



**NSW GOVERNMENT**

DUST DISEASES CLAIMS  
RESOLUTION PROCESS:  
DATA FOR 2006-07

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ATTORNEY GENERAL'S  
DEPARTMENT OF NSW  
AND THE DEPARTMENT OF  
PREMIER AND CABINET

**Dust Diseases Claims Resolution Process: Data for 2006-07**

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# CONTENTS

1.	Introduction	1
2.	Number of claims and claim outcomes	6
3.	Handling of claims within the CRP	16
4.	Time frames as part of the CRP	24
5.	Contributions assessment	29
6.	Mediation	29
7.	Transitional claims commenced before 1 July 2005	30
8.	Legal and other claim costs	33
9.	Compensation recovered	45

## 1 Introduction

### 1.1 Background

The Dust Diseases Claims Resolution Process (CRP) was established in 2005 as a result of the Review of Legal and Administrative Costs in Dust Diseases Compensation Claims. The Review had been established by the NSW Government in November 2004 to consider the issue of improving the efficiency with which dust diseases compensation claims are resolved.

The Review was conducted by Mr Laurie Glanfield AM, Director-General of the Attorney General's Department and Ms Leigh Sanderson, Deputy Director-General of The Cabinet Office. The Review was to consider the processes for handling and resolving dust diseases compensation claims and to identify ways in which legal, administrative and other costs can be reduced within the existing common law system in New South Wales.

The main recommendation of the Final Report of the Review was to establish the CRP. The CRP was established by the *Dust Diseases Tribunal Amendment (Claims Resolution Process) Regulation 2005* and commenced operation on 1 July 2005.

The main features of the CRP are that it involves the early exchange of information by the parties, and then compulsory mediation. Multiple defendant claims are subject to a system of Contributions Assessment if apportionment cannot be agreed. Claims which do not resolve through the CRP are returned to the Dust Diseases Tribunal (Tribunal).

The Final Report of the Review also recommended that the CRP be reviewed after data in relation to its first 12 months of operation are available. Accordingly, a review was initiated in August 2006 (2006 Review) and an Issues Paper was released for public comment in October 2006.

The Issues Paper contained an overview of the first full 12 months of operation of the CRP in respect of claims which were commenced between 1 July 2005 and 30 June 2006. Data was also provided in respect of transitional claims which commenced before 1 July 2005.

The Final Report of the 2006 Review was released in January 2007 and made a number of recommendations for minor amendments to the CRP. These were implemented in the *Dust Diseases Tribunal Regulation 2007* which was made on 28 February 2007.

The Final Report of the 2006 Review also recommended that data in relation to the operation of the CRP be published every 12 months and consideration be given to whether a further review is required at that time. Accordingly, this paper provides data in relation to the second full 12 months during which the CRP operated (that is, between 1 July 2006 and 30 June 2007).

As the establishment of the CRP is still relatively recent and minor changes to the system were only made in March 2007, it is not proposed to conduct a further review of the CRP at this time. This issue will be further considered next year when data is published regarding the third full 12 months operation of the CRP.

## 1.2 Data sources

This paper provides the same categories of information regarding the operation of the CRP as was provided in the Issues Paper. Given this, the same data sources that were used to provide the information in the Issues Paper in 2006 have been used for the purpose of this paper. These data sources are all held by the Registry of the Tribunal.

The data sources which were used include the Tribunal Registry Database and consolidated material concerning the Form 3 Returns. The Registry of the Tribunal also provided further assistance by enabling information to be obtained from various data sources it holds which record various actions taken by plaintiffs and defendants as part of the CRP.

The Attorney General's Department and the Department of Premier and Cabinet again thank the Registrar and the staff of the Tribunal for their assistance in relation to the data sources.

As was the case with the information which was provided in the Issues Paper, a number of points should be noted about information which is provided in this paper. First, some of the information provided in this paper is based on small sample sizes. This is noted in the relevant parts of this paper.

Second, the information held by the Tribunal which records various actions taken by plaintiffs and defendants as part of the CRP includes all post 1 July 2005 claims once a Statement of Claim is filed. This information provides an indication of how claims have been dealt with as part of the CRP. It should be noted, however, that the data source from which this information was extracted was created as a case management tool for the Tribunal, rather than as a source of statistics. As such, the data has some limitations and some minor inconsistencies arise.

Third, the CRP only applies to asbestos-related claims, in particular asbestosis, asbestos-related pleural disease (ARPD), carcinoma and mesothelioma. The information provided in this paper relates to these four conditions. It should be noted that the data includes carcinoma. It is not possible to determine from the data whether the particular condition is asbestos-related because of the way in which the data is recorded. It is likely, however, that the overwhelming majority of cases recorded in the data as carcinoma are asbestos-related. It is also noted that while the CRP applies to claims under the *Compensation to Relatives Act 1897*, this information is not included in the data.

### 1.3 Preliminary observations

As recommended by the Final Report of the 2006 Review, this paper provides data in relation to the second full 12 months operation of the CRP. While it is not proposed to conduct a full review at the current time (as noted above), a number of preliminary observations may be made regarding the data which has been provided in this paper.

- There has been an increase in the number of asbestos-related claims which have been commenced. 331 claims were commenced during the second 12 months in which the CRP operated (2006-07 financial year, table 2) compared to 290 claims which were commenced during the first 12 months in which the CRP operated (2005-06 financial year, table 1). This is not unexpected given the number of claims which are commenced is not expected to peak until future years.
- The settlement rate for claims which were commenced and resolved in the 2005-06 financial year (table 3) is almost the same as that for claims which were commenced and resolved in the 2006-07 financial year (about 23%, table 6).
- When table 19 (which is the outcome during the 2006-07 financial year of claims commenced during that period) is compared with table 16 (which is the equivalent table for the 2005-06 financial year), there is a slight decrease in the number of claims which were settled while the matter was subject to the CRP (down from 18.8% to 16.3%). This appears largely to be as a result of an increase in the number of claims which were removed from the CRP on the basis of urgency (up from 15 claims or 5.3% to 24 claims or 7.3%). There is no obvious reason for this, although it could be that practitioners are becoming more familiar with the system and the process for removing urgent claims.
- There appears to have been some improvement in the time within which plaintiffs are serving their Statement of Particulars. A direct comparison of the number of calendar days taken to serve a Statement of Particulars on the last original defendant from filing a Statement of Particulars can be made by comparing table 22 with table 20. Table 22 shows this information in respect of claims which were commenced during the 2006-07 financial year and table 20 shows this information in respect of claims which were commenced during the 2005-06 financial year. The average number of days taken to serve a Statement of Particulars on the last original defendant from filing a Statement of Claim has decreased from 111 days to 85 days across the board. In respect of mesothelioma claims, the average number of days taken has decreased from 92 days to 56 days.
- The average time taken to resolve claims (with or without serving a Statement of Particulars) appears to be about the same overall. This is the case when comparing claims which were commenced during the 2005-06 financial year and resolved up to 31 August 2006 (tables 23 and 26) and claims which were commenced during the 2006-07 financial year and resolved during that period (tables 25 and 28).

- The proportion of claims in which a Statement of Particulars was served in the same financial year in which the Statement of Claim was filed has increased. It has increased from 28% (for claims which were commenced and served in the 2005-06 financial year, table 12) to 35% (for claims which were commenced and served in the 2006-07 financial year, table 15).
- There appears to be an increase in legal and other costs for plaintiffs in single defendant claims when claims which were commenced in the 2005-06 financial year (regardless of whether they settled in the 2005-06 financial year (table 33) or the 2006-07 financial year (table 37)) are compared to claims which were commenced and resolved in the 2006-07 financial year (table 39). The increase appears to be in solicitor-client costs (for example, up from \$27,210 to \$32,519 or nearly 20% for malignant claims) and barristers' fees. Similar trends are also evident for multiple defendant claims.
- Defendant legal and other costs appear to have remained about the same overall for single defendant claims which were commenced during the 2005-06 financial year (regardless of whether they were resolved in the 2005-06 financial year (table 47) or the 2006-07 financial year (table 51)) and for claims which were commenced and resolved during the 2006-07 financial year (table 53).

There is a slight increase, however, of about 10% in the cost of resolving single defendant malignant claims which were commenced in the 2005-06 financial year and resolved in the 2006-07 financial year (table 51) when compared to those claims which were commenced and resolved during the 2005-06 financial year (table 47).

- There is a big decrease, however, in the costs of resolving multiple defendant mesothelioma claims when costs are compared for claims which were commenced and resolved during the 2005-06 financial year (table 48) with claims which were commenced and resolved during the 2006-07 financial year (table 54).
- There appears to be an increase in the net amount of compensation recovered by plaintiffs (that is, after accounting for their legal and other costs). This is the case when the net amount of compensation recovered by plaintiffs for claims which were commenced and resolved during the 2005-06 financial year (table 60) is compared to the net amount of compensation recovered by plaintiffs for claims which were commenced and resolved during the 2006-07 financial year (table 64).

The biggest increase in the net amount of compensation recovered by plaintiffs is for single defendant malignant claims. It should be noted, however, that there were a couple of mesothelioma claims which were commenced and resolved during the 2006-07 financial year where more than one million dollars was recovered in compensation (before costs were deducted).

If you have any queries regarding this paper, please contact the Department of Premier and Cabinet (Mr Anthony Lean, Policy Manager, Legal Branch 9228 5543 or

Ms Catherine Chang, Principal Legal Officer, Legal Branch 9228 5545) or the Attorney General's Department (Ms Michelle Gardiner, Policy Manager, Legislation and Policy 9228 7534 or Ms Louise Pounder, Policy Advisor, Legislation and Policy 9228 7654).



## 2 Number of claims and claim outcomes

### 2.1 Claims commenced

Claims commenced by a Statement of Claim after 1 July 2005 proceed through the CRP (unless they are or become urgent). The following table was provided last year and shows the number of claims commenced in the first 12 months of the CRP.

