Title: Mesothelioma Payment Scheme IA No: DWP0032 Lead department or agency: DWP Other departments or agencies: MoJ	Impact Assessment (IA)
	Date: 07/05/2013
	Stage: Final
	Source of intervention: Domestic
	Type of measure: Primary legislation

Summary: Intervention and Options	**RPC Opinion:** RPC Opinion Status

Cost of Preferred (or more likely) Option				
Total Net Present Value	**Business Net Present Value**	**Net cost to business per year** (EANCB on 2009 prices)	**In scope of One-In, One-Out?**	**Measure qualifies as**
£-5.4m	£-258.4m	N/A	No	NA

What is the problem under consideration? Why is government intervention necessary?

Mesothelioma is a long tail disease, resulting from exposure to asbestos, with symptoms developing up to 30 - 40 years after exposure. Due to this time lag many people with mesothelioma who were exposed to asbestos by their employer negligently or in breach of statutory duty are unable to trace a liable employer or Employers' Liability (EL) insurer from whom to claim damages. Government intervention is required to compel all EL insurers active in the EL market to contribute to a levy to finance a payment scheme and also to improve tracing to reduce the pool of untraced cases and the time between diagnosis and receipt of scheme payment or civil damages. The costs of the payment scheme should be met by the EL sector rather than from the general taxpayer.

What are the policy objectives and the intended effects?

To establish a scheme that will provide payments to people with mesothelioma who were exposed to asbestos negligently or in breach of statutory duty by relevant employers, who are unable to bring actions for civil damages and who are not eligible for compensation from other specified sources, or to eligible dependants of such people and to improve tracing of EL insurers to allow civil claims to be resolved more quickly. Scheme payments to be set at a level between that of state lump sum payment and average damages awarded in civil cases. In addition the establishment of a Technical Committee to make binding rulings on EL cover where this is disputed should increase the number of cases able to bring a civil claim.

What policy options have been considered, including any alternatives to regulation? Please justify preferred option (further details in Evidence Base)

A) The ABI delivering the fund with no input from Government - this would not work due to the risk of insurers not complying and thereby gaining a market advantage. B) Changing FCA rules to give the FCA powers to allow the ABI to compel membership - this could lead to sub delegation of legislative powers and would be unlawful. These two options have not been pursued and are therefore not addressed in this IA. The preferred option is option 2 - for Government to introduce legislation to compel currently active EL insurers to contribute to a levy and fund a payment scheme and deliver improved tracing. This option has been developed with the insurance industry, is relatively quick to implement, and the costs are widely spread so there is no disproportionate impact on any one party. DWP are also working with MoJ on non legislative changes that could be introduced to support the improved tracing which aim to realise savings in terms of both legal costs and time in which sufferers receive compensation.

Will the policy be reviewed? It will be reviewed. **If applicable, set review date:** Month/2019					
Does implementation go beyond minimum EU requirements?			N/A		
Are any of these organisations in scope? If Micros not exempted set out reason in Evidence Base.	**Micro** No	**< 20** Yes	**Small** Yes	**Medium** Yes	**Large** Yes
What is the CO_2 equivalent change in greenhouse gas emissions? (Million tonnes CO_2 equivalent)			**Traded:**	**Non-traded:**	

I have read the Impact Assessment and I am satisfied that (a) it represents a fair and reasonable view of the expected costs, benefits and impact of the policy, and (b) that the benefits justify the costs.

Signed by the responsible Minister: _____ Date: 2 May 2013

Summary: Analysis & Evidence   Policy Option 1

Description: Do Nothing

FULL ECONOMIC ASSESSMENT

Price Base Year 2012	PV Base Year 2012	Time Period Years 10	Net Benefit (Present Value (PV)) (£m)		
			Low: Optional	**High:** Optional	**Best Estimate:** 0

COSTS (£m)	Total Transition (Constant Price) Years	Average Annual (excl. Transition) (Constant Price)	Total Cost (Present Value)
Low	Optional	Optional	**Optional**
High	Optional	Optional	**Optional**
Best Estimate	0	0	**0**

Description and scale of key monetised costs by 'main affected groups'

None

Other key non-monetised costs by 'main affected groups'

It is estimated that over the 10 year period of the IA 2870 individuals who have contracted mesothelioma because of negligent exposure to asbestos by their employer and who cannot trace their employer or insurance policy, and who would be eligible to apply to the scheme, will not receive compensation (beyond that provided by the government)

BENEFITS (£m)	Total Transition (Constant Price) Years	Average Annual (excl. Transition) (Constant Price)	Total Benefit (Present Value)
Low	Optional	Optional	**Optional**
High	Optional	Optional	**Optional**
Best Estimate	0	0	**0**

Description and scale of key monetised benefits by 'main affected groups'

None

Other key non-monetised benefits by 'main affected groups'

None

Key assumptions/sensitivities/risks   **Discount rate (%)**

All estimates of case numbers are based upon forecasts of deaths from mesothelioma. It is assumed that 14% of people with mesthelioma that has an occupational link currently decide not to make a civil claim and that 15% of those who claim Industrial Injuries Disablement Benefit (IIDB) but do not make a civil claim do so because the burden of evidence of employer negligence is not high enough to be successful in a civil case.

BUSINESS ASSESSMENT (Option 1)

Direct impact on business (Equivalent Annual) £m:			In scope of OIOO?	Measure qualifies as
Costs: 0	**Benefits:** 0	**Net:** 0	No	NA

Summary: Analysis & Evidence — Policy Option 2

Description: The Proposed Payment Scheme and Mandatory ELTO Membership

FULL ECONOMIC ASSESSMENT

Price Base Year **2012**	PV Base Year **2012**	Time Period Years 10	Net Benefit (Present Value (PV)) (£m)		
			Low: Optional	High: Optional	Best Estimate: -£5.4m

COSTS (£m)	Total Transition (Constant Price) Years	Average Annual (excl. Transition) (Constant Price)	Total Cost (Present Value)
Low	Optional	Optional	**Optional**
High	Optional	Optional	**Optional**
Best Estimate	£1.4m	£36.3m	**£355.8m**

Description and scale of key monetised costs by 'main affected groups'

The costs of the scheme are split between a levy of £338.7m on the insurance industry and £16.8m in government funding. This covers scheme payments direct to individuals (£231.5m), benefit recovery (£70.9m), applicant legal fees (£23.8m) and admin of £29.3m (including case legal fees of £23.5m, set up of £1.4m and running costs of £4.4m). The cost of recovering government benefits is £2m. Individuals' unsuccessful case legal fees are £3m. Lawyers lose £25.4m in work on untraced cases.

Other key non-monetised costs by 'main affected groups'

It is possible that insurers will pass the cost of the scheme onto customers via increased premiums. If it did happen the impact on customers would be relatively low, estimated at 2.24% on average per year on EL insurance premiums.

BENEFITS (£m)	Total Transition (Constant Price) Years	Average Annual (excl. Transition) (Constant Price)	Total Benefit (Present Value)
Low	Optional	Optional	**Optional**
High	Optional	Optional	**Optional**
Best Estimate	£0	£35.7m	**£350.4m**

Description and scale of key monetised benefits by 'main affected groups'

Over 10 years, individuals receive £231.5m in scheme payments, plus legal savings of £25.4m as they don't have to pay for an unsuccessful trace attempt. Government recovers £70.9m. Lawyers benefit from new legal fees of £51.9m (including applicant and scheme legal fees on cases and general scheme admin) .

Other key non-monetised benefits by 'main affected groups'

The insurance industry will receive positive benefits to its reputation by setting up and paying for the scheme and avoids the negative affect on its reputation of individuals who were negligently exposed to asbestos by employers not receiving compensation from EL insurers. Individuals with mesothelioma will benefit from financial reassurance and a sense of being compensated for their suffering at a very stressful point in their live.

Key assumptions/sensitivities/risks	Discount rate (%)	3.5

All estimates of case numbers are based upon forecasts of deaths from mesothelioma. It is assumed that 14% of people with mesthelioma that has an occupational link currently decide not to make a civil claim and that 15% of those who claim IIDB but do not make a civil claim do so because they would not be successful in a civil case. .

BUSINESS ASSESSMENT (Option 2)

Direct impact on business (Equivalent Annual) £m:			In scope of OIOO?	Measure qualifies as
Costs: n/a	**Benefits:** n/a	**Net:** n/a	No	NA

Evidence Base (for summary sheets)

References

- Study into average civil compensation in mesothelioma cases: statistical note - Nick Coleman, John Forth, Hilary Metcalf, Pam Meadows, Max King and Leila Tufekci, The National Institute for Economic and Social Research (NIESR), 2013

  http://statistics.dwp.gov.uk/asd/index.php?page=adhoc_analysis

- 2012 Impact assessment - Mesothelioma Payment Scheme and Mandatory Membership of Employer Liability Tracing Office (ELTO)
  https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/175022/elci-compensation-meso-ia.pdf.pdf

- 2010 Consultation 'Accessing Compensation – Supporting people who need to trace Employers' Liability Insurance'.
  http://www.dwp.gov.uk/docs/elci-compensation-consultation.pdf

- B12: UK Asbestos Working Party update 2009, Brian Gravelsons et al, October 2009
  www.actuaries.org.uk/sites/all/files/documents/pdf/b12asbestoswp.pdfThe

- Tan and Warren 2009 - Tan E, Warren N, Darnton AJ, Hodgson JT. Projection of mesothelioma mortality in Britain using Bayesian methods. Br J Cancer. 2010 Jul 27;103(3):430-6.

- Mesothelioma mortality in Great Britain: The revised risk and two-stage clonal expansion models - Prepared by the Health and Safety Laboratory for the Health and Safety Executive 2011, Emma Tan & Nick Warren, Harpur Hill - www.hse.gov.uk/research/rrpdf/rr876.pdf

- Towers Watson 2011 – ABI commissioned (unpublished)

- 'UK Employers' Liability Insurance 2011' (Data Monitor, Dec 2011)

Policy context

1. In 2010, the government published the public consultation 'Accessing Payment – Supporting people who need to trace Employers' Liability Insurance'. Following analysis of the consultation responses, the Coalition Government decided to discuss the issue with stakeholders before reaching a conclusion on the best way forward. In July 2012 the Government published their response to the Consultation and set out their intention to set up a payment scheme for those people with diffuse mesothelioma[1] who were exposed to asbestos through their employer's negligence and who remain unable to trace a liable insurer or employer.

2. The Department for Work and Pensions (DWP) has been working with a range of stakeholders to identify the best means of addressing the issue. In conjunction with the Association of British Insurers (ABI) and others, DWP has developed a payment scheme to be funded by the EL insurers who are currently active in the market which will make payments to eligible people with mesothelioma and eligible dependants of people who have died from mesothelioma before making an application to the scheme. People will be eligible for a scheme payment if they were first diagnosed with mesothelioma on or after 25 July 2012 (which was the date when Government responded to the consultation and made its intentions clear), as a result of negligent exposure to asbestos by their employer in the United Kingdom. The scheme will only be open to people who have not brought an action against a relevant employer or employer's EL insurer because they are unable to do so. In addition, in order to be eligible to claim from the scheme, applicants must not have received damages or a specified payment in respect of mesothelioma or must not be eligible to receive a specified payment from another source.

3. The problem is caused by negligent exposure to asbestos by employers, and an inability to trace the EL insurer on cover for the employer at the time of exposure, so the costs should be met from the EL sector (which offered the insurance that was taken out to cover such risks) rather than from the general taxpayer. Although such employees would in principle have a good claim in negligence or breach of statutory duty against their employer, they are often in practice unable to recover compensation. By virtue of the passage of time no solvent employer may exist to be sued and the employee is often unable to trace any insurer who was providing EL insurance to their employer at the material time, despite the fact that from 1 January 1972 many employers would have been required to have EL insurance by the EL Compulsory Insurance Act 1969 (or from 29 December 1975 under corresponding legislation in Northern Ireland). Even before those dates the vast majority of such employers are thought to have held EL insurance. Thus although it is highly likely that EL insurance premiums were paid by the employer to insure against the risk of the

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[1] Diffuse mesothelioma will be referred to as simply 'mesothelioma' throughout the remainder of the text, but note that all references to mesothelioma are for those diagnosed with 'diffuse mesothelioma'.

employee's health being damaged by virtue of the employer's negligence and although that risk subsequently materialises, the employee remains uncompensated because the lack of effective record-keeping prevents them from identifying the insurer responsible for covering the risk.

4. Where a liable employer or EL insurer can be identified and a successful civil claim is brought, they will bear the costs of any damages awarded by the courts. Under the Bill, the active EL insurance industry as a whole will bear the costs of the proposed Diffuse Mesothelioma Payment Scheme.

5. It is proposed that the new payment scheme is introduced to assist sufferers of mesothelioma who cannot trace an insurer or employer. This will be funded by a levy on current active EL insurers and will make payments to be set at a level between that of state lump sum payment and average damages awarded in civil cases. This is to ensure that the civil route remains the best way forward for people where there is potential to trace an employer or EL policy and the scheme operates as a fund of last resort. For the purposes of this impact assessment (IA) it is assumed that scheme payments will be 70% of average civil compensation.

6. Throughout the course of developing this IA, the DWP has discussed the analysis approach and sources of data in detail with a range of stakeholders[2], and sought their opinion and advice on evidence sources and assumptions.

7. This IA updates the final stage IA published in July 2012[3] at the time of the scheme announcement. This is because we have improved our evidence around key figures, particularly average civil compensation and estimates of case volumes. The Regulatory Policy Committee (RPC) opinion on the 2012 IA is attached in annex B and amendments made in line with its recommendations.

8. The measure is now out of scope of One In Two Out because it has been classified as a tax measure by HM Treasury ahead of any formal classification by the Office for National Statistics (ONS). This decision was made after the original IA was approved by the RPC.

9. Annex C explains the differences between this IA and the 2012 version.

Scope of analysis

Reforms for Mesothelioma claims

10. The proposal is closely linked to a number of other initiatives to reform the way mesothelioma claims are dealt with which are being taken forward by the Ministry of Justice (MoJ). These cover proposals for fixed legal fees

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[2] Including the ABI, the Association of Personal Injury Lawyers (APIL) and the Asbestos Victims Support Groups Forum

[3] https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/175022/elci-payment-meso-ia.pdf.pdf

for mesothelioma claims, a dedicated 'Pre-action Protocol' (PAP) which aims to speed up the claims process and a single electronic portal on which claims will be registered. The aim of these proposals is to ensure that claims are processed and settled as quickly as possible to enable early payment to sufferers is made. These proposals, on which MoJ will be consulting, are not within the scope of this IA. They will be covered in a separate MoJ IA. The current intention is that these measures would be supported by improved tracing through the Employers' Liability Tracing Office (ELTO) and FCA requirements.

11. In light of the forthcoming MoJ consultation, here we have simply replicated the assumptions used in the 2012 IA for our analysis. It is necessary to include hypothetical assumptions about the impact of a PAP. Therefore it is assumed that the streamlined legal processes under the mesothelioma PAP will be implemented regardless of whether the scheme is set up and it will be in place by the time the scheme is implemented. Therefore, the Mesothelioma PAP should be seen as part of the 'do nothing' baseline. These assumptions should be considered as indicative only and should not be treated as Government policy.

12. MoJ has also reformed the 'no win no fee' system for personal injury cases and this was implemented on 1 April 2013. Mesothelioma cases are currently exempt from the reforms to 'no win no fee' funding rules until a report on the impact of the reforms on mesothelioma cases is published. The MoJ consultation will cover this review on the impact of the conditional fee agreement (CFA) reforms on mesothelioma claims as provided for in section 48 of the Legal Aid, Sentencing and Punishment of Offenders Act 2012 (LASPO). For the purposes of this IA, the 2012 IA assumptions are replicated meaning it has been assumed that the current 'no win no fee' system remains in place for mesothelioma cases.

Social security benefits and lump sum payments

13. People diagnosed with mesothelioma may be entitled to Industrial Injuries Disablement Benefit (IIDB) and other social security payments depending on their particular circumstances. Those entitled to IIDB may also be entitled to a lump sum payment under the Pneumoconiosis etc (Workers' Compensation) Act 1979 (PWCA). Part 4 of the Child Maintenance and Other Payments Act 2008 provides lump sums for all mesothelioma sufferers, regardless of whether the disease was caused through employment, again under certain conditions. (Corresponding provision for lump sum payments in Northern Ireland is by the Pneumoconiosis, etc., (Workers' Compensation) (Northern Ireland) Order 1979 and the Mesothelioma, etc., Act (Northern Ireland) 2008.)

14. In a civil case, where an individual receives compensation from an employer or insurer, the government (via the DWP's Compensation Recovery Unit (CRU)) recovers the social security benefits and lump sum payments it has made from the compensation paid.

