

Diffuse Mesothelioma Payment Scheme (DMPS)

Oversight Committee

15 September 2014

14:00-16:00

Minutes

Attendees:

Baroness Rita Donaghy	Chair
Steve Bellingham	Royal Sun Alliance Insurers
Laurence Besemer	Forum of Insurance Lawyers
Bridget Collier	Association of Personal Injury Lawyers
Doug Jewell	Asbestos Victims Support Group Forum
Hugh Robertson	Trades Union Congress
Alison Fryatt	Health, Disability, and Employment Directorate (DWP)
Lucy O' Sullivan	DMPS Performance Manager (DWP)
Ana Easton	DMPS team/Oversight Committee Secretariat (DWP)

1. Welcome and introductions

DWP highlighted that Baroness Donaghy has been confirmed as Chair of the Oversight Committee. The Chair welcomed everyone to the first formal DMPS Oversight Committee meeting. Members introduced themselves.

2. Role of DWP

DWP outlined the role of the Oversight Committee, in particular that whilst it is independent of the Department, DWP has a role to facilitate the practicalities of enabling the Committee to function. DWP will provide the secretariat for the Committee [including providing meeting rooms where necessary]. DWP will be the interface between the Oversight Committee and the Scheme Administrator. Gallagher Bassett International (GBI), the Scheme Administrator, is under contract with the Department to administer the scheme; therefore any Oversight Committee requests will be co-ordinated by DWP.

Lucy O'Sullivan introduced Ana Easton. Ana's responsibilities will primarily involve overseeing the day-to-day management of the Scheme and DWP's interaction with

GBI, and leading on the interface between the Scheme and the Oversight Committee. Ana will be the Oversight Committee's secretariat.

Committee members raised a question on whether they can share the management information (MI) with their members. DWP will investigate further.

3. Terms of reference

DWP highlighted the areas where the terms of reference had been amended to reflect members' comments at the June meeting:

- **Relationship with Scheme Administrator – 4.3:** The Oversight Committee can request information to be provided by the Scheme Administrator. DWP will pass on these requests and work with the Scheme Administrator to provide the information where appropriate.
- **Start date and Lifespan – 5.1:** The Chair noted that she thought the Committee should remain in existence for the duration of the Scheme, although once the Scheme is established and running well, the Committee may decide to meet less often.
- **Suggested Activities of the Oversight Committee – 8.1:** The Committee will receive the management performance reports of the scheme. MI is provided by the Scheme Administrator to DWP on a monthly basis. A Committee member requested that the MI should be sent monthly to Committee members. The Chair confirmed that it would be helpful to have the MI monthly for the first year (subject to DWP's action above).
- **Suggested Activities of the Oversight Committee – 8.2:** The Oversight Committee can review cases to inform its Annual Report. This will be done by reviewing a random sample of redacted cases, which will be provided to the Committee for scrutiny by the DWP. Due to lower than expected volumes in year one, DWP suggested that a sample size of 40 per year would be sufficient (it is likely this will be approximately 13% of the Year 1 case load). The Chair confirmed that the sample size of 40 was acceptable at the moment, but the committee will review it in the future. A Committee member commended that the sample size does not go below 5% to ensure viability.
- **Suggested Activities of the Oversight Committee - 8.4:** Timings of the respective reports were discussed. DWP's report will be published after the Scheme Administrator's and Oversight Committee's Annual Reports. DWP highlighted that their first report must be published on or before 30th November 2015.
- **Powers of Oversight Committee - 10.5:** DWP noted that the Committee needs to agree a process for handling any complaints or approaches that may be raised directly with members. As per 8.3 of the terms of reference, it is not anticipated that users will contact Committee members directly. In order to monitor complaints and how they are handled, the Oversight Committee will be able to request the Scheme Administrator's complaints log to review issues. Members

discussed, and the Chair confirmed that any queries members receive should be referred to DWP officials who will in turn raise them with the Scheme Administrator. Individual members of the Oversight Committee should have no involvement of dealing with individual complaints and appeals.

- **Funding – 14.1:** DWP noted that members will be asked to give their time on a voluntary basis. Reasonable travel expenses can be reimbursed for any members from a charity organisation.

4. Update on actions from the June set up meeting

The first action from the last meeting was for DWP to provide information on how GBI are assessing negligent exposure and the process for checking Employers Liability Tracing Office (ELTO) searches.

DWP provided an update to the Committee on discussions held with the Scheme Administrator about how negligent exposure is being assessed. Applicants should include within their witness statement how they are negligently exposed. GBI have indicated that some applicants say that they have been exposed but cannot give details of the negligence. If the applicant explains the work they had to do for employers and was not warned about asbestos and think they were exposed, then the Scheme Administrator will look into that employment.

Oversight Committee members indicated that whilst the initial information above was useful, they would like to have a fuller explanation of the Scheme Administrator procedure for identifying negligent exposure.

Committee members raised a few queries regarding the timeframe for ELTO searches.

A Committee member raised the issue of what happens where the employer exposing the asbestos is sub contracted and that sub-contractor does not appear under the employment record.

A Committee member had highlighted previously that the DWP had in the past produced a leaflet with information on asbestos-related diseases which had been available in locations such as GP surgeries and hospitals at the point of diagnosis. This was considered to have been an effective way of raising awareness amongst sufferers of the financial assistance that was available. The leaflet was now out of date and out of print but if something similar could be produced for the DMPS it could be a good way of advertising the scheme.

5. Update on the Scheme

Following an overview from DWP about the Scheme, Oversight Committee members had a number of comments and questions.

- Committee members raised questions around the deductions that are made from the DMPS amount that is awarded. Committee members would like to know how much CRU deductions are recovered.

- Committee members would like to see a comparison of successful applications with those that have actually been determined.
- Committee members would also like to see a breakdown of whether the applicant was represented by a solicitor or not and show the success rate or delay of this. The question was raised as to whether there are delays because the applicants are not being represented.

6. Future meetings

Committee members agreed that they would like to meet again before Christmas – if possible in November and with the Scheme Administrator (GBI) in attendance so that the Committee can have a comprehensive discussion about the Scheme MI and about the Committee's other questions regarding administration of the Scheme.

The Oversight Committee members indicated that the meeting after the November one should comprise their review of redacted case files. This could take place in February. Consideration should be given on whether files could be provided electronically and viewed remotely.

Committee members would like a more focussed discussion about any DWP and GBI's promotion of the Scheme.

7. AOB

- A Committee member noted that a small number of mesothelioma victims who were diagnosed after 25 July 2012 may have passed away before the Scheme began taking applications. DWP confirmed that the policy, as provided for by the Act and by the Scheme regulations, is that the Scheme is intended to ease the suffering of victims and their eligible dependants. Applicants to the Scheme are eligible persons with diffuse mesothelioma or their eligible dependants. Therefore applications cannot be initiated by the estate of a deceased sufferer.
- DWP noted that discussions are continuing with the Employers Liability Tracing Office (ELTO) as they develop their Dispute Resolution Panel which will hear disputes about insurer cover.
- DWP updated the Committee about the process for DMPS appeals to the First Tier Tribunal. DWP is working with HM Courts and Tribunals Service to develop the process, and updated the relevant guidance and forms. There are four pending appeals for first tier tribunals.

Next meeting will be on Wednesday 17th December 2.00pm-3.00pm at Caxton House, London