**Table 1** Claims commenced between 1 July 2005 and 30 June 2006 by month

	Total Number <sup>1</sup>	By Disease Type		
		Non-malignant	Carcinoma	Mesothelioma
July <sup>2</sup>	14	5	0	9
August	21	8	1	12
September	33	13	1	19
October	24	7	1	16
November	17	3	2	12
December	27	10	1	16
January	19	10	2	7
February	23	12	0	11
March	37	20	2	15
April	20	13	0	7
May	20	10	0	10
June	35	20	3	12
<b>Total claims commenced between 1 July 2005 and 30 June 2006</b>	<b>290</b>	<b>131</b>	<b>13</b>	<b>146</b>

Source: *Tribunal Claims Database*

**Note 1:** There were also eight *Compensation to Relatives Act* claims during this period, and although it is likely that these are asbestos-related, this is not separately identified by the Tribunal Claims Database. There were also a number of claims for asthma, emphysema, bronchitis and other conditions and, although these may be asbestos-related, these are not separately identified by the Tribunal Claims Database and so these claims have not been included.

**Note 2** The month is the month in which the Statement of Claim was filed with the Tribunal.

The following table shows the number of claims commenced in the second 12 months of the CRP.

**Table 2** Claims commenced between 1 July 2006 and 30 June 2007 by month

	Total Number <sup>1</sup>	By Disease Type		
		Non-malignant	Carcinoma	Mesothelioma
July <sup>2</sup>	21	9	0	12
August	25	12	0	13
September	20	10	1	9
October	23	12	0	11
November	29	16	4	9
December	31	16	1	14
January	23	12	1	10
February	25	8	0	17
March	36	9	2	25
April	24	7	1	16
May	39	24	1	14
June	35	18	1	16
<b>Total claims commenced between 1 July 2006 and 30 June 2007</b>	<b>331</b>	<b>153</b>	<b>12</b>	<b>166</b>

Source: Tribunal Claims Database

**Note 1:** There were also seven *Compensation to Relatives Act* claims during this period, and although it is likely that these are asbestos-related, this is not separately identified by the Tribunal Claims Database. There were also a number of claims for asthma, emphysema, and other conditions and, although these may be asbestos-related, these are not separately identified by the Tribunal Claims Database and so these claims have not been included.

**Note 2** The month is the month in which the Statement of Claim was filed with the Tribunal.

## 2.2 Outcome of claims - General

The following table was provided last year and shows the outcome during the period between 1 July 2005 and 30 June 2006 of claims commenced during that period.

**Table 3 Outcome during the period 1 July 2005 to 30 June 2006 of claims commenced during that period**

	Total Number <sup>1</sup>	By Disease Type		
		Non-malignant	Carcinoma	Mesothelioma
Claims finalised <sup>2</sup> – commenced between 1 July 2005 and 30 June 2006	<b>66</b>	12	2	52
Claims discontinued <sup>3</sup> – commenced between 1 July 2005 and 30 June 2006	<b>4</b>	0	1	3
Claims pending at 1 July 2006 – commenced between 1 July 2005 and 30 June 2006	<b>220</b>	119	10	91
<b>Total</b>	<b>290</b>	<b>131</b>	<b>13</b>	<b>146</b>

**Source:** *Tribunal Claims Database*

**Note 1** See note 1 for Table 1.

**Note 2** This includes claims which are settled by way of judgment and those which are finalised by way of settlement.

**Note 3** This includes claims which are discontinued, struck out or transferred to another jurisdiction.

In relation to the period between 1 July 2006 and 30 June 2007, the following table shows the outcome of claims which commenced between 1 July 2005 and 30 June 2006 which were outstanding at 1 July 2006, and claims commenced between 1 July 2006 and 30 June 2007. Outcomes include the number of claims which were resolved (by settlement or judgment) or remained pending.

**Table 4 Outcome during the period 1 July 2006 to 30 June 2007 of claims commenced between 1 July 2005 and 30 June 2007**

	Total Number	By Disease Type		
		Non-malignant	Carcinoma	Mesothelioma
Claims commenced between 1 July 2005 and 30 June 2006 pending at 1 July 2006	220	119	10	91
Claims commenced between 1 July 2006 and 30 June 2007	331	153	12	166
<b>Total</b>	<b>551</b>	<b>272</b>	<b>22</b>	<b>257</b>
Claims finalised <sup>1</sup> between 1 July 2006 and 30 June 2007	223	91	6	126
Claims discontinued <sup>2</sup> between 1 July 2006 and 30 June 2007	7	1	0	6
Claims pending at 1 July 2007	321	180	16	125
<b>Total</b>	<b>551</b>	<b>272</b>	<b>22</b>	<b>257</b>

Source: Tribunal Claims Database

**Note 1** This includes claims which are settled by way of judgment and those which are finalised by way of settlement.

**Note 2** This includes claims which are discontinued, struck out or transferred to another jurisdiction.

The outcome of claims during the period between 1 July 2006 and 30 June 2007 has also been broken down by the year in which claims were commenced. In relation to the period between 1 July 2006 and 30 June 2007, the following table shows the outcome of claims which commenced between 1 July 2005 and 30 June 2006 which were outstanding at 1 July 2006.

**Table 5** Outcome during the period 1 July 2006 to 30 June 2007 of claims commenced between 1 July 2005 and 30 June 2006 which were pending at 1 July 2006

	Total Number	By Disease Type		
		Non-malignant	Carcinoma	Mesothelioma
Claims finalised <sup>1</sup> – commenced between 1 July 2005 and 30 June 2006	148	76	6	66
Claims discontinued <sup>2</sup> – commenced between 1 July 2005 and 30 June 2006	4	1	0	3
Claims pending at 1 July 2007 – commenced between 1 July 2005 and 30 June 2006	68	42	4	22
<b>Total</b>	<b>220</b>	<b>119</b>	<b>10</b>	<b>91</b>

**Source:** Tribunal Claims Database

**Note 1** This includes claims which are settled by way of judgment and those which are finalised by way of settlement.

**Note 2** This includes claims which are discontinued, struck out or transferred to another jurisdiction.

The following table only shows the outcome during the period 1 July 2006 to 30 June 2007 of claims commenced during that period.

**Table 6 Outcome during the period 1 July 2006 to 30 June 2007 of claims commenced during that period**

	Total Number <sup>1</sup>	By Disease Type		
		Non-malignant	Carcinoma	Mesothelioma
Claims finalised <sup>2</sup> – commenced between 1 July 2006 and 30 June 2007	75	15	0	60
Claims discontinued <sup>3</sup> – commenced between 1 July 2006 and 30 June 2007	3	0	0	3
Claims pending at 1 July 2007 – commenced between 1 July 2006 and 30 June 2007	253	138	12	103
<b>Total</b>	<b>331</b>	<b>153</b>	<b>12</b>	<b>166</b>

**Source:** Tribunal Claims Database

**Note 1** See note 1 for Table 2.

**Note 2** This includes claims which are settled by way of judgment and those which are finalised by way of settlement.

**Note 3** This includes claims which are discontinued, struck out or transferred to another jurisdiction.

### 2.3 Outcome of claims – Settlement or judgment

The Form 3 Returns lodged by practitioners distinguish between the number of claims which are resolved by judgment and those which are resolved by settlement.

The following table was provided last year in relation to the number of Form 3 Returns which were filed for claims that commenced between 1 July 2005 and 30 June 2006 and were resolved on or before 30 June 2006.

**Table 7** Outcome during the period 1 July 2005 to 30 June 2006 (finalised by settlement or judgment) of claims commenced during that period where a Form 3 Return has been filed

	Total Number	By Disease Type			
		Asbestosis	ARPD	Carcinoma	Mesothelioma
Claims resolved by judgment	1	0	0	0	1
Claims resolved by settlement	66	9	2	2	53
<b>Total</b>	<b>67</b>	<b>9</b>	<b>2</b>	<b>2</b>	<b>54</b>

Source: Form 3 Returns

The table below shows the number of Form 3 Returns that were filed in respect of claims that were commenced between 1 July 2005 and 30 June 2007 which were resolved between 1 July 2006 and 30 June 2007.

**Table 8** Outcome during the period 1 July 2006 to 30 June 2007 (finalised by settlement or judgment) of claims commenced between 1 July 2005 and 30 June 2007 where a Form 3 Return has been filed

	Total Number	By Disease Type			
		Asbestosis	ARPD	Carcinoma	Mesothelioma
Claims commenced between 1 July 2005 and 30 June 2006 where Form 3 filed	139 <sup>1</sup>	49	22	3	65
Claims commenced between 1 July 2006 and 30 June 2007 where Form 3 filed	61 <sup>1</sup>	5	4	0	52
<b>Total</b>	<b>200</b>	<b>54</b>	<b>26</b>	<b>3</b>	<b>117</b>
Claims resolved by judgment	0	0	0	0	0
Claims resolved by settlement	200	54	26	3	117
<b>Total</b>	<b>200</b>	<b>54</b>	<b>26</b>	<b>3</b>	<b>117</b>

Source: Form 3 Returns

**Note 1** Only claims which resolved between 1 July 2006 and 30 June 2007 are included. This number is lower than the total number of claims which have been finalised as set out in Table 5 or 6 because the Tribunal is still waiting for returns to be lodged in relation to a small number of claims, or a return has been lodged but the costs are to be agreed or assessed.

## 2.4 *Serving the Statement of Claim and Statement of Particulars*

The CRP timetable does not commence until the Statement of Claim is served with a Statement of Particulars. The following table was provided last year in relation to whether a Statement of Particulars had been served for those claims which were pending at 1 July 2006 and had commenced between 1 July 2005 and 30 June 2006.

**Table 9** Claims commenced between 1 July 2005 and 30 June 2006 which were pending at 1 July 2006 according to whether a Statement of Particulars has been served

	Total Number	By Disease Type		
		Non-malignant	Carcinoma	Mesothelioma
Claims pending at 1 July 2006 where the Statement of Claim and Statement of Particulars have been served	59	36	2	21
Claims where Statement of Claim has been filed, but has not been served with the Statement of Particulars	145	83	6	56
<b>Total claims pending</b>	<b>204<sup>1 2</sup></b>	<b>119</b>	<b>8</b>	<b>77</b>

**Source:** *Tribunal Registry*

**Note 1** There were also eight *Compensation to Relatives Act* claims during this period which are not included in the total.

**Note 2** The total of claims filed between 1 July 2005 and 30 June 2006 recorded as outstanding is different from that recorded in the Tribunal Claims Database because the numbers included in this Table do not include those matters which remained outstanding as at 1 July 2006 which had been removed from the CRP and had returned to the Tribunal either on the grounds of urgency or by consent, or where otherwise discontinued.