Preferred option

15. The preferred option is option 2 which outlines the costs and benefits to the main affected groups of the new legislation.

Analysis notes

16. The analysis below is based on Great Britain and Northern Ireland[4].

17. The time period for this IA is Apr 2014 to March 2024. All analysis is presented in financial years.

18. It has been proposed that eligibility for the scheme would include those who receive a diagnosis from 25th July 2012, although the start date of the scheme is assumed to be 1st April 2014. This means that although the period of the IA is April 2014 to March 2024, estimates are also included of those whose case falls into the preceding 21 months[5] because any payments would subsequently fall in the IA period. It is assumed these will be paid in the early part of the IA period.

19. According to the Department of Health Mesothelioma Framework (Feb 2007), median survival time from diagnosis (the earliest point a claim could be made) to death varies from study to study but is usually within the range of 8 to 9 months. In this IA, for analytical purposes, we assume that the process of either a scheme or civil case will usually fall within a period of a year. Therefore the year of death is also assumed to be the year of payment of civil compensation or a scheme payment.

20. For financial calculations, unless otherwise stated, inflation factors are applied to bring the figures to 2012 values. The most appropriate inflation rate has been used for each of the key figures to do this.

21. Discounting has been applied to figures in the summary pages above in line with guidance but not to the figures in the evidence base unless explicitly stated.

22. The analysis design below was produced though detailed discussion with experts from the Health and Safety Executive (HSE), the ABI, the Association of Personal Injury Lawyers (APIL) and the Asbestos Victims Support Groups Forum. The IA has been written in line with government guidance.

23. Annex A contains a list of forecasts of key figures over the IA period.

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[4] Cases from Northern Ireland were not included in the 2012 IA and so this adds c40 deaths per year from mesothelioma into the analysis.
[5] From July 2012

Structure of the analysis

24. The analysis below firstly looks at the option of doing nothing (option 1). This is to provide a clear picture against which the rest of the analysis can be compared to allow the impact of legislation to be isolated from contextual factors. This focuses on the uncertain picture of forecasts of mesothelioma deaths and then attempts to predict the volumes of mesothelioma cases going forward, given the changing context between 2014 and 2024.

25. Option 2 is the preferred option and examines the costs and benefits of the proposed new scheme and supporting legislation. The costs and benefits of option 2 are compared against option 1 and the costs and benefits to each of the main affected groups considered.

26. Throughout the analysis, the key group of interest is the 'occupational and untraced' category which represents people with mesothelioma who would be eligible for a payment from the scheme. For analytical purposes we assume that there will be potentially a maximum of one payment per person in this category. In reality this may be paid to the person with mesothelioma or, if they have passed away after applying to the scheme, the payment could go to their personal representatives and if they had died before applying to the scheme to an eligible dependent.

27. The report is structured by a summary of findings with costs and benefits to the main affected groups for each option, followed by details of the method and evidence used to support this.

Option 1 – Do nothing

> **Key points – Doing nothing**
>
> It is estimated that c.2,900 people who had contracted mesothelioma after being exposed to asbestos by their employer[6] (and who would be eligible to apply for payment from the scheme outlined in option 2), would not be able to make a civil claim for damages because they could not trace their employer or employer's insurance policy during the 10 year period of the IA. This represents approximately 10% of people with mesothelioma in the UK.

The system

28. In this option it is assumed that the current system would remain. This means that those who cannot trace an employer or EL insurance policy would not be able to sue for civil compensation, but would retain social security benefits and lump sum payments from the government. This group is referred to as 'occupational and untraced'.

29. Civil compensation is on average £154,000 (in 2012 terms) based upon an independent survey by the National Institute of Economic and Social Research (NIESR)[7]. The best estimate of recovered government social security benefits and lump sum payments in respect of mesothelioma in successful civil cases is £20,000 (based on CRU data).

30. Even doing nothing there are contextual factors that will impact on the system, for example the creation of the ELTO in 2011. This body aims to improve the success rate of tracing in occupational cases by centralising electronic information on insurance policies that might not otherwise be traceable under the current system. This means that individuals who are currently classified as 'occupational and untraced' may be better placed to find an employer or insurer to sue for civil compensation.

31. In a change from the 2012 IA, the effects envisioned by mandatory membership of ELTO are now being achieved through proposed changes to Financial Conduct Authority (FCA) procedures, rather than through the legislation. This means these additional cases are considered here under option 1 rather than option 2 and are therefore not a cost of the legislation.

32. Therefore we have assumed that 10% of 'occupational and untraced' cases will be traced due to ELTO and the FCA processes.

Summary

33. Taking these changes into account, it is estimated that 2,900 people who would fall into the 'occupational and untraced' category, meaning they would be potentially eligible to apply for the scheme outlined in option 2. If

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[6] Negligently or in breach of statutory duty
[7] http://statistics.dwp.gov.uk/asd/index.php?page=adhoc_analysis

there is no legislation these people will be left with no scheme payment and will not have the opportunity to claim civil damages because they cannot trace an EL insurance policy.

34. As part of this option it is estimated that 27 additional people per year (271 people in total between 2014 and 2024) will be able to trace an insurance policy due to improved tracing due to ELTO and FCA processes

Option 1 – Methods

Predicting volumes of cases

35. To understand the baseline for analysis (under this option), it is necessary to be able to predict the number of 'occupational and untraced' individuals who would not receive civil compensation if government does nothing. This is the same group who would be eligible for payments under the proposed scheme (option 2, which includes those who will become eligible due to behaviour change assumptions outlined later).

36. There is no central database or survey that tracks people after they have been diagnosed with mesothelioma or follows their attempts to obtain non-government payment. Therefore, the approach taken is to estimate the volumes of cases involved firstly looking at forecasts of deaths from mesothelioma. Secondly, a categorisation of cases is applied to establish the numbers who take particular routes through the payment system (or who do not). Thirdly, clear assumptions[8] are made about the impact of contextual factors on the paths people are likely to take and the impact on the volumes of cases in each.

37. This will then be supplemented under option 2 with assumptions around impacts that will be caused by the legislation.

38. More detail on each step in this method is outlined below.

39. It is worth noting that there is no perfect way to estimate volumes of cases that will be eligible for the scheme. Therefore, the best available evidence has been brought together to provide estimates. This has then been checked against results from other approaches to arrive at the most likely estimate of case volumes.

Forecasts of deaths from mesothelioma

40. There are various models that forecast mesothelioma deaths each giving different predictions and all of which become increasingly uncertain going forward in time. A key aspect of this uncertainty is the dependence in the models on assumptions about the extent of asbestos exposures within the last 30 years. Exposures are known to have been substantially lower in

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[8] Analytical assumptions are our best prediction of what will happen with the evidence we have at the time

this period than previously, but the range of possibilities still has a large impact on future predictions.

41. According to the HSE, of the available models for males, the predictions of the Tan and Warren 2009 model are likely to be the most plausible in the short term (the next few years) given the extent of the agreement between the projections and observed annual numbers in the last 3 years. These have been combined with separate predictions for females using a similar model (model F1). Both models cover ages 20-89 and cover cases with any mention of mesothelioma on the death certificate (rather than mesothelioma necessarily being the official cause of death). Both exclude people aged 90 years and older. The HSE estimate that this may constitute a further 30-40 deaths per year for men and around 10 for women, so we have added an additional 35 deaths for men and 10 deaths for women to these forecasts.

42. The Asbestos Working Party (AWP) built on the Tan and Warren 2009 model and introduced additional assumptions (see below for references). The AWP did not project female deaths. This led the AWP to predict a lower number of future population male deaths than the HSE approach. In terms of trends, the key difference between the two approaches is that the AWP model assumes that there was a steeper decline in exposure to asbestos during the 1980s. Towers Watson (TW) built on the AWP projections and incorporated projections for population female deaths (See Figure 1).

43. References for these models are:

- The Tan and Warren 2009 - Tan E, Warren N, Darnton AJ, Hodgson JT. Projection of mesothelioma mortality in Britain using Bayesian methods. Br J Cancer. 2010 Jul 27;103(3):430-6.
- F1 - www.hse.gov.uk/research/rrpdf/rr876.pdf
- AWP - www.actuaries.org.uk/sites/all/files/documents/pdf/b12asbestoswp.pdf
- Towers Watson 2011 – ABI commissioned (unpublished).

Figure 1 – Calculating the number of cases that would be eligible for the Scheme (see below – for more explanation)
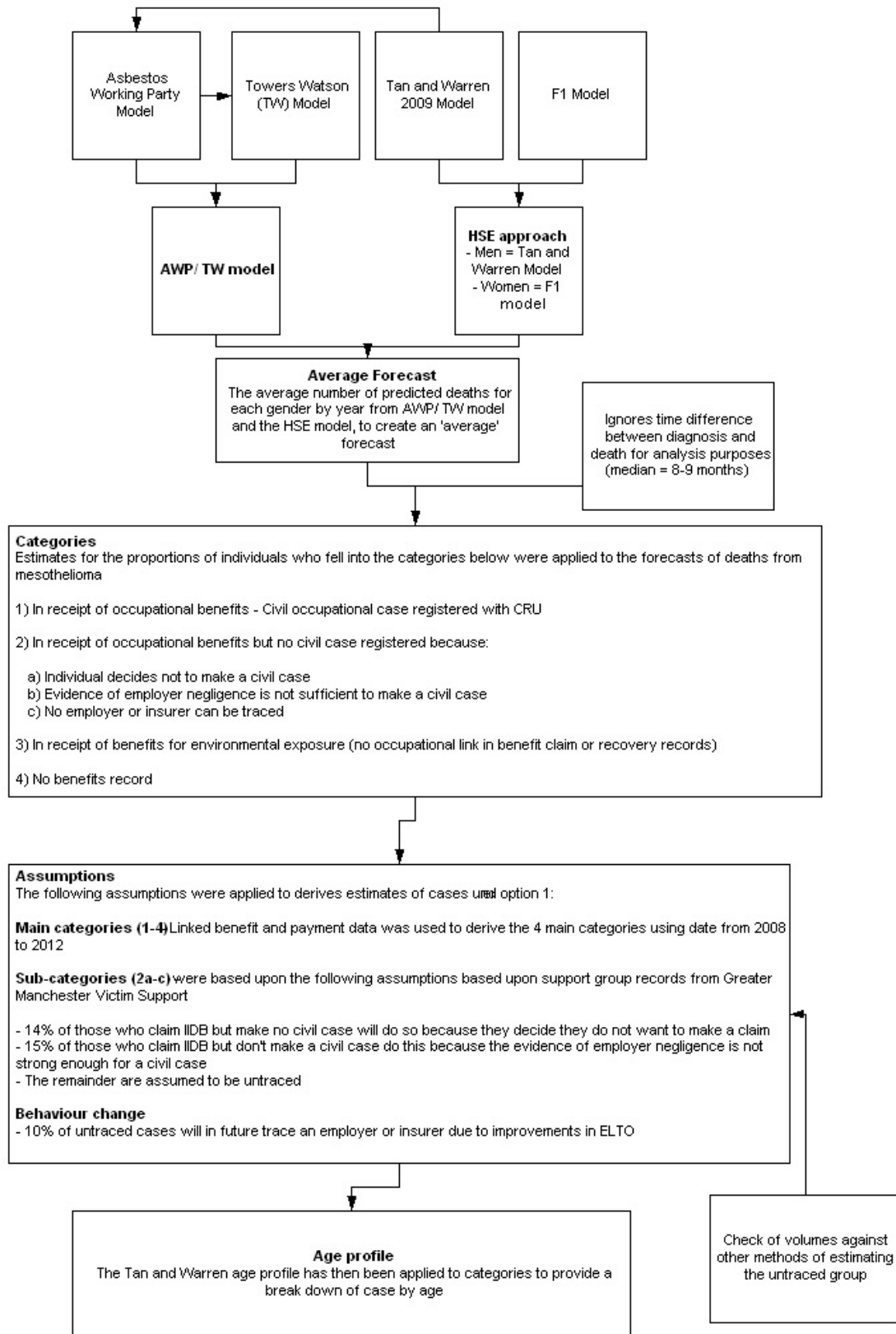
44. Until the pattern of deaths due to exposure during the 1980s becomes apparent (2010-2020 and beyond), it is uncertain which forecast is more accurate. Therefore, in this IA, the average of the two has been used – referred to as the 'Average Forecast'. This means averaging the two models by year and gender (eg. the 'average forecast' of the total number of deaths in 2014, is the mean of HSE and AWP forecasts of male deaths in 2014 added to the mean of the HSE and Towers Watson forecasts of female deaths).

45. Over the 2014 to 2024 period, the percentage difference between the 'average forecast' and either the HSE or AWP/TW approach ranges between +2.1% and -2.1%. Figure 2 shows the differences between the forecasts.

46. The 'average forecast' predicts 27,500 deaths from mesothelioma between July 2012 and March 2024. In this IA it is considered the 'best estimate' and used to underpin all analysis. The HSE approach results in c.80 fewer deaths than this and the AWP/ TW model results in c.80 more.

47. In addition in this IA we have added estimates of the numbers of deaths in Northern Ireland and among those aged 90+. This increases the number of deaths over the 10 year IA period to 28,000.

Figure 2– Forecasts of deaths from mesothelioma
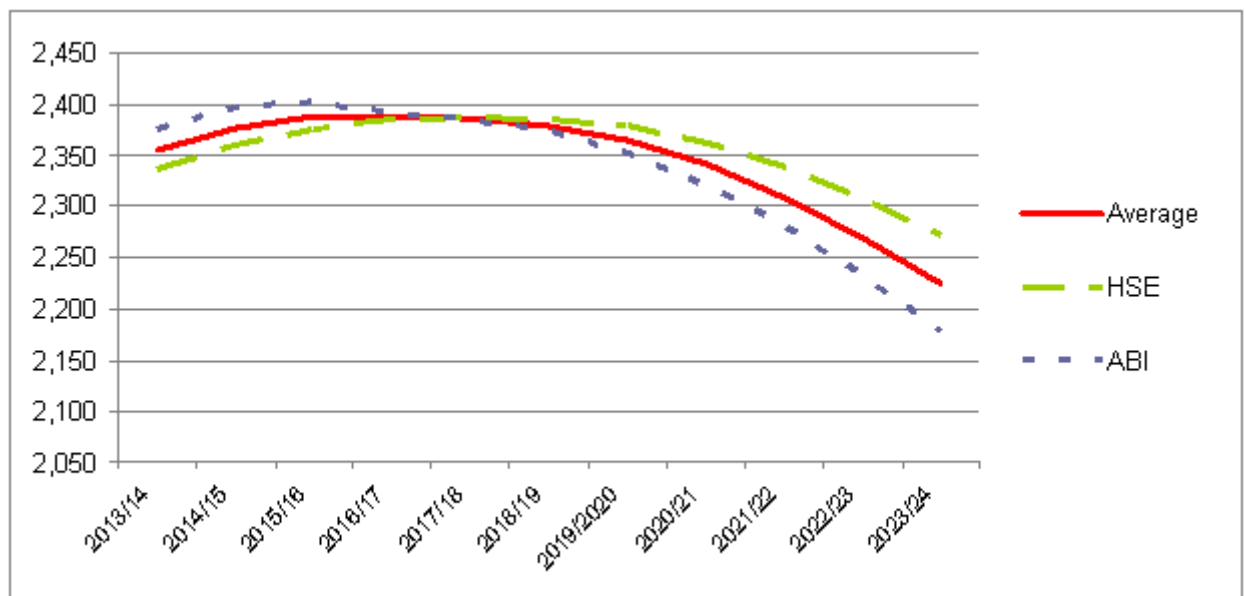
Source: HSE and ABI raw data with the average of the two being calculated.

Categorisation – case paths

48. To estimate the volumes of cases that are untraced over the IA period, we need to consider firstly how many cases are currently untraced and then what factors will influence these volumes going forward.

49. There are 4 possible approaches to estimating the volumes of cases that are currently untraced:

- **Towers Watson Categories (used in the 2012 IA)** – Towers Watson used a range of evidence sources and their own judgement to estimate the proportion of people with mesothelioma who took various routes through the tracing and court systems or weren't occupational or who were but didn't attempt to trace (See annex D). These proportions were applied to the volumes of mesothelioma deaths each year to produce the estimates in the 2012 IA. Their estimates of untraced cases were based upon ELCOP[9] data and they used CRU data to estimate the number of civil cases.

- **ELCOP data** – This was the key evidence source used by Towers Watson to estimate numbers that would fall into the untraced category. These are people who attempted to build an occupational civil case (ie tried to find an employer or EL insurer to sue for compensation) but failed to trace via the old ELCOP system. This means the estimates won't cover anyone who decided to make a trace attempt without going to ELCOP or anyone who decided not to attempt to trace. ELCOP ended in 2011.

