
<td>2014</td>
<td>17404</td>
<td>-4.85%</td>
</tr>
<tr>
<td>2015</td>
<td>5572</td>
<td></td>
</tr>
</tbody>
</table>

2014 figures show an increase of 33% from claims registered in 2011 (17,404 compared to 13,078).

CRU data indicates a small increase in repudiation rates in 2014 (32.5%) compared with 2011 (28%). This upwards trend has continued into 2015 and as at 31 March 2015 this was 38%. 

CRU data indicates a small increase in repudiation rates in 2014 (32.5%) compared with 2011 (28%). This upwards trend has continued into 2015 and as at 31 March 2015 this was 38%.
5. Conclusion

Comparison of the monthly registrations over last four years for all claims classes shows certain seasonal trends. January and November consistently show the highest number of claims registered with April, May and December the lowest.

Whilst there have been a number of legislative and procedural changes designed to take cost out of the system, this has not resulted in a reduction of injury claims and indeed, RTA and NIHL claims are on the increase.

The relatively static level of RTA claims, alongside the significant increase in disease claims (driven largely by an increase in NIHL claims) is significant. Coinciding with the impact of LASPO, it supports the commonly held view that claimant lawyers are moving away from whiplash claims, towards NIHL claims, in order to preserve income streams. That, in turn, lends itself to the assertion that claims trends are influenced not just by correlating trends in accident and disease occurrence but also by what types of claims are the most lucrative, in a commoditised market.

This is further supported by the fact that, alongside the increase in NIHL claims, there has been an increase in the repudiation rate. If the number of genuine NIHL claims is not keeping pace with the overall increase in NIHL claims, the logical conclusion must be that the number of spurious claims is on the increase because people are being encouraged to make claims when the evidence is not really there to support them. The available data certainly validates the decision of individual insurers to focus additional resource on tackling NIHL claims.

6. What next?

- RTA claims remain the largest source of personal injury claims and this will undoubtedly remain the position for some time. Advances in motor technology could well see the volumes drop away in the medium to long term.

- The conclusions outlined above and the data on which they are based potentially add weight to the argument for expanding fixed costs and might be pointed to for the purposes of advancing that argument with the MOJ.

- There is scope to introduce other classes of claims into a portal type system. For example, NIHL and HAVS and WRULD could well be run through a portal creating efficiencies and cost reductions whilst also providing a slicker process for the claimants. The insurance sector is lobbying for such introduction and the data available certainly supports that focus.

- An extension of the MedCo system of expert selection to NIHL claims would be a logical next step to ensure the quality of medical reporting in this class of claim and this would be a worthwhile endeavour for the insurance industry.

- The Small Claims Track limit remains an issue on the MOJ’s agenda and should the limit be raised there is the potential for the trends addressed in this paper to be affected quite profoundly. It remains to be seen whether that effect will be to reduce claims frequency significantly. It may simply see legal representation substituted for increased representation by CMCs and/or an increase in litigants in person. It may be that it simply drives further consolidation of the claimant legal services market, with claimant lawyers continuing to run claims but for a lesser profit.

- Whilst the new Lord Chancellor’s priorities have yet to be declared, there must be good prospects of the insurer friendly political environment of the last Government continuing under the new Government, with the Westminster Policy Forum announcements lending themselves to that view.
The Market Affairs Group recently attended (4 June 2015) the Westminster Policy Forum: The Future of the Claims Management Sector – regulation, standards and growth. Kevin Rousell Head of Claims Management Regulation at the Ministry of Justice confirmed that the priorities for 2015/16 are:

- Nuisance calls
- Financial products and services claims
- PI claims
- Unauthorised activity.

In terms of the PI sector there has been a decline in the number of total authorised CMC’s from 1125 (2013) to 951 (2014). However, there has been much consolidation in the market and despite the fall in number of authorised CMC’s the CMC turnover has increased from 238.2 (2014) to 309.7 (2015). Annual turnover has increased by 27%.

The MOJ is keen to work with the SRA and other interested stakeholders to look at areas of concern e.g. disease claims and has asked if there is any evidence that can be shared with the MOJ especially in light of new powers to impose financial penalties on those CMC’s flouting the rules.

7. **Weightmans Market Affairs Group**

Weightmans Market Affairs Group is a focal point for the consolidation, analysis and development of the firm’s wider thought leadership activity.

The team’s function is four fold:

1. Monitoring developments in the insurance market and how that shapes insurer business structures and informs business imperatives.

2. Addressing process change, keeping clients up to date with regard to changes but also assisting them in looking at what's on the horizon and how they might influence and shape reforms.

3. Looking at products and innovations that the firm's clients might consider in order to maximise their position in that changing market environment.

4. Ensuring that the advice given is cross jurisdictional, covering not just England & Wales but also Scotland.

The team comprises David Johnson (Political Affairs), Bavita Rai (Innovation & Client Affairs), Kurt Rowe (Market Affairs) and Doug Keir (Scottish Affairs). Their contact details are below but if you have any queries please email the team at marketaffairs@weightmans.com.
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