The table below shows whether a Statement of Particulars has been served for those claims which were pending at 1 July 2007 and had commenced between 1 July 2005 and 30 June 2006.

**Table 10** Claims commenced between 1 July 2005 and 30 June 2006 which were pending at 1 July 2007 according to whether a Statement of Particulars has been served

	Total Number	By Disease Type		
		Non-malignant	Carcinoma	Mesothelioma
Claims pending at 1 July 2007 where the Statement of Claim and Statement of Particulars have been served	36	28	0	8
Claims where Statement of Claim has been filed, but has not been served with the Statement of Particulars	25	12	3	10
<b>Total claims pending</b>	<b>61<sup>1 2</sup></b>	<b>40</b>	<b>3</b>	<b>18</b>

**Source:** Tribunal Registry

**Note 1** There were also eight *Compensation to Relatives Act* claims during this period which are not included in the total.

**Note 2** The total of claims filed between 1 July 2005 and 30 June 2006 recorded as outstanding is different from that recorded in the Tribunal Claims Database because the numbers included in this Table do not include those matters which remained outstanding as at 1 July 2007 which had been removed from the CRP and had returned to the Tribunal on the grounds of urgency, by consent or for failure to comply with the CRP, or had returned to the Tribunal as mediation was unsuccessful.

The following table shows whether a Statement of Particulars has been served for those claims which were pending at 1 July 2007 and had commenced between 1 July 2006 and 30 June 2007.

**Table 11** Claims commenced between 1 July 2006 and 30 June 2007 which were pending at 1 July 2007 according to whether a Statement of Particulars has been served

	Total Number	By Disease Type		
		Non-malignant	Carcinoma	Mesothelioma
Claims pending at 1 July 2007 where the Statement of Claim and Statement of Particulars have been served	<b>78</b>	50	4	24
Claims where Statement of Claim has been filed, but has not been served with the Statement of Particulars	<b>167</b>	87	6	74
<b>Total claims pending</b>	<b>245<sup>1 2</sup></b>	<b>137</b>	<b>10</b>	<b>98</b>

**Source:** Tribunal Registry

**Note 1** There were also three *Compensation to Relatives Act* claims during this period which are not included in the total.

**Note 2** The total of claims filed between 1 July 2006 and 30 June 2007 recorded as outstanding is different from that recorded in the Tribunal Claims Database because the numbers included in this Table do not include those matters which remained outstanding as at 1 July 2007 which had been removed from the CRP and had returned to the Tribunal either on the grounds of urgency or by consent.

### 3 Handling of claims within the CRP

#### 3.1. Serving the Statement of Claim and Statement of Particulars

A strict timetable applies to claims subject to the CRP once the plaintiff serves the Statement of Claim and Statement of Particulars on the defendant(s). Last year the following table was provided which shows the number of claims commenced between 1 July 2005 and 30 June 2006 where the timetable of the CRP has been commenced through service of a Statement of Particulars during that period.

**Table 12** Month in respect of which the CRP timetable has been commenced by service of the Statement of Particulars between 1 July 2005 and 30 June 2006 for claims commenced during that period

	Total Number	By Disease Type		
		Non-malignant	Carcinoma	Mesothelioma
July	0	0	0	0
August	2	0	0	2
September	3	0	0	3
October	4	1	0	3
November	4	1	0	3
December	9	2	0	7
January	9	6	0	3
February	12	5	1	6
March	9	6	0	3
April	5	3	0	2
May	12	5	1	6
June	13	11	0	2
<b>Total Statement of Particulars served</b>	<b>82</b>	<b>40</b>	<b>2</b>	<b>40</b>

Source: Tribunal Registry

The following table shows the number of claims where the timetable of the CRP has been commenced through service of a Statement of Particulars between 1 July 2006

and 30 June 2007. It includes claims commenced between 1 July 2005 and 30 June 2007.

**Table 13** Month in respect of which the CRP timetable has been commenced by service of the Statement of Particulars between 1 July 2006 and 30 June 2007 for claims commenced between 1 July 2005 and 30 June 2007

	Total Number	By Disease Type		
		Non-malignant	Carcinoma	Mesothelioma
Statement of Particulars served for claims commenced between 1 July 2005 and 30 June 2006	73	57	2	14
Statement of Particulars served for claims commenced between 1 July 2006 and 30 June 2007	117	59	4	54
<b>Total Statement of Particulars served</b>	<b>190</b>	<b>116</b>	<b>6</b>	<b>68</b>
July	17	12	1	4
August	17	11	1	5
September	27	18	0	9
October	19	9	0	10
November	19	12	0	7
December	11	9	0	2
January	12	7	2	3
February	13	8	1	4
March	17	9	0	8
April	10	6	0	4
May	15	10	1	4
June	13	5	0	8
<b>Total Statement of Particulars served</b>	<b>190</b>	<b>116</b>	<b>6</b>	<b>68</b>

Source: Tribunal Registry

The number of claims where the timetable of the CRP has been commenced through service of the Statement of Particulars between 1 July 2006 and 30 June 2007 has also been broken down by the year in which claims commenced. The following table shows the number of claims commenced between 1 July 2005 and 30 June 2006 where the timetable of the CRP has been commenced through service of a Statement of Particulars between 1 July 2006 and 30 June 2007.

**Table 14**      **Month in respect of which the CRP timetable has been commenced by service of the Statement of Particulars between 1 July 2006 and 30 June 2007 for claims commenced between 1 July 2005 and 30 June 2006**

	Total Number	By Disease Type		
		Non-malignant	Carcinoma	Mesothelioma
July	16	11	1	4
August	13	11	1	1
September	19	16	0	3
October	11	8	0	3
November	6	4	0	2
December	5	5	0	0
January	1	1	0	0
February	1	0	0	1
March	0	0	0	0
April	0	0	0	0
May	1	1	0	0
June	0	0	0	0
<b>Total Statement of Particulars served</b>	<b>73</b>	<b>57</b>	<b>2</b>	<b>14</b>

Source: Tribunal Registry

The following table shows the number of claims commenced between 1 July 2006 and 30 June 2007 where the timetable of the CRP has been commenced through service of a Statement of Particulars during that period.

**Table 15** Month in respect of which the CRP timetable has been commenced by service of the Statement of Particulars between 1 July 2006 and 30 June 2007 for claims commenced during that period

	Total Number	By Disease Type		
		Non-malignant	Carcinoma	Mesothelioma
July	1	1	0	0
August	4	0	0	4
September	8	2	0	6
October	8	1	0	7
November	13	8	0	5
December	6	4	0	2
January	11	6	2	3
February	12	8	1	3
March	17	9	0	8
April	10	6	0	4
May	14	9	1	4
June	13	5	0	8
<b>Total Statement of Particulars served</b>	<b>117</b>	<b>59</b>	<b>4</b>	<b>54</b>

Source: Tribunal Registry

### 3.2 Outcome of claims where active steps are taken as part of the CRP

The following table was provided last year and shows the outcome of claims during the period between 1 July 2005 and 30 June 2006 where action has been taken as part of the CRP. The following data included all claims commenced between 1 July 2005 and 30 June 2006.

**Table 16** Outcome during the period 1 July 2005 to 30 June 2006 of claims commenced during that period

	Total Number	By Disease Type		
		Non-malignant	Carcinoma	Mesothelioma
Claims reported as settled while the claim is subject to the CRP	53	8	3	42
Claims discontinued	4	0	1	3
Claims removed for urgency	15 <sup>1</sup>	1	1	13
Claims removed by agreement after information exchange	2	0	0	2
Claims removed for failure to comply with the CRP	1	0	0	1
Claims returned to Tribunal as mediation was unsuccessful	2	0	0	2
Claims outstanding as at 1 July 2006 which remain subject to the CRP	205 <sup>2</sup>	119	8	78
<b>Total</b>	<b>282<sup>3</sup></b>	<b>128</b>	<b>13</b>	<b>141</b>

**Source:** *Tribunal Registry*

**Note 1** It is likely that other transitional claims returned to the Tribunal by way of a notice of motion on the basis of urgency; however these are not recorded in this data source. A further four urgent claims have been removed after 30 June 2006.

**Note 2** Of the outstanding claims, the Statement of Particulars has been served in 59 claims (and as such the claims are active as part of the CRP). As at 1 July 2006 the Statement of Claim and the Statement of Particulars have not been served in 145 claims. This is set out in Table 9.

**Note 3** The total number of claims is lower than that reported in Table 1 because there are a number of claims where the outcome is not clear from the Tribunal Registry data.

The following table shows the outcome of claims during the period between 1 July 2006 and 30 June 2007 where action has been taken as part of the CRP. The following data includes claims commenced between 1 July 2005 and 30 June 2006 which were outstanding as at 1 July 2006 and claims commenced between 1 July 2006 and 30 June 2007.

**Table 17** Outcome during the period 1 July 2006 to 30 June 2007 of claims commenced between 1 July 2005 and 30 June 2007 while subject to the CRP

	Total Number	By Disease Type		
		Non-malignant	Carcinoma	Mesothelioma
Claims reported as settled while the claim is subject to the CRP	<b>180</b>	82	5	93
Claims discontinued	<b>16</b>	8	0	8
Claims removed for urgency	<b>39</b>	3	1	35
Claims removed by agreement after information exchange	<b>3</b>	0	0	3
Claims removed for failure to comply with the CRP	<b>1</b>	0	0	1
Claims returned to Tribunal as mediation was unsuccessful	<b>4</b>	1	0	3
Claims outstanding on 30 June 2007 which remain subject to the CRP	<b>306<sup>1</sup></b>	177	13	116
<b>Total</b>	<b>549</b>	<b>271</b>	<b>19</b>	<b>259</b>

**Source:** *Tribunal Registry*

**Note 1** Of the outstanding claims, the Statement of Particulars has been served in 114 claims (and as such the claims are active as part of the CRP). As at 1 July 2007 the Statement of Claim and the Statement of Particulars have not been served in 192 claims. This is set out in Tables 10 and 11.



The outcome of claims during the period between 1 July 2006 and 30 June 2007 where action has been taken as part of the CRP has also been broken down by the year in which claims were commenced. The following table shows this information for claims that were commenced between 1 July 2005 and 30 June 2006 which were outstanding at 1 July 2006.