- **ELTO data** – This is the system that replaced ELCOP and so provides more up to date data. The key difference between ELTO and ELCOP is an additional 'simple search' which means existing records can be searched quickly online. If the simple search is unsuccessful, there is an option of an 'extended search' which requires ELTO members to search their own records. However, with ELTO being a new system meaning trends are not yet available. It also does not collect information on the date of diagnosis. Therefore, the volumes of unsuccessful traces from this system may contain searches on historic cases, and are likely to be an over-estimate.

- **Benefit payment and recovery (CRU) data** – Analysis shows around 96% of people with mesothelioma claim a mesothelioma related benefit (See annex E for more details). For 60% of people with mesothelioma, an occupational civil case is registered with CRU. For 10% of people with mesothelioma there is no indication of an occupational link (i.e. they did not claim IIDB or PWCA) so we assume an environmental cause. This leaves 28% of people with mesothelioma with cases where there is a potential occupational link but no civil case is registered with CRU. However this 28% will not represent the total number of people potentially eligible for the scheme because:

  o **Burden of evidence** – The application for IIDB does not require evidence of employer negligence or a breach of statutory duty. Therefore some cases will get IIDB but not have enough evidence to be eligible for the scheme or to bring a civil claim.

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[9] In 1999, the Association of British Insurers (ABI) and the Lloyds Market Association committed to a voluntary Code of Practice for tracing EL Insurance Policies (ELCOP)'

o **Decision making** – Some people decide not to bring a civil claim. This could be that they do not want the stress of pursuing a legal claim or they are happy with the payment provided by the government. Some do not want to sue an employer who they worked for perhaps for most of their lives and who, in other regards, they felt treated them well. Therefore there will be some people in this group who will not make a claim and others who might, some of whom could trace an employer and others who may not be able to. The existence of the scheme might change people's behaviour and encourage them to make a trace attempt (eg. if they had felt previously that a trace attempt would be futile), meaning volumes of both civil cases and of untraced cases could rise.

50. Therefore there is no perfect estimate of the volumes of cases that will be eligible for the scheme. In the absence of this, judgements will need to be made to estimate the volumes of occupational cases that even now go untraced.

51. Assumptions will need to be made about how this will change, firstly if there were no scheme and legislation (option 1) and secondly if the scheme was set up (option 2).

52. Our best estimate used here combines the above evidence sources with advice from a range of stakeholder groups to make use of the best evidence available and supplement this with informed assumptions based on discussions with a range of expert stakeholders. We then compare it to estimates previously produced. This approach is:

- To use benefits data to give a robust estimate of the numbers bringing civil cases and a very high end estimate of the numbers who could potentially be eligible for the scheme (see annex E for more details).

- To estimate the proportion of cases where there is enough evidence to receive IIDB but not enough to be eligible for a civil case, we could look at the proportion of unsuccessful civil cases (10% are unsuccessful). However the proportion is likely to be higher than this because few cases would be registered with CRU if there wasn't a chance of success. Therefore we have used a judgement based estimate of 15% of people who claim IIDB but do not bring a civil claim as our best estimate but provided figures for 10% and 20% (see para 53) to illustrate the impact of this assumption (sensitivity testing)[10].

- To estimate the proportion of people who decide not to claim we use figures reported by the Asbestos Victims Support Groups Forum. Here they report that across 7 areas, 14% of the 781 people with

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[10] We assume that if there is not enough evidence to bring a civil claim then there will not be enough to be eligible for the scheme. Therefore it is assumed that this whole group will not be eligible for the scheme.

mesothelioma who they saw in 2012 declined outright to pursue a civil case[11].

- We have also assumed that those who do not make a benefit or civil claim will not make a claim to the scheme – though for completeness of the categorisation we have assumed that 10% of these cases are environmental (mirroring the proportion that are environmental according to benefits records) and the rest will fall into the group who decide not to make a claim (see table 1, category 2a below).

- It is assumed that the balance of people with mesothelioma who received IIDB but did not register a civil claim or fall into the categories above, are likely to be untraced. This category will form the basis of estimates of the numbers of people who will be eligible for the scheme.

This results in the following categorisation:

Table 1: Proportion of people with mesothelioma who fall into each category (option 1 no assumptions added)

Category	Proportion
(1) Occupational Civil Case Route	60%
(2a) Decide not to make a civil occupational claim and no trace attempt	14%
(2b) Evidence is not strong enough to prove employer negligence and/ or a breach of statutory duty	4%
(2c) Occupational and untraced	11%
(3) Environmental	10%

53. As outlined above (para 51, bullet 2), this assumes that 15% of people who claim IIDB for mesothelioma but don't attempt an occupational civil case do so because they do not have strong enough evidence of an occupational link to a specific employer to bring a civil claim. Applying sensitivity testing to the assumption if this figure were 10% (as in civil cases) then the untraced group would be 13%. If it is as high as 20% then the untraced category would be 10%.

54. In this IA, the 'occupational and untraced' category is equivalent to those who would be eligible for a scheme payment proposed in option 2 (plus any that are encouraged by the existence of the scheme to make a claim) and so changes to this category is the focus of the remaining sections. At this point the 'occupational and untraced' category is 11%, which is in line with the Towers Watson categorisation. These are both slightly lower than

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[11] These are figures collected informally by various groups and although they do provide the best estimate we have, we have no way of knowing how representative they are of the population of the full people with mesothelioma. However, as the groups have stated that it is rare for these groups to see clients with a purely environmental case we have assumed that this is based upon occupational cases only.

the 13% if the final year of ELCOP[12] is used and 20% if the 2012 ELTO untraced unique customer figure[13] is used.

55. The category proportions were applied as fixed percentages independently to each year to the 'average forecast' of deaths from mesothelioma. At this stage of the analysis it essentially assumes that the picture in terms of proportions that fall into each case category won't change. As it is unlikely that the situation won't change, we now move on to look at how the picture may change in the future.

Impact of contextual changes

56. There are a range of possible factors that could impact on the size of the 'occupational and untraced' group. However a key potential influence is the creation of ELTO.

57. ELTO is designed to improve the likelihood that an insurance policy will be traced. This means that some cases in the 'occupational and untraced' category will become 'occupational, traced and successful'. ELTO's 12 month report (May 2011 to April 2012) shows that the tracing success rate for mesothelioma cases is 58%. Analysis of ELTO data suggests that for extended searches it is 45%. The success rate for ELCOP (which did not include the simple search stage of searching that now exists in ELTO) was 34.4%.

58. The volumes of enquiries have almost doubled, and between May 2011 and April 2012, there were 2,755 enquiries relating to mesothelioma (a total of 2,354 successfully tracing an insurer). However it is likely that some of these are historic cases. It should be noted that there hasn't yet been a visible increase in the volumes of CRU registrations or the proportion of civil cases brought[14] (see figures 3 and 4 respectively).

59. As of April 2012, there are 149 members within ELTO representing 99% of the EL market (ELTO has 1,700 regular users from 530 organisations).

60. In the 2012 IA we assumed that an enhanced ELTO will lead to additional improvements in success levels on tracing, leading to an additional increase in tracing success. This is now being covered by FCA processes and so instead of becoming an impact of the scheme this becomes a contextual factor under option 1. Given that ELTO membership is so high already, we have not added an assumption of improved tracing here but

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[12] Based on 303 untraced cases reported in the final year of ELCOP

[13] ELTO report that there were 474 unique untraced customers according to their records in 2012. However they cannot tell from the data collected as part of the search whether these are new searches or historic. Therefore it is assumed that this is an over-estimate.

[14] To note, there is a time lag between getting actual figures on the number of deaths in more recent years. Therefore, after 2011 these figures are based on a forecast of male deaths produced by the HSE and CRU records of males. The figure for 2010 is provisional. Therefore the proportions are an estimate of the actual figures and trends in more recent years could be due to the forecasts.

simply replicated the 2012 IA option 1 assumption of a 10% improvement in tracing due to ELTO.

61. It is also likely that other factors will have an impact over the 10 year period of the IA. For example, as we move forward in time there may be an increase in tracing due to better record keeping at the time of exposure. However as this trend is yet to emerge in the CRU data we have not accounted for it in this IA.

62. Following feedback from stakeholders and analysis of case trends registered with CRU (see figure 3 and 4), we have removed the Towers Watson based assumption in the 2012 IA that there will be movement from the environmental category due to the Sienkiewicz[15] case (see figures 3 and 4).

63. Figure 3 shows the pattern of registrations of cases with CRU, while figure 4 shows the proportion of males who had a case registered as a proportion of male mesothelioma deaths[16]. Both show an increase in recoveries when the 2008 Diffuse Mesothelioma Scheme was introduced but there is little evidence of an impact showing due to the introduction of ELTO at this point in time.

Figure 3: Volumes of cases registered with CRU
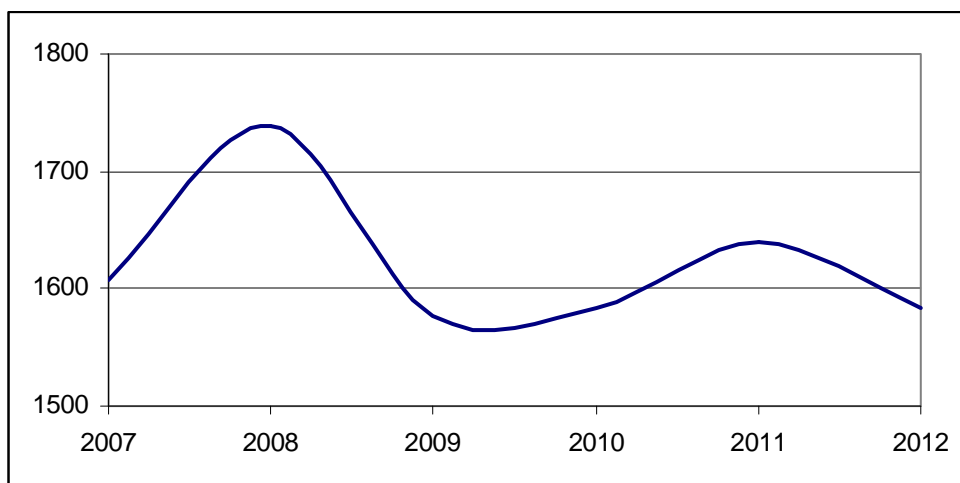
Base: CRU registrations 2007 to 2012

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[15] Karen Sienkiewicz (administrators of the estate of Enid Costello, deceased) v Greif (UK) Limited [2011] UKSC 10.
[16] We have only considered males here because the forecasting data is more accurate for them and most people with mesothelioma caused by exposure by an employer are men.

Figure 4: Male CRU registrations as a proportion of Male Mesothelioma deaths[17]
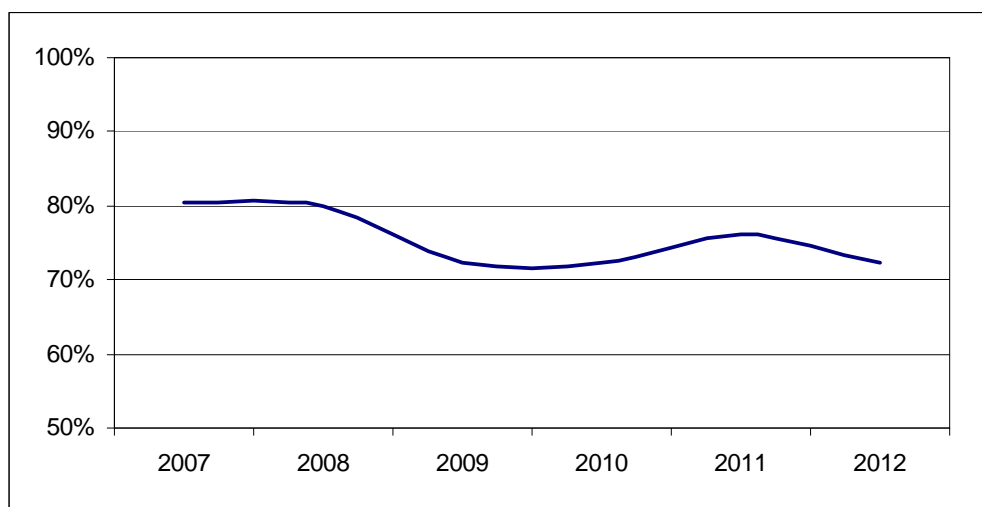
Base: CRU registrations 2007 to 2012

64. This results in the following categorisation

Table 2: Proportion of people with mesothelioma who fall into each category with assumptions of 10% improvement in ELTO tracing added[18] **(option 1)**

Category	Proportion
(1) Occupational Civil Case Route	61%
(2a) Decide not to make a civil occupational claim and no trace attempt	14%
(2b) Evidence is not strong enough to prove employer negligence and/ or a breach of statutory duty	4%
(2c) Occupational and untraced	10%
(3) Environmental	10%

65. As noted above, if there is no assumption of tracing improvement, the untraced category is 11%. If there is a 20% increase in tracing success the untraced category would be 9%.

66. Using these best estimate assumptions, 2,900 people who would be eligible to apply for the scheme, would not have the opportunity to receive non-government payment because they could not trace their employer or employer's insurance policy. This figure covers scheme cases between Jul 2012 and Mar 2024, which would be eligible for payment in the IA period (2014 to 2024).

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[17] We have only considered males here because the forecasting data is more accurate for them and most people with mesothelioma caused by exposure by an employer are men.
[18] Plus an adjustment for people who have no benefit record. Here the 2% who are not in the benefits system have been divided into occupational (90%) and environmental (10%). The occupational cases have been assigned to category 2a based on the assumption that if they decide not to claim benefit lump sum payments they will also decide not to make a civil case.

67. We assume that this 'occupational and untraced' category is representative of the full population of people with mesothelioma in terms of age. Therefore we applied the Tan and Watson 2009 forecast age profile to this to estimate the number of people in this category in one year age bands. This will later allow more accurate forecasts of the scheme payments (which are linked to age) than in the 2012 IA (which simply assumed each person who made a successful application to the scheme would receive 75% of average civil compensation).

68. In addition, 271 cases would be traced due to improvements in ELTO tracing. This takes the proportion of people with mesothelioma who make a civil case to 61%.

Summary

69. This method produces a best estimate of the number of people who contract mesothelioma due to exposure by their employer, but who cannot receive civil compensation due to not being able to trace their employer or EL policy. It takes into account trends in mesothelioma deaths, the different case paths people with mesothelioma take and the contextual factors which will influence claim behaviour and improvements in tracing.

70. It also provides a picture to compare option 2 of implementing the proposed scheme against.

71. It does not however account for the impact of the scheme itself.

Option 2 – **The Proposed Payment Scheme**

Key points – Over the 10 year period of the IA and compared to option 1:

The Scheme
– An estimated c3,500 people who contracted mesothelioma due to being negligently exposed to asbestos by their employer but cannot trace an employer or employers' insurance policy against which to make a claim, will <u>receive</u> scheme payments of an estimated £87,000[19] from the new scheme to be funded by a levy imposed on the active EL insurance industry.

– The fund required for the scheme is estimated to be £355 million. This is made up of £302 million in scheme payments (including payments already made to individuals by the government in the form of social security benefits and lump sum payments), plus £24 million to pay claimant legal fees and the set up and administration and legal costs of the scheme (£29 million).

– Government could recover £71 million in social security benefits and lump sum awards from scheme payments at a cost of £2 million in administration. This is off set by government funding of £17 million.

– The total legal costs for successful and unsuccessful scheme cases are estimated to total £27 million for scheme applicants, though £24 million of this would be covered by insurers via the levy, as part of the scheme payment. These costs are also offset by savings from the unsuccessful tracing attempts that would have happened without the scheme of £25 million (under option 1).

– The costs of legal advice provide a financial benefit overall to personal injury solicitors of £26 million (net[20]).

The proposed scheme

72. Setting up the proposed scheme will essentially transfer money in the form of scheme payments (via a levy which supports public funding of the scheme) from current EL insurers to individuals who were exposed to asbestos in the workplace by their employer but who cannot trace an employer or EL insurance policy against which to make a civil claim. The scheme will not cover anyone negligently exposed to asbestos by anyone other than their employer. The scheme will be funded by a levy on the insurance industry which is expected to be based on relative EL market share in a previous 12 month period.

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[19] Assumes tariff is 70% of civil compensation and applies this to the forecast of ages of people with mesothelioma over the entire IA period of Apr 2014 to Mar 2024. Over this period the average age of a person with mesothelioma is expected to rise, meaning average compensation will decline because payments to older people are lower. Between 2008 and 2012 the NIESR survey shows that average civil compensation is £154k meaning the tariff would have been £108k.
[20] Takes into account the money personal injury solicitors lose because of not doing the unsuccessful trace attempts under option 1.

