

Diffuse Mesothelioma Payment Scheme (DMPS)

Oversight Committee

16 November 2016

13:30-14:30

House of Lords, Res 2 HL

Minutes

Attendees:

Baroness Rita Donaghy	Chair
Bridget Collier	Association of Personal Injury Lawyers
Graham Dring	Asbestos Victims Support Group Forum
Hugh Robertson	Trades Union Congress
Stephen Bellingham	Royal Sun Alliance Insurers
Jason O'Sullivan	Gallagher Bassett International (scheme administrator)
Annette Loakes	DWP
Stuart Whitney	DWP

Apologies:

Laurence Besemer	Forum of Insurance Lawyers
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1. Welcome and introductions

The Chair welcomed members to the meeting and conveyed the apology.

2. Minutes and actions from the last meeting

- After a brief discussion around Action Point 3 of the May minutes and the potential for applicants to be disadvantaged as a result of ELTO search results not specifying dates of insurance cover, the scheme administrator was able to reassure the Committee that they are able re-open a claim if the customer requests a review of the original decision in light of new evidence. The minutes of the May 2016 meeting were therefore agreed.
- With regard to Action Point 1 of the May minutes and the need for updated leaflets to be placed within hospitals and for healthcare specialists or through other means, the Committee members who are looking at this stated that this is still a work in progress.
- Following on from the discussion around solicitor-led versus claimant-led applications one of the members raised a concern about a situation where a DMPS payment has been made and then the individual has been successful with a civil claim. There is no legal requirement to pursue the civil action. DWP confirmed it is monitoring this issue.
- At the May meeting there was a short discussion about the nature of the employer's liability tracing office (ELTO) searches. DWP confirmed that along with ELTO

colleagues there are plans to carry out a retrospective check with the scheme administrator to see if an employer with an insurer had subsequently been discovered. DWP will need to consider what to do with the information once results have been obtained but agreed with the Chair to share any findings with the Committee. It was the view of one member that the issue might not be a problem going forward with ELTO traces improving. The Committee also considered whether this issue could be audited by PwC but given the small numbers this might be difficult to audit.

- The Committee noted the latest version of the Action Log but had no further comments.

3. Scheme MI for October 2016

- DWP confirmed that Stuart has sent hard copies of the MI summary for October to all Committee members through the post. Annette also confirmed that DWP was happy to share the MI with the ABI.
- DWP then talked the Committee through the latest MI.
- Specific points of interest included an increase in the number of withdrawn claims, the average payment had increased to around £135,000 which may be due to the tariff increasing from 80% to 100%, and the number of solicitor-led claims were increasing.
- There was a discussion around the number of withdrawn and unsuccessful cases. GBI confirmed they do not ask for the reasons why a claim is withdrawn – these cases are simply closed down. This is different from claims denied by GBI. Committee members expressed the view that the number of unsuccessful claims was quite high. The issue of negligent exposure not being proven was touched upon as this was one of the main reasons why a claim would be denied.
- The Committee was asked if it wanted to input into the 2017 external audit of the DMPS and how this should be carried out. Should the audit be more technical in nature? Could the Association of Personal Injury Lawyers or the Forum of Insurance Lawyers help PwC with the audit?

AP – DWP to follow this up with Committee members at the next meeting

- Members raised a query about the shortfall in the DMPS Levy. DWP confirmed that the Department covered any shortfall then recover the money from insurers.

4. Solicitor-led versus claimant-led applications

- GBI provided a breakdown of these cases to the Committee. Since the start of the DMPS 83% of applications were solicitor-led whilst 17% came from individuals.
- In terms of success rates 75% of applications that are solicitor-led were successful compared to 30% for claimant-led applications.
- If required GBI can break these down further for each year the scheme has been running.
- The difference in the success rates was noted by the Committee and gives some concern. The Committee will look at this issue as part of its redacted case exercise.

5. Committee's review of a small sample of redacted cases

- It was agreed that the Committee would look at 20 redacted cases.
- The 20 cases will include a selection of "non-typical" as well as solicitor-led and individual-led applications.
- The Chair confirmed these cases should be looked at in terms of checking GBI's procedures and that cases were being dealt with in a timely and correct manner.

- It was decided that 15 of the cases should be solicitor-led and 5 individual-led
- Rather than pdf versions of the cases being emailed to members the Committee preferred to have paper copies of the cases posted out to them. GBI will send the 20 redacted cases electronically to Stuart at DWP who will then print off and send out the hard copies to members. The 20 cases to be allocated and split across all 6 of the members.
- The cases to be posted out to members in February 2017.

6. DMPS Communications Plan

- DWP explained why this Communications activity was being done – specifically to highlight that the 3 year deadline (5 April 2017) for applications for those who were diagnosed between 25 July 2012 and 5 April 2014 was fast approaching.
- This Communications activity was still being developed. Members of the Committee may also be asked to help with conveying these messages, which they were happy to do.

7. DMPS Official Statistics

- The Chair requested this item to be added to the agenda as in the process of drafting the Oversight Committee's annual report that includes a reference to the Scheme data, the format and layout of the official statistics were not particularly intuitive to finding out salient information.
- DWP confirmed that the DMPS Official Statistics followed Departmental protocols for publishing Departmental Statistics and to change them would require Ministerial and Lead Statistician approval.
- DWP offered to assist the Chair with the table and narrative she was wanting to include in the Committee's annual report.

8. Latest on DMPS Levy

- DWP provided the Committee with an update on the current position regarding the levy for 2016/17 and the process around the setting of the levy.
- There had been a recent debate in the House of Lords led by the Department of Health on research into asbestos related illness, which was referred to by the Committee. Was there any implications for the DMPS and the levy? DWP confirmed that the DMPS levy may not be used for such research.

9. Oversight Committee Annual Report for 2015/16

- The Chair confirmed that the Committee's annual report is close to being finished. The draft report will be circulated to members in the next day or so and comments will be asked for by close of play the following Wednesday (23 November).

10. AOB (including date of Committee's next meeting)

- Members agreed to meet again in May 2017. The Chair agreed to see if a room could be booked in the House of Lords.
- DWP secretariat will be in contact to confirm the formal arrangements for the next meeting.