**Table 18** Outcome during the period 1 July 2006 to 30 June 2007 of claims commenced between 1 July 2005 to 30 June 2006 which remained subject to the CRP

	Total Number	By Disease Type		
		Non-malignant	Carcinoma	Mesothelioma
Claims reported as settled while the claim is subject to the CRP	126	70	5	51
Claims discontinued	9	5	0	4
Claims removed for urgency	15	1	1	13
Claims removed by agreement after information exchange	3	0	0	3
Claims removed for failure to comply with the CRP	1	0	0	1
Claims returned to Tribunal as mediation was unsuccessful	3	1	0	2
Claims outstanding on 30 June 2007 which remain subject to the CRP	61 <sup>1</sup>	40	3	18
<b>Total</b>	<b>218<sup>2</sup></b>	<b>117</b>	<b>9</b>	<b>92<sup>3</sup></b>

**Source:** *Tribunal Registry*

**Note 1** Of the outstanding claims, the Statement of Particulars has been served in 36 claims (and as such the claims are active as part of the CRP). As at 1 July 2007 the Statement of Claim and the Statement of Particulars have not been served in 25 claims. This is set out in Table 10.

**Note 2** The total number of claims is lower than that reported as outstanding in Table 3 because there are a number of claims where the status of the claim is not clear from the Tribunal Registry data.

**Note 3** The total number of mesothelioma claims is higher (by one) than that reported as outstanding in Table 3. The reason for this is not easily ascertainable, although there may have been a difference in the classification of disease between the two sources of data.

The following table shows the outcome of claims during the period between 1 July 2006 and 30 June 2007 where action has been taken as part of the CRP for claims commenced during that period.

**Table 19** Outcome during the period 1 July 2006 to 30 June 2007 of claims commenced during that period while subject to the CRP

	Total Number	By Disease Type		
		Non-malignant	Carcinoma	Mesothelioma
Claims reported as settled while the claim is subject to the CRP	54	12	0	42
Claims discontinued	7	3	0	4
Claims removed for urgency	24	2	0	22
Claims removed by agreement after information exchange	0	0	0	0
Claims removed for failure to comply with the CRP	0	0	0	0
Claims returned to Tribunal as mediation was unsuccessful	1	0	0	1
Claims outstanding on 30 June 2006 which remain subject to the CRP	245 <sup>1</sup>	137	10	98
<b>Total</b>	<b>331</b>	<b>154<sup>2</sup></b>	<b>10<sup>2</sup></b>	<b>167<sup>2</sup></b>

Source: Tribunal Registry

**Note 1** Of the outstanding claims, the Statement of Particulars has been served in 78 claims (and as such the claims are active as part of the CRP). As at 1 July 2007 the Statement of Claim and the Statement of Particulars have not been served in 167 claims. This is set out in Table 11.

**Note 2** There is a small variance in the total number when compared to that reported in Table 2. The reason for this is not easily ascertainable, although there may have been a difference in the classification of disease between the two sources of data.

## 4 Time frames as part of the CRP

The following information is based on data recorded by the Tribunal in respect of those claims where action is taken as part of the CRP.

### 4.1 Service of the Statement of Particulars

The following table was provided last year in relation to claims which commenced between 1 July 2005 and 30 June 2006. In relation to these claims it shows the average time taken between filing the Statement of Claim and serving the Statement of Claim with the Statement of Particulars. The shortest period taken to serve the Statement of Particulars after the Statement of Claim is filed was the same day, while the longest time taken was 243 calendar days.

**Table 20** Calendar days between lodgement of a Statement of Claim and service of the Statement of Particulars on the last original defendant for claims commenced between 1 July 2005 and 30 June 2006 – Statement of Particulars served before 31 August 2006

	By Disease Type				
	Total	Asbestosis	ARPD	Carcinoma	Mesothelioma
<b>Number</b>	<b>104</b> <sup>1</sup>	38	16	4	46
<b>Range</b>	<b>0 - 243</b>	5 - 227	2 - 216	56 - 179	0 - 243
<b>Median</b>	<b>121</b>	160	128	57	76
<b>Average</b>	<b>111</b>	137	115	114	92

Source: Tribunal Registry

**Note 1** In order to increase the sample size, the data set used in this table includes all claims in respect of which a Statement of Particulars was served before 31 August 2006. All claims where a Statement of Particulars has been served are included in the total, regardless of the outcome of the claim (that is, settled, outstanding, removed for urgency etc).

The following table is in relation to claims commenced between 1 July 2005 and 30 June 2006 which were outstanding at 1 July 2006. For claims where the Statement of Particulars was served between 1 July 2006 and 30 June 2007, it shows the average time taken between filing the Statement of Claim and serving the Statement of Claim with the Statement of Particulars. The shortest period taken to serve the Statement of Particulars after the Statement of Claim is filed was seven days, while the longest time taken was 405 calendar days.

**Table 21** Calendar days between lodgement of a Statement of Claim and service of the Statement of Particulars on the last original defendant for claims commenced between 1 July 2005 and 30 June 2006 which were outstanding at 1 July 2006 – Statement of Particulars served after 1 July 2006

	By Disease Type				
	Total	Asbestosis	ARPD	Carcinoma	Mesothelioma
<b>Number</b>	<b>73<sup>1</sup></b>	40	17	2	14
<b>Range</b>	<b>7 - 405</b>	7 - 185	12 - 405	48 - 56	46 - 271
<b>Median</b>	<b>175</b>	176	181	52	126
<b>Average</b>	<b>156</b>	161	171	52	135

Source: Tribunal Registry

**Note 1** The data set used in this table includes all claims in respect of which a Statement of Particulars was served between 1 July 2006 and 30 June 2007. All claims where a Statement of Particulars has been served are included in the total, regardless of the outcome of the claim (that is, settled, outstanding, removed for urgency etc).

The following table is in relation to claims commenced between 1 July 2006 and 30 June 2007. It shows the average time taken between filing the Statement of Claim and serving the Statement of Claim with the Statement of Particulars. The shortest period taken to serve the Statement of Particulars after the Statement of Claim is filed was the same day, while the longest time taken was 269 calendar days.

**Table 22** Calendar days between lodgement of a Statement of Claim and service of the Statement of Particulars on the last original defendant for claims commenced between 1 July 2006 and 30 June 2007 – Statement of Particulars served after 1 July 2006

	By Disease Type				
	Total	Asbestosis	ARPD	Carcinoma	Mesothelioma
<b>Number</b>	<b>117<sup>1</sup></b>	40	19	4	54
<b>Range</b>	<b>0 - 269</b>	0 - 184	2 - 269	3 - 152	9 - 179
<b>Median</b>	<b>67</b>	137	91	52.5	50.5
<b>Average</b>	<b>85</b>	119	102	65	56

Source: Tribunal Registry

**Note 1** The data set used in this table includes all claims in respect of which a Statement of Particulars was served between 1 July 2006 and 30 June 2007. All claims where a Statement of Particulars has been served are included in the total, regardless of the outcome of the claim (that is, settled, outstanding, removed for urgency etc).

## 4.2 Time taken to resolve claims

The following table was provided last year. In relation to claims commenced between 1 July 2005 and 30 June 2006, it shows the average time taken to resolve a claim as part of the CRP from the time that the Statement of Particulars is served.

**Table 23** Calendar days taken to finalise a claim as part of the CRP from service of the Statement of Particulars for claims commenced between 1 July 2005 and 30 June 2006 – Claims resolved up to 31 August 2006

	By Disease Type				
	Total	Asbestosis	ARPD	Carcinoma	Mesothelioma
<b>Number</b>	<b>39</b> <sup>1</sup>	8	2	0	29
<b>Range</b>	<b>50 - 220</b>	62 - 217	133 - 187	-	50 - 139
<b>Median</b>	<b>96</b>	144	133	-	76
<b>Average</b>	<b>109</b>	139	160	-	97

Source: Tribunal Registry

**Note 1** The total number includes claims filed between 1 July 2005 and 30 June 2006 and includes claims which were resolved up until 31 August 2006. Claims only have been included where a Statement of Particulars has been filed and served.

The following table also shows the average time taken to resolve a claim from the time that the Statement of Particulars is served. The table is in relation to claims commenced between 1 July 2005 and 30 June 2006 which were outstanding at 1 July 2006 but resolved on or before 30 June 2007. This includes claims which were resolved as part of the CRP, those which were removed from the CRP on the basis of urgency or by consent but were subsequently settled, and a claim which was returned to the Tribunal as mediation was unsuccessful but subsequently settled.

**Table 24** Calendar days taken to finalise a claim from service of the Statement of Particulars for claims commenced between 1 July 2005 and 30 June 2006 which were outstanding at 1 July 2006 but resolved on or before 30 June 2007

	By Disease Type				
	Total	Asbestosis	ARPD	Carcinoma	Mesothelioma
<b>Number</b>	<b>105</b> <sup>1</sup>	46	18	4	37
<b>Range</b>	<b>50 - 348</b>	62 - 340	71 - 348	140 - 276	50 - 321
<b>Median</b>	<b>187</b>	208.5	190.5	167	139
<b>Average</b>	<b>186</b>	209	204	188	149

Source: Tribunal Registry

**Note 1** The total number includes claims filed between 1 July 2005 and 30 June 2006 which were outstanding at 1 July 2006 and resolved on or before 30 June 2007. Claims have been included only where a Statement of Particulars has been filed and served.

In relation to claims commenced between 1 July 2006 and 30 June 2007, the table shows the average time taken to resolve a claim from the time that the Statement of Particulars is served. This includes claims which were resolved as part of the CRP, those which were removed from the CRP on the basis of urgency but were subsequently settled, and a claim which was returned to the Tribunal as mediation was unsuccessful but subsequently settled.

**Table 25** Calendar days taken to finalise a claim as part of the CRP from service of the Statement of Particulars for claims commenced between 1 July 2006 and 30 June 2007 which resolved during that period

	By Disease Type				
	Total	Asbestosis	ARPD	Carcinoma	Mesothelioma
<b>Number</b>	<b>37<sup>1</sup></b>	4	4	-	29
<b>Range</b>	<b>14 - 243</b>	44 - 158	178 - 243	-	14 - 241
<b>Median</b>	<b>110</b>	124.5	194	-	95
<b>Average</b>	<b>104</b>	113	202	-	89

Source: Tribunal Registry

**Note 1** The total number includes claims filed between 1 July 2006 and 30 June 2007 which were resolved within that period. Claims have been included only where a Statement of Particulars has been filed and served.