Costs and benefits to the main affected groups

73. The main groups affected by this scheme are:

- **individuals** – people with mesothelioma who were exposed to asbestos by their employer21 who cannot trace an employer/ insurance policy against which to make a claim22, plus possibly individual insurance customers,
- **business** - including the insurance industry and personal injury solicitors.
- **the Government** – Payments will now be made to eligible individuals with mesothelioma, allowing social security benefits and lump sum payments already paid to be recovered.
- **the economy** – There are costs involved in the transfers of funds between the groups listed above.

Individuals

Volumes of successful cases

74. People who have contracted mesothelioma due to negligent exposure or breach of statutory duty by their employer, who cannot trace an employer or insurance policy, will be eligible to receive scheme payments which will be funded via the levy to be imposed on current EL insurers[23]. Awards of civil compensation vary case to case but are generally higher than government social security benefits and lump sum payments. Civil compensation on average being £154,000 (adjusted to 2012 prices) compared to £20,000 in government benefits and lump sum awards. It is estimated that government social security benefits and lump sum awards are just 13% of the average civil compensation pay out (based on analysis of data from the CRU on recoveries of government social security benefits and lump sum awards).

75. It is estimated that 3,850 people will apply for a payment under the scheme, though not all applications will be successful. As the scheme is new, there is no way of knowing how many cases will be successful in their application to receive scheme payments. If this were to mirror the case success rate in the civil system, it is estimated that 90% would be

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[21] Negligently or in breach of statutory duty.

[22] As noted above, in reality the payment could go to either the person with diffuse mesotheliomas' estate or to an eligible dependant. However we have assumed that there will be a maximum of one payment per person with mesothelioma regardless of which individual actually receives it.

[23] As noted above, in reality the payment could go to either the person with diffuse mesotheliomas' estate or to an eligible dependant. However we have assumed that there will be a maximum of one payment per person with mesothelioma regardless of which individual actually receives it.

successful[24]. This would mean that it is estimated that 3,500 people will receive payments from the scheme.

The Scheme Payment (the amount paid to individuals and repaid to government)

76. The level of scheme payments that individuals will receive from the fund has not yet been decided. However it is expected to be related to average civil compensation in some way. It is likely to be linked to the age of the person with mesothelioma, as this is a key factor that is associated with the amount awarded in civil compensation. This is because generally an older mesothelioma sufferer is likely to have a shorter life expectancy than a younger sufferer if they had not contracted the disease. They are also more likely to be retired at the onset of the disease and, therefore, earning less than a younger sufferer in full-time employment at the onset of the disease. The impact of these factors is that there is a tendency for older people to receive lower compensation than younger people.

77. For the purposes of this IA we are assuming the scheme payment to individuals will be 70% of average civil compensation.

78. To get an up to date and accurate estimate of average civil compensation, DWP and MoJ commissioned the National Institute of Economic and Social Research (NIESR) to run an independent, robust and representative survey of civil compensation. They used regression techniques to produce a series of models of average civil compensation by age. We have used the model[25] that provides the best fit to the survey data to produce a table of average civil compensation by age. We have then applied this to the volumes of cases in the untraced category to take into account the rising age profile of individuals with mesothelioma.

79. The 'best estimate' of the scheme payment level used here is 70% of average civil compensation. This is linked to the estimated volumes using 1 year age bands. This provides a more accurate forecast of the payments that will be made than was used in the 2012 IA (here we assumed that every individual who made a successful application to the scheme would receive 75% of average civil compensation, including government payments[26]).

80. The age profile of people with mesothelioma is rising. Average civil compensation reduces with age due to factors including life expectancy and income being taken into account in compensation negotiations. So, by linking the payment to individuals to age, this reduces the overall costs of the total payments to all individuals who are successful to the scheme.

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[24] In the 2012 and 2010 IAs, a figure of 76% was used. This was based on all current cases (therefore it included live cases). In this IA we have decided to use only 'settled' and 'withdrawn' cases.

[25] A linear model that explains c20% of the variance.

[26] In the 2012 IA we assumed a tariff rate of 75% of average civil payment. In this IA we use 70% as our best estimate.

This means that when the rising age profile is taken into account, over the 10 year IA period, the actual amount paid out to individuals is estimated to be on average £87,000 (including government payments).

81. The impact of the age profile is illustrated by figure 5 below. The figure shows a consistent fall in the average payment over the IA period, demonstrating the impact of the changing age profile on compensation payments. In comparison the average payment will be £108,000 if the 2008 to 2012 age profile is used (70% of average civil compensation).

Figure 5: Average scheme compensation payments
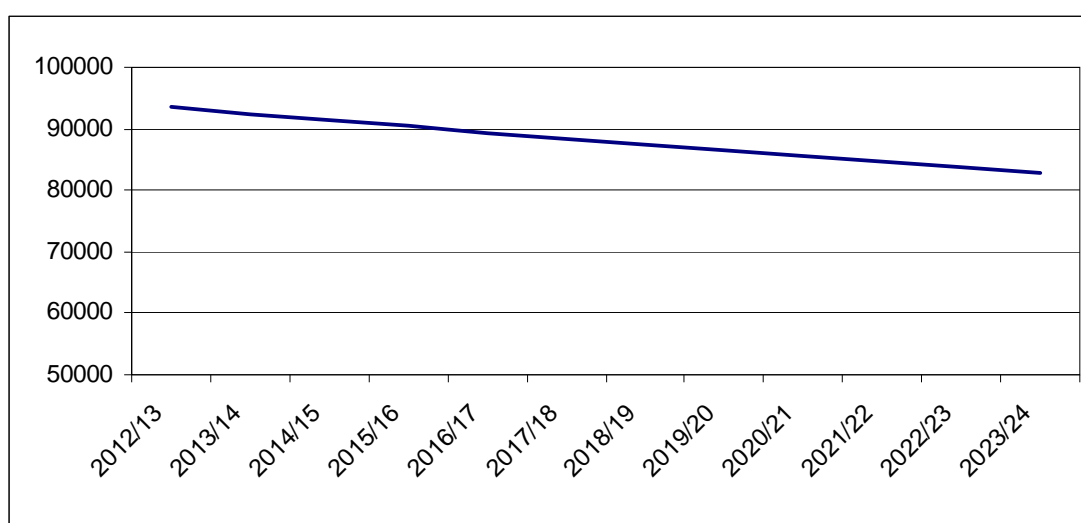
Source: DWP in-house analysis of data from the DWP commissioned NIESR survey: 'Study into average civil compensation in mesothelioma cases'.

82. Taken together the best estimate of the total scheme payment is £302 million. This includes:

- £231 million that goes directly to individuals in payment
- £71 million that has already been paid by the government to individuals, which is repaid.
- On top of this, the fund will pay an amount towards claimant legal fees which we have assumed will be £7,000 per case and which totals £24 million.

   When this is taken into account, the total amount paid out by the fund to individuals (and the government) is £326 million.

Legal costs

83. Applicants for payments under the scheme will incur legal costs in making their application and as noted it is assumed that the scheme payment will include an amount to cover this. However the exact amount has not yet been decided. So here we assume that the scheme payment will include an amount to contribute towards this and that this is equivalent to the

estimates in the 2012 IA for "claimant legal fees" of £7,000 for a successful case. If the scheme application is not successful we again use the estimates from the 2012 IA of £9,000 in legal costs to the applicant.

84. In order to get an accurate picture of the costs and benefits of the scheme, we need to compare the costs and benefits of the scheme (option 2) against the picture if there were no scheme (option 1). If there were no scheme then most scheme applicants would have to pay for an unsuccessful trace attempt (£9,000 in the 2012 IA). Therefore the existence of the scheme saves them this cost (which is offset by the costs of a scheme case).

85. The costs of successful scheme cases for applicants come to £24 million and £3 million for unsuccessful cases. These costs are offset when we compare option 2 to option 1 as individuals under option 2 do not have to pay for an unsuccessful trace attempt. This saving totals £25 million for the estimated number of untraced cases under option 1.

Table 3 Costs and benefits to individuals (m)

Transfer costs/ benefits (£m)		Costs	Benefits	Net
Individuals	Scheme payment to individuals - Tariff award (excluding government social security benefits and lump sum payments)		£231	£ 253
	Scheme payment - to cover applicant legal fees		£24	
	Applicant legal costs of successful cases	-£24		
	Applicant legal costs of unsuccessful cases	-£3		
	Savings of claimant legal costs on unsuccessful tracing attempts		£25	

Government

86. As already noted, people diagnosed with mesothelioma may be entitled to IIDB and other social security benefits and lump sum payments depending on their particular circumstances. In a normal civil case where an individual receives civil compensation from an employer or insurer, government would recover the social security benefits and lump sum payments it has already paid.

87. Under this option, government would recover all social security benefits and lump sum payments from the 3,500 successful scheme cases. This is money that they would not get under option 1 when there is no scheme and so becomes a benefit to the Exchequer who would receive recoveries totalling £71 million.

88. To assist with the early costs of the scheme, the government has agreed to fund the scheme to the equivalent amount of the additional benefits and lump sum payments that would be recovered from scheme payments made in year 1 (and so covers cases from July 2012 to March 2015), which is estimated at £17 million.

Costs of recovery

89. There are costs to government of recovering this money. The CRU report that the costs of recovery are 2.78% of the total amount recovered. Applying this to the levels that could be recovered here, this puts the costs for mesothelioma cases at c£570 per case. This means that it would cost £2 million in total to recover government payment from successful scheme cases.

Other government benefits

90. The impact on means-tested benefits of the scheme cases has also been considered. Under current Employment Support Allowance (ESA) and Pension Credit (PC), and under the Universal Credit (UC) rules being developed, if a person suffering from mesothelioma received civil compensation or a payment from the scheme, it would not affect their means-tested benefits for at least a year (and would be ignored indefinitely for Pension Credit). If they put the compensation or scheme payment into a trust within that year, the value of the trust and any income from it would continue to be ignored. Given the short time period between diagnoses (the earliest point a claim could be made) and death, it is unlikely that this would be an issue for many individuals. However, any compensation or scheme payment paid to a bereaved relative or inherited on the death of the sufferer could affect that relative's benefits. Government does not have data on the family circumstances of people with mesothelioma so is not possible to predict the level of this impact.

91. Therefore the main benefit to the Exchequer is the amounts recovered from social security benefits and lump sum payments and the main costs are recovery costs. We have used the existing data on recovery from CRU as our best estimate of the amount that would be recovered.

Table 4 Costs and benefits to government/ the Exchequer

Transfer costs/ benefits (£m)		Costs	Benefits	Net
Government	Scheme payment - Recovered government social security benefits and lump sum payments		£71	£52
	Cost of recovering government social security benefits and lump sum payments	-£2		
	Government funding the scheme to the equivalent of year 1 benefit recovery	-£17		

Business

92. The scheme will be funded via a levy on insurers. As noted above in the section on individuals, under this option the total cost of payments from the scheme will fall on the current active EL insurance industry. It is estimated that this will total £255 million on payments directly to individuals (including the scheme payment and an amount towards legal fees, but minus social security benefits and lump sum payments). Plus £71 million to the government in recovered social security benefits and lump sum payments. In addition there is £29 million in scheme admin and legal costs which it is assumed will form part of the levy. Therefore the total cost of the scheme is £355 million. When government funding (equivalent to the benefit recovery on year 1 and retrospective cases - £17million) is taken into account, the cost of the scheme to insurers is £339 million.

93. This levy will be based upon market share of the current EL insurance market to be determined by the Secretary of State in whatever way he thinks appropriate. Here we assume it will be based on Gross Written Premium (GWP) in a recent period. This means that the costs of paying people who have occupational mesothelioma and who cannot trace an employer/ insurance policy would be met by the current insurance industry, and may include insurers that did not issue policies at the time of exposure. DWP commissioned work to investigate the feasibility of allocating the levy based on historic market share, but this showed that there was likely to be insufficient data to be able to do this without significant risk of legal challenge. Looking at each year across the IA period, with scheme payments set at 70% of average civil compensation, the fund would be **on average** 2.4% of EL GWP per year. The levy on insurers (the fund when government funding is taken into account) is **on average** estimated to be 2.24% of EL GWP per year.

94. The forecasts of the volumes of cases reduce over the 10 year period and the age profile of applicants is rising meaning on average scheme payments reduce over the IA period. This means that in the final year of the scheme the fund as a percentage of EL GWP gets as low as 1.84%. However it is expected that the scheme will not start until Apr 2014 but eligibility begins from July 2012. If the cases between July 2012 and Mar 2014 were paid in the first year, then the cost of the fund in year 1 would be 5.85% GWP, reducing to 2.21% in year 2.

95. To manage this peak in costs it has been agreed that the costs to insurers over the first 4 years will be averaged out. The government has agreed to fund the scheme to the equivalent of benefit and lump sum payment recovery in year 1. When these are taken into account the cost of the scheme as a percentage of GWP in the first 4 years is 2.74% (assuming government payment is spread equally over years 1-4, if not it is 1.91% in year 1 followed by 3.02% in years 2-4). These scenarios are outlined in figure 6.

Figure 6: The levy as a percentage of EL GWP under different payment scenarios
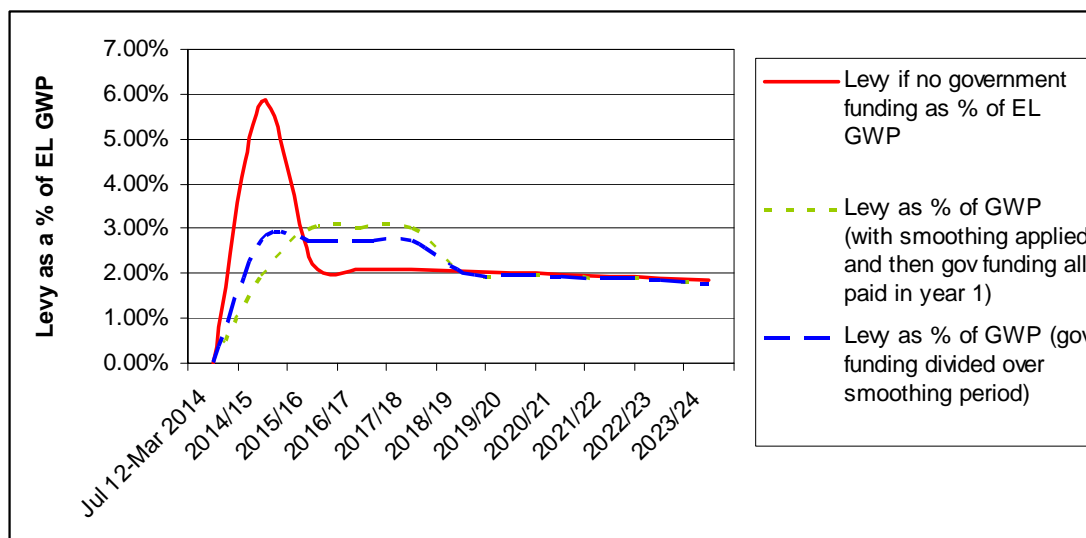
96. There is a possibility that linking the levy to GWP could drive changes in market behaviour. For example if it was linked to EL insurance GWP then this might encourage insurers to stop offering insurance policies to avoid paying the levy. However as EL insurance is a legal requirement for employers and so it provides access to sell other financial products, it is assumed this is unlikely.

97. Insurers might pass the costs of the levy onto their EL customers via increased premiums. However the insurance market is very competitive and so it would be unlikely for any one insurer to move from their default pricing structure to put up prices. Prior to the publication of the 2012 IA, a Data Monitor report investigating 'UK Employers' Liability Insurance 2011' (Dec 2011) noted that strong competition that was suppressing premium growth though 'profitability' was increasing. However since the announcement of the scheme, Data Monitor has published research with industry experts that suggest that the industry will pass the costs onto customers[27]. The alternative is for insurers to absorb the costs of the scheme themselves and from a purely financial perspective, they may be unwilling/ unable to increase their costs and potentially reduce their profit margins to pay the levy. As the picture is unclear we are replicating the 2012 IA assumption that the costs will not be passed on.

98. It is worth noting that even if insurers did pass the costs onto employers the actual impact on employer customers is likely to be relatively low. Again it is assumed here that the cost of the increase in premiums would be equal to the cost of the levy. For example if it is assumed for the purposes of analysis that insurers would only pass on the costs of the fund to customers, this would increase EL insurance premiums on average by 2.24% (as EL GWP is the total of premiums paid on EL insurance).

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[27] http://www.datamonitor.com/store/Product/?productid=CM00247-001

99. Under this scenario, as EL insurance costs tend to be linked to payroll, this means larger businesses with more staff would pay a higher proportion of the costs of the scheme. If this were to happen it would also fall onto current employers across industries meaning that employers in industries with no link to asbestos, or who weren't in existence at the time of exposure, would also be paying indirectly for the levy which funds payments to people whom they did not expose to asbestos.

Admin costs

100. Details of exactly how the scheme will be set up are in the process of being finalised. Therefore we have replicated the 2012 IA assumptions on the administrative and legal costs[28] that will be incurred by the scheme. We have however taken out the administrative and legal costs associated with the Technical Committee as these are not funded via the levy to be imposed under the legislation.

101. These 2012 IA costs are based on quotes from the ABI and comprise:
   - Scheme administration (set up of £1.38million and annual costs of £0.44million). This includes some ad hoc legal fees (£0.8million set up and £.04million annually)
   - Legal services on successful applications (£22million over the IA period)
   - Legal services on unsuccessful applications (£1.66million over the IA period)
   - Ad hoc legal services (£1.22million over the IA period)

Personal injury solicitors

102. However the costs to one section of the business community (insurers) and to individuals do actually benefit another section of the business community. Personal injury solicitors will benefit by receiving legal fees on cases that receive scheme payments and legal support to the administration of the scheme. This is estimated to total £26 million (net[29]) over the IA period. In addition to these costs, there is a cost to the economy of additional court activity, which is outlined below.

Appeals

103. There are also likely to be some costs associated with appeals against decisions made by the scheme. Appeals against decisions on review (ie once the original decision has been reviewed by the scheme administrator) may be taken to the First Tier Tribunal and some may go on appeal to the Upper Tribunal and Court of Appeal there is no information on the number of cases that might reach appeal. Therefore the cost of this have not been assessed in the IA as there is insufficient information to attempt to

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[28] In the 2012 IA these are referred to as defendant legal costs
[29] They won't receive the fees for an unsuccessful trace attempt that would have happened under option 1 for cases that make a successful scheme application under option 2.

estimate these costs, though they are not expected to have a big impact on the overall figures in this IA.

104.   If an EL insurer or employer is traced after a payment has been made under the scheme, individuals may decide to pursue them for civil damages in the courts in respect of the disease or death of the person with mesothelioma. Under the proposals the scheme administrator may assist the person with mesothelioma, his dependants or personal representatives to bring such proceedings including by offering financial assistance. We have assumed that these cases will be rare and have little impact upon the figures presented here. However, any costs incurred by the scheme administrator in this regard will be part of the administration costs of the scheme and are liable to be covered by the levy to be imposed on active EL insurers.

Non-monetary benefits

105.   These above explicit financial costs to the insurance industry are offset to some extent by the non-monetised benefit in terms of reputation. There are positive reputational benefits of proposing and paying into this scheme. Plus the avoidance of the negative effect on the whole industry of any insurers who avoid being traced, thereby avoiding paying out on policies to people with mesothelioma.

Table 5 Costs and benefits to business (m)

Transfer costs/ benefits (£m)		Costs	Benefits	Net
Business	Levy - Scheme payment to individuals (excluding government social security benefits and lump sum payments)	-£ 231		-£ 312
	Levy - The costs of paying back government for benefits already paid to individuals	-£ 71		
	Levy - to cover applicant legal fees	-£ 24		
	Levy - Scheme administrative legal fees per successful application	-£ 22		
	Levy - Scheme administrative legal fees per unsuccessful application	-£ 2		
	Levy - Admin - Running costs of scheme	-£ 4		
	Levy - Admin - Set up costs of scheme	-£ 1		
	Levy - Admin - Ad hoc legal fees – set up	-£ 1		
	Levy - Admin - Ad hoc legal fees - running	-£ 0.4		
	Saving to insurers of government funding the scheme to the equivalent of year 1 benefit recovery		£ 17	
	Lawyers - Legal fees received by lawyers for ad hoc scheme admin		£ 1	
	Lawyers - Legal fees received by lawyers for scheme successful cases		£ 46	
	Lawyers - Legal fees received by lawyers for scheme unsuccessful cases		£ 5	
	Lawyers - Legal savings of unsuccessful tracing attempts if scheme did not exist (option 1)	-£ 25		

Economy

106.   The costs to the economy combine the administrative and legal costs outlined above, including the costs of recovery of mesothelioma related government benefits. They are the costs associated with transfers of funds between the main affected groups.

Table 6 - Costs and benefits to the economy

Transaction costs/ benefits (£m)		Costs	Benefits	Net
Economy	Legal costs of scheme cases	-£51		-£33
	Legal savings - of unsuccessful tracing attempts if not scheme (option 1)		£25	
	Admin costs of scheme	-£6		
	Cost of recovering government benefits	-£2		

Summary

107.   The key beneficiaries of the scheme are individuals who have been diagnosed with mesothelioma[30] and who are eligible for a scheme payment.

108.   The Exchequer also benefits under this option compared to option 1, as if people receive scheme payments, the amount of benefits and lump sum payments that government can recover increases. This is because the people, who under option 1 cannot trace their employer or EL policy to get civil compensation, get a scheme payment which includes the repayment of government social security benefits and lump sum payments. This is offset slightly by the costs of recovery.

109.   The main costs of the scheme fall on the active EL insurance industry. They pay the levy under this option which will cover scheme payments (including legal costs) and the costs of administering the scheme.

110.   There are some benefits to the business community however in the form of additional legal fees that personal injury solicitors receive for assisting applicants for scheme payments.

111.   Finally the costs to the economy are made up of administration of the scheme, legal costs and the cost of recovering government social security benefits and lump sum payments. These are the costs of transferring money between parties.

112.   Table 7 summaries the costs and benefits of this option.

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[30] or in some circumstances their dependents or estates

Table 7: Costs and Benefits of Option 2

Transfer costs/ benefits (£m)		Costs	Benefits	Net
Individuals	Scheme payment to individuals - Tariff award (excluding government social security benefits and lump sum payments)		£ 231	£ 253
	Scheme payment - to cover applicant legal fees		£ 24	
	Applicant legal costs of successful cases	-£ 24		
	Applicant legal costs of unsuccessful cases	-£ 3		
	Savings of claimant legal costs on unsuccessful tracing attempts		£ 25	
Business	Levy - Scheme payment to individuals (excluding government social security benefits and lump sum payments)	-£ 231		-£ 312
	Levy - The costs of paying back government for benefits already paid to individuals	-£ 71		
	Levy - to cover applicant legal fees	-£ 24		
	Levy - Scheme administrative legal fees per successful application	-£ 22		
	Levy - Scheme administrative legal fees per unsuccessful application	-£ 2		
	Levy - Admin - Running costs of scheme	-£ 4		
	Levy - Admin - Set up costs of scheme	-£ 1		
	Levy - Admin - Ad hoc legal fees	-£ 1		
	Saving to insurers of government funding the scheme to the equivalent of year 1 benefit recovery		£ 17	
	Lawyers - Legal fees received by lawyers for ad hoc scheme admin		£ 1	
	Lawyers - Legal fees received by lawyers for scheme successful cases		£ 46	
	Lawyers - Legal fees received by lawyers for scheme unsuccessful cases		£ 5	
	Lawyers - Legal savings of unsuccessful tracing attempts if scheme did not exist (option 1)	-£ 25		
Government	Scheme payment - Recovered government social security benefits and lump sum payments		£ 71	£ 52
	Cost of recovering government social security benefits and lump sum payments	-£ 2		
	Government funding the scheme to the equivalent of year 1 benefit recovery	-£ 17		
Economy	Admin - Legal costs of scheme cases	-£ 51		-£ 33
	Legal savings - of unsuccessful tracing attempts if not scheme (option 1)		£ 25	
	Admin - day to day costs of scheme and set up	-£ 6		
	Cost of recovering government benefits	-£ 2		

Option 2 – Methods

Volumes of cases in the 'occupational and untraced' category

113.   Under option 1, we established an estimate for the proportion of people with mesothelioma who are likely to be unable to trace an employer or insurer and who would apply to the scheme. As noted in option 1, the 'occupational and untraced' category of claims is equivalent to the people who could apply for payment under the scheme. However it was assumed in the 2012 IA that it would be inaccurate to simply take the numbers from the category in option 1, as implementing the scheme will in itself create changes in people's behaviour.

114.   In the 2012 IA we used the Towers Watson assumption that 50% of these who decide not to make a case will change their behaviour because the scheme provides a new route to receive compensation than the existing civil system. However further discussion with stakeholders has drawn this assumption into question. Some say that the scheme will not change the behaviour of people with mesothelioma because the reasons they do not make an occupational civil claim are because they do not want to see a solicitor or because they have a good relationship with their former employer and do not want to sue them. Some are simply too ill.

115.   We cannot know for certain what will happen but it seems unlikely that the scheme would not cause any behaviour change whatsoever. So here we present figures both for the assumption of 50% of people who currently decide not to make a claim and for a small 5% behaviour change and a range of figures in between. We use an approximate mid point in between (25%) as the best estimate. This results in the 14% of cases falling into the untraced category and being eligible for the scheme. In table 8 we outline the impact if a different estimate of this key assumption was used.

Table 8: Sensitivity testing of the assumption of behaviour change caused by the scheme (% moved from the unclaimed category to make an application to the scheme)

	5%	10%	20%	30%	40%	50%
Numbers in category (2c) Occupational and untraced	255	271	304	337	369	402
% in category (2c) Occupational and untraced	11%	12%	13%	14%	16%	17%

Case success

116.   Payment is only awarded in successful cases, where an applicant can establish eligibility. This means that our estimate of the proportion of cases that apply for a payment under the scheme (and do or do not receive payment) has a large impact on the volumes of cases where a scheme payment will be made. It is not possible to know what the success rate will be either for applications for payments under the scheme because:

- The scheme is entirely new and there is no precedent to compare against.

- As noted above is also likely that the existence of the scheme will in itself change people's behaviour and the patterns of claims will change. For example, some people might make an application for payments under scheme who wouldn't make a civil claim under the current system.

117.   This means that there are arguments that the success rate could go up, but also that it could go down. Therefore we have used the 90% success rate for civil cases (based on analysis of cases that are settled and withdrawn in CRU records). This percentage was applied to the volumes of cases already predicted as eligible for the scheme each year across the period. This resulted in a total of c.3,500 successful scheme cases.

118.   To note it has been assumed that cases that are unsuccessful in the civil courts will not be eligible for the scheme.

Inflation

119.   For financial calculations, unless otherwise stated inflation factors are applied to bring the figures to 2012 values. The most appropriate inflation rate has been used for each of the key figures to do this as outlined below.

- Civil compensation and government benefits - All-items Consumer Price Index (CPI).[31]
- Admin costs and legal fees – Average Earnings[32]
- Employer Liability Insurance Gross Written Premium – GDP[33]

Payment – scheme cases

120.   As noted earlier, the amount of the payment that an eligible applicant will receive has not yet been decided The policy aims to set a level of scheme payment that is a proportion of the average civil compensation a claimant of the same age would be likely to receive if they could trace a liable employer/ EL insurer and were successful in bringing a claim for damages.

121.   In the 2012 IA we used a figure from a 2008 ABI survey of five insurers. As this is a key figure, we needed a more up to date survey that represented the full picture of occupational mesothelioma cases. Therefore DWP and MOJ commissioned the NIESR to firstly conduct a feasibility study to find out the best way to run a representative survey of average

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[31] Office for National Statistics Time-Series Identifier: D7BT.
[32] http://budgetresponsibility.independent.gov.uk/wordpress/docs/March-2013-EFO-charts-and-tables.xls
[33] http://www.hm-treasury.gov.uk/data_gdp_fig.htm.

civil compensation and later to run the survey. Details of the methods used and emerging findings are available at http://statistics.dwp.gov.uk/asd/index.php?page=adhoc_analysis

122.   The independent NIESR feasibility study concluded that the most robust approach to finding out about civil compensation and claimant legal fees in cases of occupational mesothelioma was to conduct a survey with the following features:

- using the Compensation Recovery Unit (CRU) case records as a sampling frame
- surveying those who register the case with CRU using specific case references selected in line with an independent sampling strategy
- using a large sample that covers a range of organisations of different types
- asking a small number of brief factual questions

123.   Stakeholders and other experts were involved throughout the design of the survey. The survey fieldwork took place between January and March 2013. It has reported emerging findings which are used here and an ad hoc statistical publication covering key findings, which is published alongside this IA and covers details of the methods used. The feasibility report and full survey findings will be published in summer 2013.

124.   The analysis approach used has been to use regression techniques to establish the line of best fit when comparing payment levels by age. Regression techniques allowed various approaches of this to be tested and we have selected the one that is statistically the best fit to the survey responses. This results in a straight line of best fit that excludes the top and bottom 1% of responses. This means that very extreme values distorting the overall pattern of payment levels have been excluded.

125.   We used the regression line to produce a table of payment in one year age bands that followed the pattern of the line of best fit. We then linked this to the age profile of people with mesothelioma and applied the categories outlined above[34]. This means that the total payment fund takes account of the patterns in age of people with mesothelioma. This is important because the average age of people with mesothelioma is rising and civil compensation reduces with age. So without taking account of the age profile the estimates for the fund would be too high (as in the 2012 IA).

Legal fees

126.   All legal fees are based on an estimate of the legal costs of the new streamlined legal system provided by ABI solicitors for the 2012 IA. As MOJ are planning to consult on legal fees in mesothelioma cases and the details are the scheme are still being decided, these have not been

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[34] It is assumed that people who are eligible during July 2012 to Mar 2014 would be eligible for a scheme payment at the age they were at the time of death.

updated in this IA. In this IA we focus on scheme cases and the legal costs to applicants and to the scheme in successful and unsuccessful cases. However once the policy picture is clearer, these estimates will need to be reviewed.

Recovery of government mesothelioma related benefits and payment

127.   As already noted, government pays a range of social security benefits and lump sum payments to people who contract mesothelioma. If they receive damages in a civil case, then the costs of these social security benefits and lump sum awards are recovered. For details please see http://www.dwp.gov.uk/publications/specialist-guides/technical-guidance/z1-recovery-of-benefits-and/1.-the-law/

128.   CRU is responsible for the recovery of benefits. Analysis was conducted on data on recoveries from civil claims made by people with mesothelioma between 2007 and 2012 (CRU). This showed every claim individually and so the anonymous individual reference number was used to total the amounts recovered from each individual. This allows analysis of individual behaviour as well as case trends, as some individuals make multiple claims. The average number of cases per individual for cases registered from 2007 to 2012 is 1.41 cases, with c.28% of individuals registering more than one case with CRU. The cases were filtered to look at the amounts recovered by year from settled, occupational cases only, to calculate the average recovered payment levels each year.

129.   This showed that the average government payment levels recovered from settled civil cases has varied each year and there is no obvious trend. Therefore the figure of £20,480 is used which is the average amount recovered in cases between 2009 and 2012. This approach takes into account the range of benefits that are paid out and recovered. It includes cases where lump sum payments are made and also those where there is no recovery.

130.   To estimate the amount the government will recover from scheme cases the average government payment recovered from civil cases was multiplied by the number of successful payments estimated from the scheme. The total of these figures is £71 million.

131.   Recoveries provide a benefit to the Exchequer in the amounts that are recovered. However there is also a cost of achieving this recovery which is a cost to the government and to the economy. Estimating this requires the cost per case of recoveries. The CRU has a target of 3% of amounts recovered and report reaching 2.78%.

132.   If government recovers social security benefits and lump sum payments, this would mean the full costs of scheme payments would be borne by the insurance industry through the levy, other than the £17 million funding provided in year 1 by the government (and off set by benefit recoveries).

Levy

133. Recent figures provided by the ABI for gross written premium for EL insurance for 2011 is £1,439 million[35]. This is the total amount received in premiums on EL insurance. It is assumed here that the total levy paid by insurers – covering the scheme payment (including recovered government benefits), including an element for applicants' legal fees and including the costs of administering the scheme will equal the payment scheme's funds. The percentage of GWP is the total levy divided by total GWP. We have assumed that GWP will remain constant in real terms and so only converted to bring it to 2012 values.

Administration costs

134. Administration costs replicate those in the 2012 IA but without the costs of the Technical Committee. Here we also include legal advice to the scheme on cases as part of the administration costs[36]. Legal and administrative costs are based on quotes from the ABI, which is based upon experience of the Motor Insurers Bureau. This assumes that the scheme would be run by the industry. If this didn't happen the costs could increase or decrease and so these estimates will need to be reviewed as policy develops. It is assumed that the costs will remain stable over the IA period and that case volumes won't impact on them.