#### 4.3 Resolution of claims where there is no Statement of Particulars

The following table was provided last year which shows the time taken to resolve matters without a Statement of Particulars having been filed and served. The table was provided in relation to claims which commenced between 1 July 2005 and 30 June 2006. This included claims which were removed from the CRP on the grounds of urgency and were subsequently determined by the Tribunal, or were otherwise settled without a Statement of Particulars being filed.

**Table 26** Calendar days taken to finalise a claim from filing of the Statement of Claim in claims where a Statement of Particulars has not been served – Claims commenced between 1 July 2005 and 30 June 2006 which were resolved up to 31 August 2006

	By Disease Type				
	Total	Asbestosis	ARPD	Carcinoma	Mesothelioma
<b>Number</b>	<b>51</b>	6	1	3	41
<b>Range</b>	<b>14 – 381</b>	52 – 381	114	35 – 195	14 – 224
<b>Median</b>	<b>117</b>	197	-	137	110
<b>Average</b>	<b>120</b>	205	114	122	116

Source: Tribunal Registry

**Note 1** The table includes all claims resolved up to 31 August 2006, including those which were withdrawn from the CRP due to urgency but which were subsequently resolved.

The following table is in relation to claims commenced between 1 July 2005 and 30 June 2006 which were outstanding at 1 July 2006 but resolved on or before 30 June 2007. It shows the time taken to resolve matters without a Statement of Particulars having been filed and served. This includes claims which were removed from the CRP on the basis of urgency or by consent but were subsequently settled, or were otherwise settled without a Statement of Particulars being filed.

**Table 27** Calendar days taken to finalise a claim from filing of the Statement of Claim in claims where a Statement of Particulars has not been served – Claims commenced between 1 July 2005 and 30 June 2006 which were outstanding at 1 July 2006 but resolved on or before 30 June 2007

	By Disease Type				
	Total	Asbestosis	ARPD	Carcinoma	Mesothelioma
<b>Number</b>	<b>34</b>	7	1	1	25
<b>Range</b>	<b>57 - 470</b>	158 - 370	355	286	57 - 470
<b>Median</b>	<b>253.5</b>	257	-	-	211
<b>Average</b>	<b>234</b>	248	355	286	234

Source: Tribunal Registry

**Note 1** The table includes all claims resolved between 1 July 2006 and 30 June 2007, including those which were withdrawn from the CRP due to urgency or by consent but which were subsequently resolved.

In relation to claims commenced between 1 July 2006 and 30 June 2007, the following table shows the time taken to resolve matters without a Statement of Particulars having been filed and served. This includes claims which were removed from the CRP on the grounds of urgency but were subsequently settled and claims which were otherwise settled without a Statement of Particulars being filed.

**Table 28** Calendar days taken to finalise a claim from filing of the Statement of Claim in claims where a Statement of Particulars has not been served – Claims commenced between 1 July 2006 and 30 June 2007 which resolved during that period

	By Disease Type				
	Total	Asbestosis	ARPD	Carcinoma	Mesothelioma
<b>Number</b>	<b>32</b>	4	0	0	28
<b>Range</b>	<b>21 - 304</b>	131 - 304	-	-	21 - 250
<b>Median</b>	<b>108</b>	196	-	-	95
<b>Average</b>	<b>122</b>	207	-	-	109

Source: Tribunal Registry

**Note 1** The table includes claims commenced between 1 July 2006 and 30 June 2007 which were resolved within that period, including those which were withdrawn from the CRP due to urgency but which were subsequently resolved.

## **5 Contributions assessment**

It was noted in the Issues Paper last year that seven contributions assessments were undertaken between 1 July 2005 and 30 June 2006. Five of these were undertaken in respect of claims lodged between 1 July 2005 and 30 June 2006, and the remaining two were conducted in relation to transitional claims. It was not clear to the Review at that time whether any contributions assessments had been the subject of challenge before the Tribunal.

Between 1 July 2006 and 30 June 2007, there were 47 contributions assessments undertaken. Four of these were conducted in relation to transitional claims, 25 were undertaken in respect of claims lodged between 1 July 2005 and 30 June 2006 and the remaining 18 were undertaken in respect of claims lodged between 1 July 2006 and 30 June 2007. The Registry has advised that there have been no challenges to any contributions assessments before the Tribunal during this period.

## **6 Mediation**

The Issues Paper noted last year that mediators appear to have been appointed in 22 of the 53 claims commenced between 1 July 2005 and 30 June 2006 which resolved by way of settlement while subject to the CRP. It was not clear how many of these were actually mediated. Two claims which were not successfully mediated subsequently settled when the claim returned to the Tribunal.

Of the 126 claims commenced between 1 July 2005 and 30 June 2006 which resolved by way of settlement while subject to the CRP between 1 July 2006 and 30 June 2007, it appears that mediators were appointed in approximately 58 claims. It appears that 30 of these claims were actually mediated.

Of the 54 claims commenced between 1 July 2006 and 30 June 2007 which resolved by way of settlement while subject to the CRP during that period, the data appears to show that mediators were appointed in approximately 28 claims. It appears that 10 of these claims were actually mediated.

In relation to claims which resolved between 1 July 2006 and 30 June 2007, two claims which were not successfully mediated subsequently settled when the claim returned to the Tribunal.



## 7 Transitional claims commenced before 1 July 2005

### 7.1 Outcome of transitional claims

The following table was provided last year which shows details of the number of transitional claims “on hand” in the Tribunal as at 1 July 2005 and the outcome of those claims during the period between 1 July 2005 and 30 June 2006. As was the case with Table 1, cross-claims were not included.

**Table 29** Outcome during the period 1 July 2005 to 30 June 2006 of pre 1 July 2005 claims

	Total Number	By Disease Type		
		Non-malignant	Carcinoma	Mesothelioma
Claims on hand at 1 July 2005	<b>524</b>	401	33	90
Claims finalised <sup>1</sup> – commenced pre 1 July 2005	<b>272</b>	194	11	67
Claims discontinued <sup>2</sup> – commenced pre 1 July 2005	<b>18</b>	13	1	4
Claims pending as at 1 July 2006 – commenced pre 1 July 2005	<b>234</b>	194	21	19

**Source:** *Tribunal Claims Database*

**Note 1** These include claims which are settled by way of judgment and those which are finalised by way of settlement.

**Note 2** These include claims which are discontinued, struck out or transferred to another jurisdiction.

The following table shows details of the number of transitional claims “on hand” in the Tribunal as at 1 July 2006 and the outcome of those claims during the period between 1 July 2006 and 30 June 2007. As was the case with Table 29, cross-claims are not included.

**Table 30 Outcome during the period 1 July 2006 to 30 June 2007 of pre 1 July 2005 claims**

	Total Number	By Disease Type		
		Non-malignant	Carcinoma	Mesothelioma
Claims on hand at 1 July 2006	<b>234</b>	194	21	19
Claims finalised <sup>1</sup> – commenced pre 1 July 2005	<b>103</b>	90	6	7
Claims discontinued <sup>2</sup> – commenced pre 1 July 2005	<b>0</b>	0	0	0
Claims pending as at 1 July 2007 – commenced pre 1 July 2005	<b>131</b>	104	15	12

**Source:** *Tribunal Claims Database*

**Note 1** These include claims which are settled by way of judgment and those which are finalised by way of settlement.

**Note 2** These include claims which are discontinued, struck out or transferred to another jurisdiction.

## 7.2 Steps taken as part of the CRP on pre 1 July 2005 claims

Last year the following information was given in the Issues Paper in relation to pre 1 July 2005 claims. Only 35 pre 1 July 2005 claims had been recorded in the Registry’s database which tracks progress through the CRP. From Table 29 above, there were 524 pre 1 July 2005 claims as at 1 July 2005 which potentially could have been subject to the CRP. Of the 35 claims recorded by the Registry, current claims proposals were notified to the Registrar of the Tribunal in only three claims.

Between 1 July 2006 and 30 June 2007, 45 pre 1 July 2005 claims were recorded in the Registry’s database which tracks progress through the CRP. From Table 30 above, there were 234 claims as at 1 July 2006 which potentially could have been subject to the CRP. Of the 45 claims recorded by the Registry, current claims proposals were notified to the Registrar of the Tribunal in only three claims. These were all notified between 1 July 2006 and 30 June 2007.

The Form 3 Returns lodged by practitioners distinguish between the number of claims which are resolved by judgment and those which are resolved by settlement.

The following table was provided last year which shows details of pre 1 July 2005 claims which were resolved on or before 30 June 2006.

**Table 31** Claims resolved by settlement or judgment where a Form 3 Return has been filed – Pre 1 July 2005 claims which resolved on or before 30 June 2006

	Total Number	By Disease Type			
		Asbestosis	ARPD	Carcinoma	Mesothelioma
Claims resolved by settlement – commenced pre 1 July 2005	254	130	46	11	67
Claims resolved by judgment – commenced pre 1 July 2005	10	1	4	1	4
<b>Total</b>	<b>264<sup>1</sup></b>	<b>131</b>	<b>50</b>	<b>12</b>	<b>71</b>

Source: Form 3 Returns

**Note 1** This number is lower than the total number of claims which have been finalised as set out in Table 29 because the Tribunal is still waiting for returns to be lodged in relation to a small number of claims, or a return has been lodged but the costs are to be agreed or assessed.

In relation to pre 1 July 2005 claims that resolved between 1 July 2006 and 30 June 2007, the following table shows the number of claims which were resolved by judgment and those which were resolved by settlement.

**Table 32** Claims resolved by settlement or judgment where a Form 3 Return has been filed – Pre 1 July 2005 claims which resolved between 1 July 2006 and 30 June 2007

	Total Number	By Disease Type			
		Asbestosis	ARPD	Carcinoma	Mesothelioma
Claims resolved by settlement – commenced pre 1 July 2005	92	62	18	2	10
Claims resolved by judgment – commenced pre 1 July 2005	2	2	0	0	0
<b>Total</b>	<b>94<sup>1</sup></b>	<b>64</b>	<b>18</b>	<b>2</b>	<b>10<sup>2</sup></b>

Source: Form 3 Returns

**Note 1** This number is lower than the total number of claims which have been finalised as set out in Table 30 because the Tribunal is still waiting for returns to be lodged in relation to two claims, or a return has been lodged but the costs are to be agreed or assessed or the return is incomplete.