Presentation of Costs

135. In the previous tables, the costs and benefits have been listed by main affected group – business, individuals and government. To calculate the overall costs to the main affected groups, all the costs were added up by year. An average was then taken of the annual costs per year covering the 10 year period of the IA (April 2014 to March 2024). The period July 2012 to March 2013 was not included in this average to allow the average to demonstrate the normal running of the scheme and impacts of the legislation.

136. Discounting of 3.5% was then applied to each year (see Annex A) and used in the NPV figures. Otherwise the figures in this document are undiscounted.

137. This was repeated for the benefits, resulting in a list of costs and benefits for each year. The costs were taken from the benefits to produce a net discounted value per year.

138. The Total Net Present Value (NPV) figures include all costs and so cover the discounted costs per year over the 10 year IA period, including the set up and costs of the scheme cases in Jul 2012 to March 2013.

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[35] This is higher than the £1,309 million figure used in the 2012 IA
[36] These were labelled 'defendant legal costs' in the 2012 IA

139.　　This was then repeated only including costs and benefits to business to produce the Business Net Present Value.

Annex A – Summary table of forecasts

Notes - all prices are 2012 values and not discounted unless explicitly stated.

Forecasts of deaths from mesothelioma	Jul 12- Mar 2014	2014/15	2015/16	2016/17	2017/18	2018/19	2019/20	2020/21	2021/22	2022/23	2023/24	Average per year Apr 2014- Mar 2024	Total Apr 2014- Mar 2024	Total Jul 12- Mar 2024
HSE forecast														
- men	3,432	1,981	1,989	1,990	1,986	1,975	1,961	1,938	1,907	1,871	1,831	1,943	19,427	22,859
- women	638	377	386	395	401	408	417	423	430	436	441	411	4,112	4,750
all	4,071	2,358	2,374	2,384	2,386	2,383	2,377	2,361	2,337	2,307	2,271	2,354	23,539	27,610
ABI forecast														
- men	3,393	1,949	1,949	1,944	1,932	1,915	1,891	1,858	1,818	1,770	1,717	1,874	18,741	22,134
- women	753	447	452	447	452	457	460	462	463	463	462	456	4,565	5,318
all	4,145	2,396	2,401	2,391	2,385	2,372	2,350	2,321	2,281	2,233	2,178	2,331	23,306	27,451
Average forecast														
- men	3,474	2,000	2,004	2,002	1,994	1,980	1,961	1,933	1,897	1,856	1,809	1,943	19,434	22,908
- women	713	422	429	431	437	443	448	453	456	460	461	444	4,438	5,151
all	4,108	2,377	2,388	2,387	2,385	2,378	2,364	2,341	2,309	2,270	2,225	2,342	23,423	27,530
% Difference														
- % difference HSE Forecast from Average Forecast	0.92%	0.80%	0.57%	0.14%	-0.04%	-0.24%	-0.57%	-0.85%	-1.21%	-1.61%	-2.05%	-0.49%	-0.49%	-0.29%
- % difference ABI model from Average Forecast	-0.90%	-0.78%	-0.56%	-0.14%	0.04%	0.24%	0.57%	0.86%	1.24%	1.67%	2.14%	0.50%	0.50%	0.29%
Mesothelioma - volumes of claims for civil compensation	Jul 12- Mar 2014	2014/15	2015/16	2016/17	2017/18	2018/19	2019/20	2020/21	2021/22	2022/23	2023/24	Average per year Apr 2014- Mar 2024	Total Apr 2014- Mar 2024	Total Jul 12- Mar 2024
Option 1 - volumes of people with mesothelioma who take each route (including the impact of contextual factors - ELTO and FCA processes)														

(1) Occupational Civil Case Route	2,573	1,489	1,495	1,495	1,494	1,489	1,480	1,466	1,447	1,423	1,395	1,467	14,673	17,246
(2a) Decide not to make a civil occupational claim and no trace attempt	586	339	340	340	340	339	337	334	329	324	318	334	3,340	3,925
(2b) Evidence is not strong enough to prove employer negligence and/ or a breach of statutory duty	177	102	103	103	103	102	102	101	100	98	96	101	1,010	1,187
(2c) Occupational and untraced	428	248	249	249	249	248	246	244	241	237	232	244	2,441	2,870
(3) Environmental	416	241	242	242	242	241	239	237	234	230	226	237	2,373	2,789
Total	4,180	2,418	2,429	2,429	2,427	2,419	2,405	2,382	2,350	2,311	2,266	2,384	23,836	28,016
Additionally traced cases (due to ELTO)		28	28	28	28	28	27	27	27	26	26	27	271	271
Option 2, legislation - volumes including behavioural change assumptions														
(1) Occupational Civil Case Route	2,573	1,489	1,495	1,495	1,494	1,489	1,480	1,466	1,447	1,423	1,395	1,467	14,673	17,246
(2a) Decide not to make a civil occupational claim and no trace attempt	439	254	255	255	255	254	253	250	247	243	238	250	2,505	2,944
(2b) Evidence is not strong enough to prove employer negligence and/ or a breach of statutory duty	177	102	103	103	103	102	102	101	100	98	96	101	1,010	1,187
(2c) Occupational and untraced	575	332	334	334	334	332	331	327	323	318	311	328	3,276	3,851
(3) Environmental	423	244	246	246	245	245	243	241	238	234	229	241	2,410	2,832
Total	4,187	2,422	2,433	2,432	2,430	2,423	2,409	2,386	2,354	2,315	2,270	2,387	23,873	28,059
Option 2 - volumes														
Are expected to apply for scheme	575	332	334	334	334	332	331	327	323	318	311	328	3,276	3,851
Civil route	2,573	1,489	1,495	1,495	1,494	1,489	1,480	1,466	1,447	1,423	1,395	1,467	14,673	17,246
Option 2 - volumes of successful cases														
Successful in receiving a scheme payment	517	299	300	300	300	299	298	295	291	286	280	295	2,949	3,466

	Jul 12-Mar 2014	2014/15	2015/16	2016/17	2017/18	2018/19	2019/20	2020/21	2021/22	2022/23	2023/24	Average per year Apr 2014-Mar 2024	Total Apr 2014-Mar 2024	Total Jul 12- Mar 2024
Civil route	2,316	1,340	1,346	1,345	1,344	1,340	1,332	1,320	1,302	1,281	1,255	1,321	13,205	15,521
Option 2 - volumes of unsuccessful cases														
Are expected to apply for scheme	57	33	33	33	33	33	33	33	32	32	31	33	328	385
Civil route	257	149	150	149	149	149	148	147	145	142	139	147	1,467	1,725
Payments from scheme (successful scheme cases only) (000,000s)	Jul 12-Mar 2014	2014/15	2015/16	2016/17	2017/18	2018/19	2019/20	2020/21	2021/22	2022/23	2023/24	Average per year Apr 2014-Mar 2024	Total Apr 2014-Mar 2024	Total Jul 12- Mar 2024
Scheme payment to individuals - Tariff award (including government social security benefits and lump sum payments)	£ 48.47	£ 27.45	£ 27.14	£ 26.80	£ 26.40	£ 25.93	£ 25.39	£ 24.77	£ 24.09	£ 23.36	£ 22.56	£ 25.39	£ 253.87	£ 302.35
Scheme payment to individuals - Tariff award (excluding government social security benefits and lump sum payments)	£ 37.86	£ 21.31	£ 20.98	£ 20.65	£ 20.25	£ 19.81	£ 19.31	£ 18.76	£ 18.16	£ 17.53	£ 16.85	£ 19.36	£ 193.62	£ 231.47
Scheme payment - to cover applicant legal fees	£ 3.24	£ 2.10	£ 2.10	£ 2.10	£ 2.10	£ 2.09	£ 2.08	£ 2.06	£ 2.03	£ 1.99	£ 1.95	£ 2.06	£ 20.60	£ 23.84
Amount individuals receive directly from scheme (scheme payment and amount to cover legal fees, minus government social security benefits and lump sum payments)	£ 41.10	£ 23.41	£ 23.09	£ 22.75	£ 22.35	£ 21.91	£ 21.39	£ 20.81	£ 20.19	£ 19.52	£ 18.80	£ 21.42	£ 214.21	£ 255.31
Total paid out by scheme to individuals (includes scheme payment, government social security benefits and lump sum payments and amount to cover legal fees)	£ 51.71	£ 29.54	£ 29.24	£ 28.90	£ 28.50	£ 28.03	£ 27.47	£ 26.83	£ 26.12	£ 25.35	£ 24.51	£ 27.45	£ 274.47	£ 326.19
Recovered government social security benefits and lump sum payments (successful cases only) (000,000s)	Jul 12-Mar 2014	2014/15	2015/16	2016/17	2017/18	2018/19	2019/20	2020/21	2021/22	2022/23	2023/24	Average per year Apr 2014-Mar 2024	Total Apr 2014-Mar 2024	Total Jul 12- Mar 2024

	Jul 12-Mar 2014	2014/15	2015/16	2016/17	2017/18	2018/19	2019/20	2020/21	2021/22	2022/23	2023/24	Average per year Apr 2014-Mar 2024	Total Apr 2014-Mar 2024	Total Jul 12-Mar 2024
Scheme cases	£ 10.62	£ 6.13	£ 6.15	£ 6.15	£ 6.14	£ 6.12	£ 6.08	£ 6.01	£ 5.93	£ 5.83	£ 5.71	£ 6.03	£ 60.26	£ 70.87
Government funding to scheme (equivalent to the amount recovered in government social security benefits and lump sum payments in yr 1)	£ 16.75													£ 16.75
Cost of recovery of government social security benefits and lump sum payments (000,000s)	**Jul 12-Mar 2014**	**2014/15**	**2015/16**	**2016/17**	**2017/18**	**2018/19**	**2019/20**	**2020/21**	**2021/22**	**2022/23**	**2023/24**	**Average per year Apr 2014-Mar 2024**	**Total Apr 2014-Mar 2024**	**Total Jul 12- Mar 2024**
Scheme cases	£ 0.30	£ 0.17	£ 0.17	£ 0.17	£ 0.17	£ 0.17	£ 0.17	£ 0.17	£ 0.16	£ 0.16	£ 0.16	£ 0.17	£ 1.68	£ 1.97
Legal fees (000,000s)	**Jul 12-Mar 2014**	**2014/15**	**2015/16**	**2016/17**	**2017/18**	**2018/19**	**2019/20**	**2020/21**	**2021/22**	**2022/23**	**2023/24**	**Average per year Apr 2014-Mar 2024**	**Total Apr 2014-Mar 2024**	**Total Jul 12- Mar 2024**
Option 1														
Claimant - Unsuccessful trace attempt (all untraced cases)	£ 3.44	£ 2.23	£ 2.24	£ 2.24	£ 2.24	£ 2.23	£ 2.22	£ 2.20	£ 2.17	£ 2.13	£ 2.09	£ 2.20	£ 21.97	£ 25.41
Defendant - Unsuccessful trace attempt	£ -	£ -	£ -	£ -	£ -	£ -	£ -	£ -	£ -	£ -	£ -	£ -	£ -	£ -
Option 2														
Successful application - compensated by scheme														
Scheme applicant	£ 3.24	£ 2.10	£ 2.10	£ 2.10	£ 2.10	£ 2.09	£ 2.08	£ 2.06	£ 2.03	£ 1.99	£ 1.95	£ 2.06	£ 20.60	£ 23.84
The scheme	£ 2.96	£ 1.92	£ 1.92	£ 1.92	£ 1.92	£ 1.91	£ 1.90	£ 1.88	£ 1.85	£ 1.82	£ 1.78	£ 1.88	£ 18.83	£ 21.79
Total	£ 6.20	£ 4.01	£ 4.03	£ 4.03	£ 4.02	£ 4.00	£ 3.98	£ 3.94	£ 3.88	£ 3.81	£ 3.73	£ 3.94	£ 39.43	£ 45.63
Unsuccessful application - not compensated by scheme														
Scheme applicant	£ 0.46	£ 0.30	£ 0.30	£ 0.30	£ 0.30	£ 0.30	£ 0.30	£ 0.29	£ 0.29	£ 0.28	£ 0.28	£ 0.29	£ 2.94	£ 3.41
The scheme	£	£	£	£	£	£	£	£	£	£	£	£	£	£

	Set up costs/Jul 12 - Mar 2014	2014/15	2015/16	2016/17	2017/18	2018/19	2019/20	2020/21	2021/22	2022/23	2023/24	Average per year Apr 2014- Mar 2024	Total Apr 2014- Mar 2024	Total Jul 12- Mar 2024
	0.23	0.15	0.15	0.15	0.15	0.15	0.15	0.14	0.14	0.14	0.14	0.14	1.44	1.66
Total	£ 0.69	£ 0.45	£ 0.45	£ 0.45	£ 0.45	£ 0.44	£ 0.44	£ 0.44	£ 0.43	£ 0.42	£ 0.41	£ 0.44	£ 4.38	£ 5.07
Admin of scheme (000,000s)	**Set up costs/Jul 12 - Mar 2014**	**2014/15**	**2015/16**	**2016/17**	**2017/18**	**2018/19**	**2019/20**	**2020/21**	**2021/22**	**2022/23**	**2023/24**	**Average per year Apr 2014- Mar 2024**	**Total Apr 2014- Mar 2024**	**Total Jul 12- Mar 2024**
Scheme administration - non-legal set up costs	£ 0.58												£ -	£ 0.58
Scheme administration - non-legal running		£ 0.40	£ 0.40	£ 0.40	£ 0.40	£ 0.40	£ 0.40	£ 0.40	£ 0.40	£ 0.40	£ 0.40	£ 0.40	£ 3.99	£ 3.99
Scheme administration - ad hoc legal set up costs	£ 0.80												£ -	£ 0.80
Scheme administration - ad hoc legal running		£ 0.04	£ 0.04	£ 0.04	£ 0.04	£ 0.04	£ 0.04	£ 0.04	£ 0.04	£ 0.04	£ 0.04	£ 0.04	£ 0.42	£ 0.42
Scheme administrative legal fees per successful application	£ 2.96	£ 1.92	£ 1.92	£ 1.92	£ 1.92	£ 1.91	£ 1.90	£ 1.88	£ 1.85	£ 1.82	£ 1.78	£ 1.88	£ 18.83	£ 21.79
Scheme administrative legal fees per unsuccessful application	£ 0.23	£ 0.15	£ 0.15	£ 0.15	£ 0.15	£ 0.15	£ 0.15	£ 0.14	£ 0.14	£ 0.14	£ 0.14	£ 0.14	£ 1.44	£ 1.66
Total scheme admin		£ 7.07	£ 2.51	£ 2.51	£ 2.51	£ 2.50	£ 2.49	£ 2.46	£ 2.44	£ 2.40	£ 2.36	£ 2.92	£ 29.25	£ 29.25
Levy (successful cases only) (000,000s)	**Jul 12- Mar 2014**	**2014/15**	**2015/16**	**2016/17**	**2017/18**	**2018/19**	**2019/20**	**2020/21**	**2021/22**	**2022/23**	**2023/24**	**Average per year Apr 2014- Mar 2024**	**Total Apr 2014- Mar 2024**	**Total Jul 12- Mar 2024**
Scheme payment to individuals - Tariff award (excluding government social security benefits and lump sum payments)	£ 37.86	£ 21.31	£ 20.98	£ 20.65	£ 20.25	£ 19.81	£ 19.31	£ 18.76	£ 18.16	£ 17.53	£ 16.85	£ 19.36	£ 193.62	£ 231.47
Scheme payment - to cover applicant legal fees	£ 3.24	£ 2.10	£ 2.10	£ 2.10	£ 2.10	£ 2.09	£ 2.08	£ 2.06	£ 2.03	£ 1.99	£ 1.95	£ 2.06	£ 20.60	£ 23.84

	Jul 12-Mar 2014	2014/15	2015/16	2016/17	2017/18	2018/19	2019/20	2020/21	2021/22	2022/23	2023/24	Average per year Apr 2014-Mar 2024	Total Apr 2014-Mar 2024	Total Jul 12- Mar 2024
Scheme cases - repayment of benefits to government	£ 10.62	£ 6.13	£ 6.15	£ 6.15	£ 6.14	£ 6.12	£ 6.08	£ 6.01	£ 5.93	£ 5.83	£ 5.71	£ 6.03	£ 60.26	£ 70.87
Admin costs of scheme		£ 1.82	£ 0.44	£ 0.44	£ 0.44	£ 0.44	£ 0.44	£ 0.44	£ 0.44	£ 0.44	£ 0.44	£ 0.58	£ 5.79	£ 5.79
Scheme administrative legal fees per successful application	£ 2.96	£ 1.92	£ 1.92	£ 1.92	£ 1.92	£ 1.91	£ 1.90	£ 1.88	£ 1.85	£ 1.82	£ 1.78	£ 1.88	£ 18.83	£ 21.79
Scheme administrative legal fees per unsuccessful application	£ 0.23	£ 0.15	£ 0.15	£ 0.15	£ 0.15	£ 0.15	£ 0.15	£ 0.14	£ 0.14	£ 0.14	£ 0.14	£ 0.14	£ 1.44	£ 1.66
Total - levy (if no government funding)	£ 54.90	£ 33.42	£ 31.75	£ 31.41	£ 31.00	£ 30.53	£ 29.95	£ 29.29	£ 28.55	£ 27.75	£ 26.87	£ 30.05	£ 300.53	£ 355.43
Levy - timing of payments by insurers (000,000s)	**Jul 12-Mar 2014**	**2014/15**	**2015/16**	**2016/17**	**2017/18**	**2018/19**	**2019/20**	**2020/21**	**2021/22**	**2022/23**	**2023/24**	**Average per year Apr 2014-Mar 2024**	**Total Apr 2014-Mar 2024**	**Total Jul 12- Mar 2024**
Government funding (yr 1)	£ -	£ 16.75	£ -	£ -	£ -	£ -	£ -	£ -	£ -	£ -	£ -	£ 1.67	£ 16.75	£ 16.75
Total levy (including smoothing and if no government funding)		£ 45.62	£ 45.62	£ 45.62	£ 45.62	£ 30.53	£ 29.95	£ 29.29	£ 28.55	£ 27.75	£ 26.87	£ 35.54	£ 355.43	£ 355.43
Total levy (including smoothing and minus government funding all in yr 1)	£ -	£ 28.87	£ 45.62	£ 45.62	£ 45.62	£ 30.53	£ 29.95	£ 29.29	£ 28.55	£ 27.75	£ 26.87	£ 33.87	£ 338.68	£ 338.68
Total levy (including smoothing and minus government funding, smoothed over yrs 1-4)	£ -	£ 41.44	£ 41.44	£ 41.44	£ 41.44	£ 30.53	£ 29.95	£ 29.29	£ 28.55	£ 27.75	£ 26.87	£ 33.87	£ 338.68	£ 338.68
Levy if no government funding as % of EL GWP	0.00%	5.85%	2.21%	2.10%	2.08%	2.05%	2.02%	1.98%	1.94%	1.89%	1.84%	2.40%		
Levy as % of GWP (with smoothing applied and then gov funding all paid in year 1)	0.00%	1.91%	3.02%	3.02%	3.02%	2.02%	1.98%	1.94%	1.89%	1.84%	1.78%	2.24%		
Levy as % of GWP (gov funding divided over smoothing period)	0.00%	2.74%	2.74%	2.74%	2.74%	2.02%	1.98%	1.94%	1.89%	1.84%	1.78%	2.24%		
COSTS AND BENEFITS TO MAIN AFFECTED GROUPS														

Costs and benefits to individuals	Jul 12- Mar 2014	2014/15	2015/16	2016/17	2017/18	2018/19	2019/20	2020/21	2021/22	2022/23	2023/24	Average per year Apr 2014- Mar 2024	Total Apr 2014- Mar 2024	Total Jul 12- Mar 2024
Scheme payment to individuals - Tariff award (excluding government social security benefits and lump sum payments)	£ 37.86	£ 21.31	£ 20.98	£ 20.65	£ 20.25	£ 19.81	£ 19.31	£ 18.76	£ 18.16	£ 17.53	£ 16.85	£ 19.36	£ 193.62	£ 231.47
Scheme payment - to cover applicant legal fees	£ 3.24	£ 2.10	£ 2.10	£ 2.10	£ 2.10	£ 2.09	£ 2.08	£ 2.06	£ 2.03	£ 1.99	£ 1.95	£ 2.06	£ 20.60	£ 23.84
Applicant legal costs of successful cases	-£ 3.24	-£ 2.10	-£ 2.10	-£ 2.10	-£ 2.10	-£ 2.09	-£ 2.08	-£ 2.06	-£ 2.03	-£ 1.99	-£ 1.95	-£ 2.06	-£ 20.60	-£ 23.84
Applicant legal costs of unsuccessful cases	-£ 0.46	-£ 0.30	-£ 0.30	-£ 0.30	-£ 0.30	-£ 0.30	-£ 0.30	-£ 0.29	-£ 0.29	-£ 0.28	-£ 0.28	-£ 0.29	-£ 2.94	-£ 3.41
Savings of claimant legal costs on unsuccessful tracing attempts	£ 3.44	£ 2.23	£ 2.24	£ 2.24	£ 2.24	£ 2.23	£ 2.22	£ 2.20	£ 2.17	£ 2.13	£ 2.09	£ 2.20	£ 21.97	£ 25.41
Total benefit to individuals	£ 44.54	£ 25.64	£ 25.32	£ 24.99	£ 24.59	£ 24.14	£ 23.60	£ 23.01	£ 22.36	£ 21.65	£ 20.89	£ 23.62	£ 236.18	£ 280.73
Total cost to individuals	-£ 3.70	-£ 2.40	-£ 2.40	-£ 2.40	-£ 2.40	-£ 2.39	-£ 2.37	-£ 2.35	-£ 2.32	-£ 2.28	-£ 2.23	-£ 2.35	-£ 23.54	-£ 27.24
Net cost/ benefit to individuals	£ 40.84	£ 23.24	£ 22.92	£ 22.58	£ 22.19	£ 21.75	£ 21.23	£ 20.66	£ 20.04	£ 19.38	£ 18.66	£ 21.26	£ 212.65	£ 253.48
Net cost/ benefit to individuals including discounting	£ 39.46	£ 21.70	£ 20.67	£ 19.68	£ 18.68	£ 17.69	£ 16.69	£ 15.69	£ 14.70	£ 13.74	£ 12.78	£ 17.20	£ 172.02	£ 211.48
Costs and benefits to business	Jul 12- Mar 2014	2014/15	2015/16	2016/17	2017/18	2018/19	2019/20	2020/21	2021/22	2022/23	2023/24	Average per year Apr 2014- Mar 2024	Total Apr 2014- Mar 2024	Total Jul 12- Mar 2024
Levy - Scheme payment to individuals (excluding government social security benefits and lump sum payments)	-£ 37.86	-£ 21.31	-£ 20.98	-£ 20.65	-£ 20.25	-£ 19.81	-£ 19.31	-£ 18.76	-£ 18.16	-£ 17.53	-£ 16.85	-£ 19.36	-£ 193.62	-£ 231.47
Levy - The costs of paying back government for benefits already paid to individuals	-£ 10.62	-£ 6.13	-£ 6.15	-£ 6.15	-£ 6.14	-£ 6.12	-£ 6.08	-£ 6.01	-£ 5.93	-£ 5.83	-£ 5.71	-£ 6.03	-£ 60.26	-£ 70.87

Levy - to cover applicant legal fees	-£3.24	-£2.10	-£2.10	-£2.10	-£2.10	-£2.09	-£2.08	-£2.06	-£2.03	-£1.99	-£1.95	-£2.06	-£20.60	-£23.84
Levy - Scheme administrative legal fees per successful application	-£2.96	-£1.92	-£1.92	-£1.92	-£1.92	-£1.91	-£1.90	-£1.88	-£1.85	-£1.82	-£1.78	-£1.88	-£18.83	-£21.79
Levy - Scheme administrative legal fees per unsuccessful application	-£0.23	-£0.15	-£0.15	-£0.15	-£0.15	-£0.15	-£0.15	-£0.14	-£0.14	-£0.14	-£0.14	-£0.14	-£1.44	-£1.66
Levy - Admin - Running costs of scheme		-£0.40	-£0.40	-£0.40	-£0.40	-£0.40	-£0.40	-£0.40	-£0.40	-£0.40	-£0.40	-£0.40	-£3.99	-£3.99
Levy - Admin - Set up costs of scheme	-£0.58	£ -	£ -	£ -	£ -	£ -	£ -	£ -	£ -	£ -	£ -	£ -	£ -	-£0.58
Levy - Admin - Ad hoc legal fees during set up	-£0.80													-£0.80
Levy - Admin - Ad hoc legal fees on going		-£0.04	-£0.04	-£0.04	-£0.04	-£0.04	-£0.04	-£0.04	-£0.04	-£0.04	-£0.04	-£0.04	-£0.42	-£0.42
Saving to insurers of government funding the scheme to the equivalent of year 1 benefit recovery	£ -	£16.75	£ -	£ -	£ -	£ -	£ -	£ -	£ -	£ -	£ -	£ -	£1.67	£16.75	£16.75
Lawyers - Legal fees received by lawyers for ad hoc scheme admin	£0.80	£0.04	£0.04	£0.04	£0.04	£0.04	£0.04	£0.04	£0.04	£0.04	£0.04	£0.04	£0.42	£1.22
Lawyers - Legal fees received by lawyers for scheme successful cases	£6.20	£4.01	£4.03	£4.03	£4.02	£4.00	£3.98	£3.94	£3.88	£3.81	£3.73	£3.94	£39.43	£45.63
Lawyers - Legal fees received by lawyers for scheme unsuccessful cases	£0.69	£0.45	£0.45	£0.45	£0.45	£0.44	£0.44	£0.44	£0.43	£0.42	£0.41	£0.44	£4.38	£5.07
Lawyers - Legal savings of unsuccessful tracing attempts if scheme did not exist (option 1)	-£3.44	-£2.23	-£2.24	-£2.24	-£2.24	-£2.23	-£2.22	-£2.20	-£2.17	-£2.13	-£2.09	-£2.20	-£21.97	-£25.41
Total benefit to business	£7.69	£21.25	£4.52	£4.51	£4.51	£4.49	£4.46	£4.41	£4.35	£4.28	£4.19	£6.10	£60.97	£68.67
Total cost to business	-£59.72	-£34.28	-£33.99	-£33.65	-£33.24	-£32.76	-£32.17	-£31.49	-£30.72	-£29.88	-£28.96	-£32.11	-£321.12	-£380.85
Net cost/ benefit to business	-£52.03	-£13.03	-£29.47	-£29.13	-£28.73	-£28.26	-£27.71	-£27.07	-£26.37	-£25.60	-£24.77	-£26.01	-£260.15	-£312.18
Net cost/ benefit to business including discounting	-£50.27	-£12.16	-£26.58	-£25.39	-£24.19	-£22.99	-£21.78	-£20.56	-£19.35	-£18.15	-£16.96	-£20.81	-£208.12	-£258.39
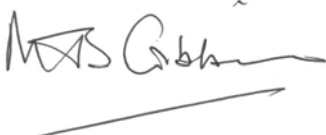
	Jul 12- Mar 2014	2014/15	2015/16	2016/17	2017/18	2018/19	2019/20	2020/21	2021/22	2022/23	2023/24	Average per year Apr 2014- Mar 2024	Total Apr 2014- Mar 2024	Total Jul 12- Mar 2024
Total benefit to insurers	£ -	£ 16.75	£ -	£ -	£ -	£ -	£ -	£ -	£ -	£ -	£ -	£ 1.67	£ 16.75	£ 16.75
Total cost to insurers	-£ 56.28	-£ 32.05	-£ 31.75	-£ 31.41	-£ 31.00	-£ 30.53	-£ 29.95	-£ 29.29	-£ 28.55	-£ 27.75	-£ 26.87	-£ 29.91	-£ 299.15	-£ 355.43
Net cost/ benefit to insurers	-£ 55.48	-£ 15.26	-£ 31.71	-£ 31.37	-£ 30.96	-£ 30.48	-£ 29.91	-£ 29.25	-£ 28.51	-£ 27.71	-£ 26.83	-£ 28.20	-£ 281.98	-£ 337.46
Net cost/ benefit to insurers including discounting	-£ 53.60	-£ 14.24	-£ 28.60	-£ 27.34	-£ 26.07	-£ 24.80	-£ 23.51	-£ 22.21	-£ 20.92	-£ 19.64	-£ 18.38	-£ 22.57	-£ 225.70	-£ 279.31
Total benefit to lawyers	£ 7.69	£ 4.46	£ 4.47	£ 4.47	£ 4.47	£ 4.45	£ 4.42	£ 4.37	£ 4.31	£ 4.24	£ 4.15	£ 4.38	£ 43.81	£ 51.50
Total cost to lawyers	-£ 3.44	-£ 2.23	-£ 2.24	-£ 2.24	-£ 2.24	-£ 2.23	-£ 2.22	-£ 2.20	-£ 2.17	-£ 2.13	-£ 2.09	-£ 2.20	-£ 21.97	-£ 25.41
Net cost/ benefit to lawyers	£ 4.25	£ 2.23	£ 2.23	£ 2.23	£ 2.23	£ 2.22	£ 2.20	£ 2.18	£ 2.14	£ 2.11	£ 2.06	£ 2.18	£ 21.84	£ 26.09
Net cost/ benefit to lawyers including discounting	£ 4.11	£ 2.08	£ 2.02	£ 1.95	£ 1.88	£ 1.81	£ 1.73	£ 1.65	£ 1.57	£ 1.49	£ 1.41	£ 1.76	£ 17.59	£ 21.69
Costs and benefits to government	**Jul 12- Mar 2014**	**2014/15**	**2015/16**	**2016/17**	**2017/18**	**2018/19**	**2019/20**	**2020/21**	**2021/22**	**2022/23**	**2023/24**	**Average per year Apr 2014- Mar 2024**	**Total Apr 2014- Mar 2024**	**Total Jul 12- Mar 2024**
Scheme payment - Recovered government social security benefits and lump sum payments	£ 10.62	£ 6.13	£ 6.15	£ 6.15	£ 6.14	£ 6.12	£ 6.08	£ 6.01	£ 5.93	£ 5.83	£ 5.71	£ 6.03	£ 60.26	£ 70.87
Cost of recovering government social security benefits and lump sum payments	-£ 0.30	-£ 0.17	-£ 0.17	-£ 0.17	-£ 0.17	-£ 0.17	-£ 0.17	-£ 0.17	-£ 0.16	-£ 0.16	-£ 0.16	-£ 0.17	-£ 1.68	-£ 1.97
Government funding the scheme to the equivalent of year 1 benefit recovery	£ -	-£ 16.75	£ -	£ -	£ -	£ -	£ -	£ -	£ -	£ -	£ -	-£ 1.67	-£ 16.75	-£ 16.75
Total benefit to government	£ 10.62	£ 6.13	£ 6.15	£ 6.15	£ 6.14	£ 6.12	£ 6.08	£ 6.01	£ 5.93	£ 5.83	£ 5.71	£ 6.03	£ 60.26	£ 70.87
Total cost to government	-£ 0.30	-£ 16.92	-£ 0.17	-£ 0.17	-£ 0.17	-£ 0.17	-£ 0.17	-£ 0.17	-£ 0.16	-£ 0.16	-£ 0.16	-£ 1.84	-£ 18.42	-£ 18.72
Net cost/ benefit to government	£ 10.32	-£ 10.79	£ 5.98	£ 5.98	£ 5.97	£ 5.95	£ 5.91	£ 5.85	£ 5.76	£ 5.67	£ 5.55	£ 4.18	£ 41.83	£ 52.16