**Note 2** There is a small variance in the total number when compared to that reported in Table 30. The reason for this is not easily ascertainable, although there may have been a difference in the classification of disease between the two sources of data.

## 8 Legal and other claim costs

### 8.1 Plaintiff legal and other claim costs - General

The following tables were provided last year in relation to claims which were commenced between 1 July 2005 and 30 June 2006 and finalised in that period. It contains information on the average solicitor-client costs, barristers' fees, cost of expert reports and cost of disbursements on a per claim basis for plaintiffs. It included claims finalised by settlement and by judgment.

In calculating the average amount for each category of cost, claims were included only where an amount has been identified in the Form 3 Return for solicitor-client costs. This was because some returns had indicated that this amount still was to be advised or confirmed (for example, where the costs are still to be agreed or assessed).

**Table 33** Average plaintiff legal and other costs for claims commenced between 1 July 2005 and 30 June 2006 which finalised during that period – Single defendant claims

	By Disease Type		
	Overall	Non-malignant	Malignant
Number	52	9	43
Solicitor-Client Costs	25,961	19,990	27,210
Barristers' Fees	2,735	1,861	2,918
Expert Reports	4,192	2,509	4,544
Other Disbursements	2,447	1,860	2,570
<b>Total</b>	<b>35,335</b>	<b>26,220</b>	<b>37,242</b>

Source: Form 3 Returns

**Table 34** Average plaintiff legal and other costs for claims commenced between 1 July 2005 and 30 June 2006 which finalised during that period – Multiple defendant claims

	By Disease Type		
	Overall	Non-malignant	Malignant
Number	11	2	9
Solicitor-Client Costs	23,124	10,052	26,028
Barristers' Fees	2,497	1,100	2,807
Expert Reports	2,896	1,474	3,212
Other Disbursements	3,806	1,123	4,402
<b>Total</b>	<b>32,323</b>	<b>13,749</b>	<b>36,449</b>

Source: Form 3 Returns

The following tables show average plaintiff's costs for all claims which were finalised between 1 July 2006 and 30 June 2007, whether the claims were commenced between 1 July 2005 and 30 June 2006 or 1 July 2006 and 30 June 2007. These costs were calculated on the same basis as above.

**Table 35** Average plaintiff legal and other costs for claims commenced between 1 July 2005 and 30 June 2007 which finalised between 1 July 2006 and 30 June 2007 – Single defendant claims

	By Disease Type		
	Overall	Non-malignant	Malignant
Number	125	46	79
Solicitor-Client Costs	27,750	23,688	30,116
Barristers' Fees	2,354	1,285	2,976
Expert Reports	3,748	3,868	3,678
Other Disbursements	2,559	1,859	2,966
<b>Total</b>	<b>36,411</b>	<b>30,700</b>	<b>39,736</b>

Source: Form 3 Returns

**Table 36** Average plaintiff legal and other costs for claims commenced between 1 July 2005 and 30 June 2007 which finalised between 1 July 2006 and 30 June 2007 – Multiple defendant claims

	By Disease Type		
	Overall	Non-malignant	Malignant
Number	54	25	29
Solicitor-Client Costs	29,770	24,990	33,890
Barristers' Fees	2,594	1,009	3,961
Expert Reports	2,927	3,852	2,131
Other Disbursements	2,844	2,945	3,146
<b>Total</b>	<b>38,136<sup>1</sup></b>	<b>32,796</b>	<b>43,128</b>

Source: Form 3 Returns

**Note 1** The total is different from the sum of the separate costs outlined above as the separate costs have been rounded to the nearest dollar. The total was calculated by adding the separate costs before they were rounded up or down.

Plaintiff's costs for claims which were finalised between 1 July 2006 and 30 June 2007 were also broken down by the year in which claims were commenced. The following tables show the average plaintiff's costs for claims which commenced between 1 July 2005 and 30 June 2006 which were finalised between 1 July 2006 and 30 June 2007.

**Table 37** Average plaintiff legal and other costs for claims commenced between 1 July 2005 and 30 June 2006 which finalised between 1 July 2006 and 30 June 2007 – Single defendant claims

	By Disease Type		
	Overall	Non-malignant	Malignant
Number	88	41	47
Solicitor-Client Costs	26,415	24,048	28,480
Barristers' Fees	1,578	1,200	1,907
Expert Reports	3,789	3,942	3,655
Other Disbursements	2,677	1,968	3,295
<b>Total</b>	<b>34,458<sup>1</sup></b>	<b>31,158</b>	<b>37,337</b>

Source: Form 3 Returns

**Note 1** The total is different from the sum of the separate costs outlined above as the separate costs have been rounded to the nearest dollar. The total was calculated by adding the separate costs before they were rounded up or down to the nearest dollar.

**Table 38** Average plaintiff legal and other costs for claims commenced between 1 July 2005 and 30 June 2006 which finalised between 1 July 2006 and 30 June 2007 – Multiple defendant claims

	By Disease Type		
	Overall	Non-malignant	Malignant
Number	40	24	16
Solicitor-Client Costs	27,863	25,046	32,089
Barristers' Fees	1,471	1,051	2,102
Expert Reports	3,543	3,893	3,019
Other Disbursements	2,791	2,559	3,138
<b>Total</b>	<b>35,668</b>	<b>32,549</b>	<b>40,348</b>

Source: Form 3 Returns

The following tables show the average plaintiff's costs for claims which commenced between 1 July 2006 and 30 June 2007 which were finalised during that period.

**Table 39** Average plaintiff legal and other costs for claims commenced between 1 July 2006 and 30 June 2007 which finalised during that period – Single defendant claims

	By Disease Type		
	Overall	Non-malignant	Malignant
Number	37	5	32
Solicitor-Client Costs	30,926	20,732	32,519
Barristers' Fees	4,199	1,980	4,546
Expert Reports	3,651	3,265	3,711
Other Disbursements	2,278	966	2,483
<b>Total</b>	<b>41,054</b>	<b>26,943</b>	<b>43,259</b>

Source: Form 3 Returns

**Table 40** Average plaintiff legal and other costs for claims commenced between 1 July 2006 and 30 June 2007 which finalised during that period – Multiple defendant claims

	By Disease Type		
	Overall	Non-malignant	Malignant
Number	14	1	13
Solicitor-Client Costs	35,218	23,654	36,108
Barristers' Fees	5,803	0	6,249
Expert Reports	1,168	2,867	1,037
Other Disbursements	2,998	947	3,156
<b>Total</b>	<b>45,187</b>	<b>27,468</b>	<b>46,550</b>

Source: Form 3 Returns

## 8.2 Plaintiff legal and other claim costs – Transitional claims

There is some Form 3 claims information available in relation to pre 1 July 2005 transitional claims. The following tables were provided last year in relation to transitional claims which were finalised between 1 July 2005 and 30 June 2006.

The Issues Paper also noted that caution should be exercised in drawing direct comparisons with costs for claims that were commenced between 1 July 2005 and 30 June 2006, given the different sample sizes between the two groups of claims.

**Table 41** Average plaintiff legal and other costs for claims commenced prior to 1 July 2005 which finalised between 1 July 2005 and 30 June 2006 – Single defendant claims

	By Disease Type				
	Overall	Asbestosis	ARPD	Carcinoma	Mesothelioma
Number	161	71	21	8	35
Solicitor-Client Costs	26,764	24,986	24,854	26,483	31,584
Barristers' Fees	3,470	1,805	3,817	7,581	5,699
Expert Reports	5,239	6,076	3,874	4,642	4,497
Other Disbursements	2,866	2,759	2,128	3,279	3,431
<b>Total</b>	<b>38,340</b>	<b>35,627</b>	<b>34,674</b>	<b>41,986</b>	<b>45,213</b>

Source: Form 3 Returns



**Table 42** Average plaintiff legal and other costs for claims commenced prior to 1 July 2005 which finalised between 1 July 2005 and 30 June 2006 – Multiple defendant claims

	By Disease Type			
	Overall	Asbestosis	ARPD	Malignant
Number	100	57	22	21
Solicitor-Client Costs	34,499	33,176	27,312	45,620
Barristers' Fees	5,545	2,860	3,908	14,546
Expert Reports	5,222	5,660	3,475	5,862
Other Disbursements	10,754	4,040	33,022	5,649
<b>Total</b>	<b>56,020</b>	<b>45,736</b>	<b>67,718</b>	<b>71,677</b>

Source: Form 3 Returns

The following tables show the average plaintiff's costs for pre 1 July 2005 claims which were finalised between 1 July 2006 and 30 June 2007.

**Table 43** Average plaintiff legal and other costs for claims commenced prior to 1 July 2005 which finalised between 1 July 2006 and 30 June 2007 – Single defendant claims

	By Disease Type				
	Overall	Asbestosis	ARPD	Carcinoma	Mesothelioma
Number	37	28	5	2	2
Solicitor-Client Costs	27,538	27,893	26,362	27,609	25,438
Barristers' Fees	2,488	2,371	3,750	1,800	1,650
Expert Reports	6,353	7,494	3,033	2,209	2,820
Other Disbursements	2,605	2,798	1,450	2,501	2,887
<b>Total</b>	<b>38,984</b>	<b>40,556</b>	<b>34,595</b>	<b>34,119</b>	<b>32,795</b>

Source: Form 3 Returns

**Table 44** Average plaintiff legal and other costs for claims commenced prior to 1 July 2005 which finalised between 1 July 2006 and 30 June 2007 – Multiple defendant claims

	By Disease Type			
	Overall	Asbestosis	ARPD	Malignant
Number	40	30	8	2
Solicitor-Client Costs	27,986	27,236	31,188	26,554
Barristers' Fees	2,275	2,496	1,163	3,410
Expert Reports	6,632	7,259	5,376	2,255
Other Disbursements	3,179	3,115	2,851	5,458
<b>Total</b>	<b>40,072</b>	<b>40,106</b>	<b>40,578</b>	<b>37,677</b>

Source: Form 3 Returns

### 8.3 Plaintiff legal and other claim costs – Mesothelioma claims

The following table was provided last year which consolidated information regarding mesothelioma claims which were finalised between 1 July 2005 and 30 June 2006.