	Jul 12-Mar 2014	2014/15	2015/16	2016/17	2017/18	2018/19	2019/20	2020/21	2021/22	2022/23	2023/24	Average per year Apr 2014-Mar 2024	Total Apr 2014-Mar 2024	Total Jul 12-Mar 2024
Net cost/ benefit to government including discounting	£ 9.97	-£ 10.07	£ 5.40	£ 5.21	£ 5.03	£ 4.84	£ 4.64	£ 4.44	£ 4.23	£ 4.02	£ 3.80	£ 3.15	£ 31.54	£ 41.51
Costs and benefits to the economy	**Jul 12-Mar 2014**	**2014/15**	**2015/16**	**2016/17**	**2017/18**	**2018/19**	**2019/20**	**2020/21**	**2021/22**	**2022/23**	**2023/24**	**Average per year Apr 2014-Mar 2024**	**Total Apr 2014-Mar 2024**	**Total Jul 12- Mar 2024**
Admin - day to day costs of scheme and set up	-£ 1.38	-£ 0.44	-£ 0.44	-£ 0.44	-£ 0.44	-£ 0.44	-£ 0.44	-£ 0.44	-£ 0.44	-£ 0.44	-£ 0.44	-£ 0.44	-£ 4.41	-£ 5.79
Admin - Total legal costs of scheme cases	-£ 6.89	-£ 4.46	-£ 4.47	-£ 4.47	-£ 4.47	-£ 4.45	-£ 4.42	-£ 4.37	-£ 4.31	-£ 4.24	-£ 4.15	-£ 4.38	-£ 43.81	-£ 50.70
Legal savings - of unsuccessful tracing attempts if not scheme (option 1)	£ 3.44	£ 2.23	£ 2.24	£ 2.24	£ 2.24	£ 2.23	£ 2.22	£ 2.20	£ 2.17	£ 2.13	£ 2.09	£ 2.20	£ 21.97	£ 25.41
Cost of recovering government benefits	-£ 0.30	-£ 0.17	-£ 0.17	-£ 0.17	-£ 0.17	-£ 0.17	-£ 0.17	-£ 0.17	-£ 0.16	-£ 0.16	-£ 0.16	-£ 0.17	-£ 1.68	-£ 1.97
Total benefit to the economy	£ 3.44	£ 2.23	£ 2.24	£ 2.24	£ 2.24	£ 2.23	£ 2.22	£ 2.20	£ 2.17	£ 2.13	£ 2.09	£ 2.20	£ 21.97	£ 25.41
Total cost to the economy	-£ 8.56	-£ 5.07	-£ 5.09	-£ 5.08	-£ 5.08	-£ 5.06	-£ 5.03	-£ 4.98	-£ 4.92	-£ 4.84	-£ 4.75	-£ 4.99	-£ 49.89	-£ 58.46
Net cost/ benefit to the economy	-£ 5.12	-£ 2.84	-£ 2.85	-£ 2.85	-£ 2.84	-£ 2.83	-£ 2.81	-£ 2.78	-£ 2.75	-£ 2.71	-£ 2.66	-£ 2.79	-£ 27.92	-£ 33.04
Net cost/ benefit to the economy including discounting	-£ 4.95	-£ 2.65	-£ 2.57	-£ 2.48	-£ 2.39	-£ 2.30	-£ 2.21	-£ 2.11	-£ 2.02	-£ 1.92	-£ 1.82	-£ 2.25	-£ 22.48	-£ 27.43
Costs and benefits - Overall	**Jul 12-Mar 2014**	**2014/15**	**2015/16**	**2016/17**	**2017/18**	**2018/19**	**2019/20**	**2020/21**	**2021/22**	**2022/23**	**2023/24**	**Average per year Apr 2014-Mar 2024**	**Total Apr 2014-Mar 2024**	**Total Jul 12- Mar 2024**
Total benefits	£ 62.85	£ 53.02	£ 35.99	£ 35.65	£ 35.24	£ 34.75	£ 34.14	£ 33.44	£ 32.64	£ 31.76	£ 30.79	£ 35.74	£ 357.42	£ 420.27
Total costs	-£ 63.72	-£ 36.84	-£ 36.56	-£ 36.22	-£ 35.81	-£ 35.32	-£ 34.71	-£ 34.00	-£ 33.20	-£ 32.32	-£ 31.35	-£ 34.63	-£ 346.34	-£ 410.06
Total benefits including discounting	£ 60.72	£ 49.50	£ 32.46	£ 31.07	£ 29.67	£ 28.27	£ 26.84	£ 25.39	£ 23.95	£ 22.51	£ 21.09	£ 29.07	£ 290.74	£ 351.47
Total costs including discounting	-£	-£	-£	-£	-£	-£	-£	-£	-£	-£	-£	-£	-£	-£

	61.57	34.39	32.98	31.57	30.15	28.73	27.28	25.82	24.36	22.91	21.47	27.97	279.67	341.23
Net costs/ benefits	-£ 0.87	£ 16.18	-£ 0.57	-£ 0.57	-£ 0.57	-£ 0.57	-£ 0.57	-£ 0.57	-£ 0.56	-£ 0.56	-£ 0.56	£ 1.11	£ 11.08	£ 10.21
Net costs/ benefits including discounting	-£ 0.84	£ 15.10	-£ 0.51	-£ 0.50	-£ 0.48	-£ 0.46	-£ 0.45	-£ 0.43	-£ 0.41	-£ 0.40	-£ 0.38	£ 1.11	£ 11.08	£ 10.24
Total costs (excluding set up)	-£ 62.34	-£ 36.84	-£ 36.56	-£ 36.22	-£ 35.81	-£ 35.32	-£ 34.71	-£ 34.00	-£ 33.20	-£ 32.32	-£ 31.35	-£ 34.63	-£ 346.34	-£ 408.68
Net costs/ benefits (excluding set up costs	-£ 0.30	£ 16.18	-£ 0.57	-£ 0.57	-£ 0.57	-£ 0.57	-£ 0.57	-£ 0.57	-£ 0.56	-£ 0.56	-£ 0.56	£ 1.11	£ 11.08	£ 10.79

Annex B – Opinion from the RPC

Regulatory Policy Committee	**OPINION**
Impact Assessment (IA)	Mesothelioma Payment Scheme and Mandatory Membership of Employer Liability Tracing Office (ELTO)
Lead Department/Agency	Department for Works and Pensions
Stage	Final
Origin	Domestic
Date submitted to RPC	20/07/2012
RPC Opinion date and reference	24/07/2012 RPC12-DWP-1420
Overall Assessment	**AMBER**

The IA is fit for purpose. The IA would benefit from using the consultation responses to show the distributional impacts of the proposal as well as any ensuing implications.

Identification of costs and benefits, and the impacts on small firms, public and third sector organisations, individuals and community groups and reflection of these in the choice of options

Distributional impacts. The IA would be improved from better demonstrating the extent to which the consultation has been used to inform the impacts presented. For example, the IA says that the payment scheme will be funded by insurers, but that it is unlikely that they will pass the costs of the levy onto their customers through increased premiums (paragraph 82). However the IA then says, "*employers in industries with no link to asbestos or who weren't in existence at the time of exposure would also be paying the levy to compensate people they did not expose to asbestos*" (paragraph 84). The IA would therefore benefit from using the consultation responses to show the distributional impacts of the proposal as well as any ensuing implications.

The IA also states that 50% of people who currently don't make a claim will be motivated by the creation of the scheme to make an attempt to trace an insurance policy. The IA could have included a discussion here as to the basis of that assumption, for example, making greater use of consultation responses from the insurance industry.

Have the necessary burden reductions required by One-in, One-out been identified and are they robust?

The IA says that the proposal is a regulatory measure that will impose a net cost to business (an 'IN') with an Equivalent Annual Net Cost to Business (EANCB) of £38.4m. Based on the evidence provided in the IA, this appears consistent with the current One-in, One-out Methodology (paragraph 17) at this stage and provides a reasonable assessment of the likely impacts.

Signed   **Michael Gibbons,** Chairman

Annex C – Differences between this IA and the 2012 IA

- **Average civil compensation** – In the 2012 IA we used a single Asbestos Working Party figure on average civil compensation based on a 2008 survey of 363 cases. In this IA we have made the following improvements to this analysis:

  - **Survey** – DWP and MoJ commissioned the National Institute of Economic and Social Research (NIESR) to run an independent and representative survey of average civil compensation in mesothelioma cases. Regression techniques were used to produce a line of best fit to the data which was then used to produce a table of compensation by age.

  - **Linking scheme payments to age** – We linked the age of people with mesothelioma to the new table of average civil compensation from the NIESR survey. As the age profile of people with mesothelioma is rising, and compensation is lower with age, this reduces the estimated scheme payments from £108,000 in 2012 to an average of £87,000 over the IA period.

- Scheme payments

  - **Rate** – In the 2012 IA we estimated the scheme payment to individuals would be 75% of average civil compensation, here we estimate that it will be 70%.

  - **Applicants' legal fees** – The scheme payment now includes an amount to cover applicants legal fees which was not included in this scheme payment in the 2012 IA as it was assumed that individuals would pay this cost themselves. Estimates of this amount are based on legal fees used in the 2012 IA.

- **Volumes of scheme cases** – In the 2012 IA we used the ABI commissioned Towers Watson case categorisation to estimate the volumes of cases that would be eligible for the scheme. In this IA we have developed a new categorisation system based on new linked benefits payment and recovery data, and supplemented this with evidence from victim's groups. We have then compared this to the Towers Watson estimates and figures from other potential sources (ELTO and ELCOP).

- **Northern Ireland** – Our estimates in this IA now take account of the c40 deaths per year of mesothelioma in Northern Ireland.

- **Aged 90 and above** – We have also included a new estimate of 35 men and 10 women per year who are aged 90 and above who die from mesothelioma each year but are not covered by the forecasts in the 2012 IA.

- **Additionally traced cases** – In the 2012 IA we estimated the costs of cases traced as a result of the scheme. This was because the proposals then included mandatory membership of ELTO. Now the improvements to tracing are expected to be achieved through changes to FCA requirements and so we have now assumed that the expected improvement in tracing success will be achieved independently of the legislation and so included this under option 1. Therefore the estimates of additionally traced cases have been removed from option 2 in this IA.

- Contextual assumptions

    - **ELTO** – Under option 1 in the 2010 IA we assumed a 10% improvement in tracing due to the creation of ELTO (and Seinkiewicz below) and under option 2, a further 5% due to mandatory membership of ELTO. This was based on a Towers Watson assumption and discussions with industry experts. Analysis of CRU data does not indicate a visible improvement in the number of individuals tracing an employer or insurer and ELTO membership now covers 99% of the EL market so, after discussions with stakeholders, we have reduced this estimate to simply a 10% increase in tracing under option 1.

    - **Seinkiewicz 2011** – In the 2012 IA we used a Tower Watson assumption that this case would impact on case volumes. As this trend is not yet apparent and after feedback from a range of stakeholders we have removed this assumption.

- **Behavioural assumptions** – In the 2012 IA we replicated the Towers Watson judgement based assumption that 50% of people, who have mesothelioma and don't make a claim, will change their behaviour and apply to the scheme. Following discussions with a range of stakeholders we have reduced this assumption to 25%.

- **Success rates** – In the 2012 IA we replicated the assumption from the 2010 IA that 76% of civil cases would be successful and applied this to scheme cases. Analysis of CRU data has show that the success rate for civil compensation is closer to 90%, so we have used this as our estimate for the success rate for the scheme.

- **Scheme admin and legal costs** – Costs for the administration of the technical committee have been removed as it will not be funded by the levy. Scheme legal costs are considered as part of the administration of the scheme in this IA rather than being considered separately as in the 2012 IA.

- **Fund and levy** – In the 2012 IA we simply used the scheme payment to estimate the cost of the fund required to run the scheme and assumed that this would be equal to the levy. This IA takes account of:

o **The fund** - Now we include amounts for applicants' legal fees (see scheme payment above) and admin costs.

o **Government funding** – To help with year 1 costs (which are high due to cases that become eligible from July 2012 to the start of the scheme), the government has agreed to inject funds equivalent to the amount it will recover in benefits and lump sum payments from scheme payments made in year 1 , which is estimated at £16 million.

o **Smoothing** – Again to assist with year 1 costs in this IA estimates have been provided to show the annual costs if the costs over the first 4 years were spread out equally.

- **GWP** – Based on figures provided by the ABI, GWP used in the 2012 IA was £1,309 million in 2011. However, more recent figures from the ABI have put this at £1,439 million.

- **Timing** – The start of the scheme is now estimated to be April 2014 (instead of January 2014 in the 2012 IA) so we have moved the analysis to financial rather than calendar years.

Annex D – Methods to produce case categories (provided by the ABI)

Categories of claimants

Claimants are categorised using the 2011 method.
Sources for estimated methods of categorisation: Compensation Recovery Unit (data for 2007-2010), ABI Tracing Service (data for 2007-2010), ONS and the AWP 2009 Report.

Occupational Compensated - Insurers and Government

- This category includes those claimants who had occupational exposure and receive payment either directly from employers' liability insurance or directly from government.
- Estimates are based on the analysis of CRU data for the period 2007-2010.
- The number of male Occupational Compensated cases is estimated by applying the *percentage claims to death ratio* from the AWP 2009 Report to total number of projected deaths.
- The number of female Occupational Compensated cases is estimated assuming a starting proportion for 2011 of 23% of total female deaths. This percentage is based on analysis of CRU data.
- Occupational compensated claimants are split between insurers and government. The split between payment from insurers and payment from government is based on analysis of 2007-2010 CRU data. It is assumed that all claims classed as 'local authority' are compensated by insurers. Averages of the 2007-2010 government portions (10.5% for males and 11.5% for females) were used for 2011 to 2050 and applied to the government portion of Occupational Payment.

Occupational untraced

- This category includes all cases where the claimant is looking for payment but an insurance policy cannot be found (and may not exist). Claimants who are not able to find an insurer through the ABI's tracing services or through other means are considered to be 'Occupational Untraced'.
- Estimates are based on 2007-2010 data from the ABI.
- The number of male Occupational Untraced cases is based on a proportion of 14% of male deaths for 2011. It is assumed the proportion of untraced cases is likely to decrease over time, to 8% in 2050.
- The number of female Occupational Untraced cases is based on a proportion of 6% of female deaths for 2011. It is assumed the proportion of untraced cases is likely to decrease over time.

Ministry of Defence (MoD)

- This category includes cases where the claimant worked for the MoD for their whole life and is therefore unable to claim payment because of crown immunity.
- The number of male Occupational MoD cases is estimated as a fixed proportion of 1%, based on AWP 2009 Report. It is assumed that there are no female Occupational MoD cases.

Self employed

- This category includes cases where the claimant was self-employed for their whole life, and so would have no employer (or employer's insurer) to claim against.
- A fixed proportion of 2% is assumed to estimate the number of male cases, based on ONS data. It is assumed there are no female cases.

Compensated and Uncompensated Environmental

- This category includes public liability claims, domestic exposure claims and environmental claims with no known cause.
- To estimate the number of male Environmental cases, a fixed proportion of 10% for all years has been assumed, as per the assumption in the AWP 2009 Report.
- The number of female cases is estimated as the number of female cases not allocated to other categories (i.e. a balancing item). In 2011, the proportion was 66% and this proportion is used for all years.

Occupational Unclaimed

- This category includes those who have occupational exposure and who do not bring a claim against either the insurance industry or government and who are not attempting to find someone to bring a claim against using the tracing service.
- The number of male Occupational Unclaimed cases is the number of male cases not allocated to other categories (balancing item) and is approximately 3% for 2011.

The number of female Occupational Unclaimed is estimated as 150% of the male proportion and is approximately 4.7% for 2011.

Annex E – Method for calculating case categories using benefit payment and recovery data

Volumes Analysis using DWP data

1. The analysis presented here is based on DWP benefit payment data (2002q2 -2012q1) and Compensation Recovery Unit (CRU) data (2007-2012) linked using the National Insurance numbers of individuals.

2. The benefit data allows the categorisation of those with an occupational exposure and linking these with the recovery data allows the identification of those that have not taken the civil payment route.

3. All analysis is presented on the level of an individual mesothelioma death. This means that the information on individuals with multiple registered claims is captured as only one record. The record is assigned the most relevant outcome for the individual. For example, an individual with three withdrawn claims and one successful claim will be recorded as having a successful outcome only.

4. In addition, where more than one claim linked to a single Mesothelioma death is possible, i.e. a sufferer and their dependent are both able to make a benefit claim, we have excluded dependents from the analysis (where they can be identified).

5. It is assumed that the first appearance of an individual in either dataset is approximately the date of diagnosis. In addition, because the median time between diagnosis and death is 8-9 months, it is assumed that death occurs in the same year as diagnosis.

(1) Occupational Civil Case Route
6. These are the individuals with a registered CRU case where the claim type is restricted to Employer's Liability claims only.

(2a) Decide not to make a civil occupational claim and no trace attempt
7. These are individuals with no CRU registered case but are in receipt of IIDB that links the individual to occupational exposure to asbestos. The proportion of this group that decide not to make a civil occupational claim and no trace attempt is based on figures provided by the Asbestos Victims Support Groups Forum based on data from across 7 groups who deal with people with mesothelioma and who have potential occupational cases.

(2b) Evidence is not strong enough to prove employer negligence
8. These are individuals with no CRU registered case but are in receipt of IIDB that links the individual to occupational exposure to asbestos. The proportion of this group that do not have enough evidence for a civil claim is based on figures provided by the Asbestos Victims Support Groups Forum.

(2c) Occupational and untraced

9. These are individuals with no CRU registered case but are in receipt of IIDB that links the individual to occupational exposure to asbestos. The proportion of this group that have made an unsuccessful trace attempt is based on figures provided by the Asbestos Victims Support Groups Forum.

(3) Environmental

10. These are the individuals in the CRU data where a claim has been registered for a claim type other than Employers Liability and the individuals where no claim has been registered with CRU but the individual was in receipt of the 2008 Diffuse Mesothelioma Scheme lump sum payment in the absence of an IIDB benefit receipt.