**Table 45** Average plaintiff legal and other costs for pre 1 July 2005 and post 1 July 2005 claims which finalised between 1 July 2005 and 30 June 2006 – Mesothelioma claims

	By Disease Type			
	Claims commenced between 1 July 2005 and 30 June 2006		Claims commenced pre 1 July 2005	
	Mesothelioma (Single Defendant)	Mesothelioma (Multiple Defendant)	Mesothelioma (Single Defendant)	Mesothelioma (Multiple Defendant)
Solicitor-Client Costs	27,138	28,006	31,584	40,691
Barristers' Fees	2,863	2,405	5,699	13,003
Expert Reports	4,468	2,799	4,497	5,604
Other Disbursements	2,550	4,671	3,431	4,915
<b>Total</b>	<b>37,019</b>	<b>37,881</b>	<b>45,213</b>	<b>64,213</b>

Source: Form 3 Returns

The following table consolidates information concerning mesothelioma claims which were finalised between 1 July 2006 and 30 June 2007.

**Table 46** Average plaintiff legal and other costs - Mesothelioma claims which finalised between 1 July 2006 and 30 June 2007

	By Disease Type					
	Claims commenced between 1 July 2006 and 30 June 2007		Claims commenced between 1 July 2005 and 30 June 2006		Claims commenced pre 1 July 2005	
	Mesothelioma (Single Defendant)	Mesothelioma (Multiple Defendant)	Mesothelioma (Single Defendant)	Mesothelioma (Multiple Defendant)	Mesothelioma (Single Defendant)	Mesothelioma (Multiple Defendant)
Solicitor-Client Costs	32,519	36,108	28,480	32,089	25,438	31,000
Barristers' Fees	4,546	6,249	1,936	2,588	1,650	6,820
Expert Reports	3,711	813	3,615	3,019	2,820	4,070
Other Disbursements	2,483	3,115	2,401	3,138	2,887	8,463
<b>Total</b>	<b>43,258<sup>1</sup></b>	<b>46,286<sup>1</sup></b>	<b>36,432</b>	<b>40,833<sup>1</sup></b>	<b>32,795</b>	<b>50,353</b>

Source: Form 3 Returns

**Note 1** The total is different from the sum of the separate costs outlined above as the separate costs have been rounded to the nearest dollar. The total was calculated by adding the separate costs before they were rounded up or down.

#### 8.4 Defendant legal and other claim costs - General

The following tables were provided last year in relation to claims that were finalised between 1 July 2005 and 30 June 2006. They included information concerning the average solicitor-client costs, barristers' fees, cost of expert reports and cost of disbursements for defendants on a per claim basis. The average amounts specified in Table 48 (multiple defendant claims) are the average costs for all defendants to a claim. This included claims where more than one defendant had been named in the Statement of Claim by the plaintiff, as well as defendants who were joined (either as a party to the plaintiff's claim or by a defendant commencing a cross-claim against one or more other defendants). Claims were not included unless there had been full reporting by all defendants that were a party to the claim. It included costs for claims finalised by settlement and by judgment.

**Table 47** Average defendant legal and other costs for claims commenced between 1 July 2005 and 30 June 2006 which finalised during that period – Single defendant claims

	By Disease Type		
	Overall	Non-malignant	Malignant
Number	40	8	32
Solicitor-Client Costs	10,488	9,364	10,770
Barristers' Fees	492	764	424
Expert Reports	1,915	2,989	1,648
Other Disbursements	1,337	990	1,424
<b>Total</b>	<b>14,233</b>	<b>14,107</b>	<b>14,107</b>

Source: Form 3 Returns

**Table 48** Average defendant legal and other costs for claims commenced between 1 July 2005 and 30 June 2006 which finalised during that period – Multiple defendant claims

	By Disease Type				
	Overall	Asbestosis	ARPD	Carcinoma	Mesothelioma
Number	6	0	0	0	6
Solicitor-Client Costs	21,962	-	-	-	21,962
Barristers' Fees	2,812	-	-	-	2,812
Expert Reports	5,072	-	-	-	5,072
Other Disbursements	3,781	-	-	-	3,781
<b>Total</b>	<b>33,628</b>	<b>-</b>	<b>-</b>	<b>-</b>	<b>33,628</b>

Source: Form 3 Returns

The following tables show average defendant's costs for all claims which were finalised between 1 July 2006 and 30 June 2007, whether the claims were commenced between 1 July 2005 and 30 June 2006 or 1 July 2006 and 30 June 2007. These costs were calculated on the same basis as above.

**Table 49** Average defendant legal and other costs for claims commenced between 1 July 2005 and 30 June 2007 which finalised between 1 July 2006 and 30 June 2007 – Single defendant claims

	By Disease Type		
	Overall	Non-malignant	Malignant
Number	114	40	74
Solicitor-Client Costs	10,392	9,482	10,884
Barristers' Fees	1,036	260	1,456
Expert Reports	1,805	1,481	1,980
Other Disbursements	1,080	1,346	937
<b>Total</b>	<b>14,314<sup>1</sup></b>	<b>12,568<sup>1</sup></b>	<b>15,257</b>

Source: Form 3 Returns

**Note 1** The total is different from the sum of the separate costs outlined above as the separate costs have been rounded to the nearest dollar. The total was calculated by adding the separate costs before they were rounded up or down.

**Table 50** Average defendant legal and other costs for claims commenced between 1 July 2005 and 30 June 2007 which finalised between 1 July 2006 and 30 June 2007 – Multiple defendant claims

	By Disease Type				
	Overall	Asbestosis	ARPD	Carcinoma	Mesothelioma
Number	28	6	6	0	16
Solicitor-Client Costs	12,940	10,969	9,230	-	15,259
Barristers' Fees	1,431	103	251	-	2,479
Expert Reports	1,068	787	845	-	1,280
Other Disbursements	1,420	450	1,016	-	2,008
<b>Total</b>	<b>16,859</b>	<b>12,309</b>	<b>11,343<sup>1</sup></b>	<b>-</b>	<b>21,026</b>

Source: Form 3 Returns

**Note 1** The total is different from the sum of the separate costs outlined above as the separate costs have been rounded to the nearest dollar. The total was calculated by adding the separate costs before they were rounded up or down to the nearest dollar.

Defendant's costs for claims which were finalised between 1 July 2006 and 30 June 2007 have also been broken down by the year in which claims were commenced. The following tables show the average defendant's costs for claims which commenced

between 1 July 2005 and 30 June 2006 which were finalised between 1 July 2006 and 30 June 2007.

**Table 51** Average defendant legal and other costs for claims commenced between 1 July 2005 and 30 June 2006 which finalised between 1 July 2006 and 30 June 2007 – Single defendant claims

	By Disease Type		
	Overall	Non-malignant	Malignant
Number	80	37	43
Solicitor-Client Costs	10,582	9,651	11,383
Barristers' Fees	976	215	1,630
Expert Reports	1,669	1,509	1,807
Other Disbursements	1,140	1,407	910
<b>Total</b>	<b>14,367</b>	<b>12,782</b>	<b>15,731<sup>1</sup></b>

Source: Form 3 Returns

**Note 1** The total is different from the sum of the separate costs outlined above as the separate costs have been rounded to the nearest dollar. The total was calculated by adding the separate costs before they were rounded up or down.

**Table 52** Average defendant legal and other costs for claims commenced between 1 July 2005 and 30 June 2006 which finalised between 1 July 2006 and 30 June 2007 – Multiple defendant claims

	By Disease Type				
	Overall	Asbestosis	ARPD	Carcinoma	Mesothelioma
Number	18	6	5	0	7
Solicitor-Client Costs	11,466	10,969	8,466	-	14,054
Barristers' Fees	864	103	0	-	2,191
Expert Reports	1,160	787	829	-	1,746
Other Disbursements	1,275	450	598	-	2,530
<b>Total</b>	<b>14,767<sup>1</sup></b>	<b>12,309</b>	<b>9,893</b>	<b>-</b>	<b>20,521</b>

Source: Form 3 Returns

**Note 1** The total is different from the sum of the separate costs outlined above as the separate costs have been rounded to the nearest dollar. The total was calculated by adding the separate costs before they were rounded up or down.

The following tables show the average defendant's costs for claims which commenced between 1 July 2006 and 30 June 2007 and were finalised in that period. It is not possible to present all of the information in table 54 by disease type because

the very small sample size in respect of one disease type would raise privacy concerns.

**Table 53** Average defendant legal and other costs for claims commenced between 1 July 2006 and 30 June 2007 which finalised during that period – Single defendant claims

	By Disease Type		
	Overall	Non-malignant	Malignant
Number	34	3	31
Solicitor-Client Costs	9,945	7,394	10,192
Barristers' Fees	1,179	812	1,214
Expert Reports	2,125	1,137	2,221
Other Disbursements	940	587	974
<b>Total</b>	<b>14,189</b>	<b>9,929<sup>1</sup></b>	<b>14,601</b>

Source: Form 3 Returns

**Note 1** The total is different from the sum of the separate costs outlined above as the separate costs have been rounded to the nearest dollar. The total was calculated by adding the separate costs before they were rounded up or down.

**Table 54** Average defendant legal and other costs for claims commenced between 1 July 2006 and 30 June 2007 which finalised during that period – Multiple defendant claims

	By Disease Type			
	Overall	Non-malignant	Carcinoma	Mesothelioma
Number	10	1	0	9
Solicitor-Client Costs	16,097	13,815	-	16,337
Barristers' Fees	2,644	1,760	-	2,737
Expert Reports	871	943	-	863
Other Disbursements	1,730	3,525	-	1,541
<b>Total</b>	<b>21,341<sup>1</sup></b>	<b>20,044<sup>1</sup></b>	<b>-</b>	<b>21,478</b>

Source: Form 3 Returns

**Note 1** The total is different from the sum of the separate costs outlined above as the separate costs have been rounded to the nearest dollar. The total was calculated by adding the separate costs before they were rounded up or down.

## 9 Compensation recovered

### 9.1 Compensation recovered - General

The Form 3 Returns include information concerning the amount of compensation either awarded by the Tribunal or agreed between the parties.

Last year the following table was provided which shows the average amount of compensation which was recovered in claims which were resolved between 1 July 2005 and 30 June 2006. It included claims which were commenced during that period and also claims which were commenced before 1 July 2005.

The average amount of compensation which was recovered in claims was also broken down by whether or not costs were included in the amount of compensation which was awarded by the Tribunal or agreed between the parties.

**Table 55** Average amount of compensation recovered for claims which resolved between 1 July 2005 and 30 June 2006 – Claims commenced up to 30 June 2006

	By Disease Type			
	Asbestosis	ARPD	Carcinoma	Mesothelioma
Average compensation recovered by settlement (including costs) – commenced between 1 July 2005 and 30 June 2006	107,500	95,000	150,000	296,407
Average compensation recovered by settlement (including costs) – claims commenced pre 1 July 2005	135,901	112,148	133,000	340,885
Average compensation recovered by settlement (not including costs, with costs to be agreed or assessed) – claims commenced pre 1 July 2005 <sup>1</sup>	90,000	-	-	315,867

**Source:** Form 3 Returns

**Note 1** There were no claims commenced between 1 July 2005 and 30 June 2006 which were settled on the basis that costs were to be agreed or assessed.



The following table shows the average amount of compensation which was recovered in claims which were resolved between 1 July 2006 and 30 June 2007. It includes claims which were commenced between 1 July 2005 and 30 June 2007. It is not possible to present all of the information in the following table by disease type because the very small sample size in respect of some diseases would raise privacy concerns.

**Table 56** Average amount of compensation recovered for claims which resolved between 1 July 2006 and 30 June 2007 – Claims commenced between 1 July 2005 and 30 June 2007

	By Disease Type		
	Non-malignant	Carcinoma	Mesothelioma
Average compensation recovered by settlement (including costs) – commenced between 1 July 2005 and 30 June 2007	138,975	160,000	369,248
Average compensation recovered by settlement (not including costs) – claims commenced between 1 July 2005 and 30 June 2007	81,667	-	261,429

Source: Form 3 Returns

The average amount of compensation which was recovered in claims which were resolved between 1 July 2006 and 30 June 2007 has also been broken down by the year in which claims were commenced. The following table shows this information for claims which were commenced between 1 July 2005 and 30 June 2006 which were resolved between 1 July 2006 and 30 June 2007. It is not possible to present all of the information in the following table by disease type because the very small sample size in respect of some diseases would raise privacy concerns.

**Table 57** Average amount of compensation recovered for claims which resolved between 1 July 2006 and 30 June 2007 – Claims commenced between 1 July 2005 and 30 June 2006

	By Disease Type		
	Non-malignant	Carcinoma	Mesothelioma
Average compensation recovered by settlement (including costs) – commenced between 1 July 2005 and 30 June 2006	141,314	160,000	278,491
Average compensation recovered by settlement (not including costs) – claims commenced between 1 July 2005 and 30 June 2006	82,500	-	278,000

Source: Form 3 Returns

The following table shows the average amount of compensation recovered in claims which were commenced between 1 July 2006 and 30 June 2007 which were resolved during that period. It is not possible to present all of the information in the following table by disease type because the very small sample size in respect of some diseases would raise privacy concerns.

**Table 58** Average amount of compensation recovered for claims which resolved between 1 July 2006 and 30 June 2007 – Claims commenced during that period

	By Disease Type	
	Non-malignant	Malignant
Average compensation recovered by settlement (including costs) – commenced between 1 July 2006 and 30 June 2007	109,500	449,590
Average compensation recovered by settlement (not including costs) – claims commenced between 1 July 2006 and 30 June 2007	80,000	220,000

Source: Form 3 Returns

The average amount of compensation recovered has also been calculated for claims which were commenced before 1 July 2005. The following table shows this information for those claims which were resolved between 1 July 2006 and 30 June 2007. It is not possible to present all of the information in the following table by disease type because the very small sample size in respect of some diseases would raise privacy concerns.

**Table 59** Average amount of compensation recovered for claims which resolved between 1 July 2006 and 30 June 2007 – Claims commenced before 1 July 2005

	By Disease Type		
	Asbestosis	ARPD	Malignant
Average compensation recovered by settlement (including costs) – commenced before 1 July 2005	136,002	126,027	193,250
Average compensation recovered by settlement (not including costs) – claims commenced before 1 July 2005	147,500	107,500	115,000

Source: Form 3 Returns

## 9.2 Compensation recovered – After deducting legal and other costs

Tables 33 - 46 show average plaintiff legal and other costs. The information in those tables was calculated using those claims where information was provided as part of the Form 3 Returns concerning costs. Claims were necessarily excluded from the samples used to make those calculations (even though the settlement amount was

known) where there was no information as to legal costs, either because it was not reported or it still was to be agreed or assessed.

The following tables were provided last year in relation to claims which were resolved between 1 July 2005 and 30 June 2006. To enable the average amounts being received by plaintiffs, after legal and other costs are accounted for, to be calculated, the “Average amount of compensation recovered” in the following tables were calculated using the same data sets which were used for Tables 33, 34, 41, and 42. It includes amounts recovered by settlement or judgment.

**Table 60**      **Average amount of compensation recovered after deducting plaintiff’s legal and other costs – Claims commenced between 1 July 2005 and 30 June 2006 which resolved during that period**

	Average amount recovered (including plaintiff legal and other costs)	Average plaintiff legal and other costs	Average net amount recovered by plaintiff
Single Defendant – Malignant	304,158	37,242	266,916
Single Defendant – Non-malignant	108,333	26,220	82,113
Multiple Defendant - Malignant	237,000	36,449	200,551
Multiple Defendant – Non - malignant	50,000	13,749	36,251

**Source:** *Form 3 Returns*

**Table 61** Average amount of compensation recovered after deducting plaintiff's legal and other costs – Claims commenced before 1 July 2005 which resolved between 1 July 2005 and 30 June 2006

	Average amount recovered (including plaintiff legal and other costs)	Average plaintiff legal and other costs	Average net amount recovered by plaintiff
Single Defendant – Asbestosis	131,447	35,627	95,820
Single Defendant – ARPD	110,839	34,674	76,165
Single Defendant – Carcinoma	125,000	41,986	83,014
Single Defendant – Mesothelioma	341,971	45,213	296,235
Multiple Defendant – Asbestosis	140,636	45,736	94,900
Multiple Defendant – ARPD	118,465	67,718	50,747
Multiple Defendant – Malignant	332,233	71,677	260,556

Source: Form 3 Returns

The following table shows the average amount of compensation recovered by plaintiffs, after accounting for legal and other costs, for claims which were resolved between 1 July 2006 and 30 June 2007. It includes claims which were commenced between 1 July 2005 and 30 June 2007. The amount of compensation recovered by plaintiffs, after accounting for legal and other costs, has been calculated on the same basis as above.

**Table 62** Average amount of compensation recovered after deducting plaintiff's legal and other costs – Claims commenced between 1 July 2005 and 30 June 2007 which resolved between 1 July 2006 and 30 June 2007

	Average amount recovered (including plaintiff legal and other costs)	Average plaintiff legal and other costs	Average net amount recovered by plaintiff
Single Defendant – Malignant	350,187	39,736	310,451
Single Defendant – Non-malignant	144,640	30,700	113,940
Multiple Defendant - Malignant	296,958	43,128	253,830
Multiple Defendant – Non - malignant	129,232	32,796	96,436

Source: Form 3 Returns

The average amount of compensation recovered by plaintiffs, after accounting for legal and other costs, for claims which were resolved between 1 July 2006 and 30 June 2007 has also been broken down by the year in which claims were commenced. The following table shows this information for claims which were commenced between 1 July 2005 and 30 June 2006.

**Table 63** Average amount of compensation recovered after deducting plaintiff's legal and other costs – Claims commenced between 1 July 2005 and 30 June 2006 which resolved between 1 July 2006 and 30 June 2007

	Average amount recovered (including plaintiff legal and other costs)	Average plaintiff legal and other costs	Average net amount recovered by plaintiff
Single Defendant – Malignant	281,478	37,337	244,141
Single Defendant – Non-malignant	148,000	31,158	116,842
Multiple Defendant - Malignant	244,727	40,348	204,379
Multiple Defendant – Non - malignant	130,450	32,549	97,901

Source: Form 3 Returns

The following table shows the average amount of compensation recovered by plaintiffs, after accounting for legal and other costs, for claims which were resolved between 1 July 2006 and 30 June 2007 which were commenced during that period.

**Table 64** Average amount of compensation recovered after deducting plaintiff's legal and other costs – Claims commenced between 1 July 2006 and 30 June 2007 which resolved during that period

	Average amount recovered (including plaintiff legal and other costs)	Average plaintiff legal and other costs	Average net amount recovered by plaintiff
Single Defendant – Malignant	453,250	43,259	409,991
Single Defendant – Non-malignant	111,875	26,943	84,932
Multiple Defendant - Malignant	341,154	46,550	294,604
Multiple Defendant – Non - malignant	100,000	27,468	72,532

Source: Form 3 Returns

The average amount of compensation recovered by plaintiffs, after accounting for legal and other costs, for claims which were resolved between 1 July 2006 and 30

June 2007 has also been calculated for claims which were commenced before 1 July 2005. It has been calculated on the same basis as last year.

It is not possible to present all of the information in the following table by disease type because the very small sample size in respect of some diseases would raise privacy concerns.

**Table 65** Average amount of compensation recovered after deducting plaintiff's legal and other costs – Claims commenced before 1 July 2005 which resolved between 1 July 2006 and 30 June 2007

	Average amount recovered (including plaintiff legal and other costs)	Average plaintiff legal and other costs	Average net amount recovered by plaintiff
Single Defendant – Asbestosis	164,055	40,556	123,499
Single Defendant – ARPD	117,260	34,595	82,665
Single Defendant – Malignant	209,000	33,457	175,543
Multiple Defendant – Asbestosis	136,002	40,106	95,896
Multiple Defendant – ARPD	133,333	40,578	92,755
Multiple Defendant – Malignant	177,500	37,677	139,823

**Source:** Form 3 Returns