

Analysis to support the passage of the Mesothelioma Bill

Estimated costs of the proposed Diffuse
Mesothelioma Payment Scheme

July 2013

Contents

Introduction..... 3
Background 4
Results 5

Introduction

1. The Department for Work and Pensions (DWP) published an Impact Assessment (IA) on 7 May 2013¹ outlining the costs and benefits to affected groups of the proposed Diffuse Mesothelioma Payment Scheme (DMPS).
2. Here we are providing additional analysis using the methodology and assumptions used in this published IA, to provide analysis to support discussion during the Committee stage of the Mesothelioma Bill.

Queries about the content of this document

Please direct any queries to:

Shaun Donaghy, Tabitha Daniels-Moss or Stephen le Roux

Department for Work and Pensions

2nd Floor Caxton House

Tothill Street

London

SW1H 9NA

Phone 020 7449 7631

Email : Shaun.donaghy@dwp.gsi.gov.uk, Tabitha.daniels-moss@dwp.gsi.gov.uk, Stephen.le-roux@dwp.gsi.gov.uk

¹ <https://www.gov.uk/government/publications/impact-assessment-mesothelioma-payment-scheme-and-mandatory-membership-of-employer-liability-tracing-office-elto>

Background

3. The Department for Work and Pensions (DWP) published an impact assessment (IA) on 7 May 2013² outlining the costs and benefits to affected groups of the proposed Diffuse Mesothelioma Payment Scheme (DMPS). Here we are providing additional analysis using the methodology and assumptions used in this published IA, to provide analysis to support discussion during the Committee stage of the Mesothelioma Bill. The published IA used a figure of £7,000 per individual for legal fees; here we have moved that assumption to £2,000 per individual (unless otherwise stated). All financial calculations are in 2012 values.
4. Average civil compensation is based upon a survey of civil compensation awarded in cases registered with the Compensation Recovery Unit between 2007 and 2012. Each civil case is decided upon its own merits, with a wide range of factors being taken into account. Therefore this average should not be taken as indicative of what any particular individual might expect to receive.

² <https://www.gov.uk/government/publications/impact-assessment-mesothelioma-payment-scheme-and-mandatory-membership-of-employer-liability-tracing-office-elto>

Results

1) Potential scheme payment that could be paid out by the scheme:

5. The DMPS payment is proposed to be set at a tariff based on 70% of average civil compensation, as calculated in the 2013 published NIESR survey of average civil compensation³ by one year age bands.

Table 1: 70% of average civil compensation by 1 year age bands

| Age | 70% of average civil compensation⁴ |
|--------------|--|
| 40 and under | £183,659 |
| 41 | £181,082 |
| 42 | £178,506 |
| 43 | £175,929 |
| 44 | £173,352 |
| 45 | £170,775 |
| 46 | £168,198 |
| 47 | £165,622 |
| 48 | £163,045 |
| 49 | £160,468 |
| 50 | £157,891 |
| 51 | £155,314 |
| 52 | £152,737 |
| 53 | £150,161 |

³ NIESR 2013, Study into average civil compensation in mesothelioma cases: statistical note. Available at:

https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/203431/20130501-niesr-meso-statistical-report-final.pdf

⁴ Does not include any amount to cover legal fees

Analysis to support the passage of the Mesothelioma Bill. Estimated costs of the proposed Diffuse Mesothelioma Payment Scheme

| Age | 70% of average civil compensation⁴ |
|------------|--|
| 54 | £147,584 |
| 55 | £145,007 |
| 56 | £142,430 |
| 57 | £139,853 |
| 58 | £137,277 |
| 59 | £134,700 |
| 60 | £132,123 |
| 61 | £129,546 |
| 62 | £126,969 |
| 63 | £124,392 |
| 64 | £121,816 |
| 65 | £119,239 |
| 66 | £116,662 |
| 67 | £114,085 |
| 68 | £111,508 |
| 69 | £108,931 |
| 70 | £106,355 |
| 71 | £103,778 |
| 72 | £101,201 |
| 73 | £98,624 |
| 74 | £96,047 |
| 75 | £93,471 |
| 76 | £90,894 |
| 77 | £88,317 |
| 78 | £85,740 |
| 79 | £83,163 |
| 80 | £80,586 |
| 81 | £78,010 |
| 82 | £75,433 |

Analysis to support the passage of the Mesothelioma Bill. Estimated costs of the proposed Diffuse Mesothelioma Payment Scheme

| Age | 70% of average civil compensation⁴ |
|-------------|--|
| 83 | £72,856 |
| 84 | £70,279 |
| 85 | £67,702 |
| 86 | £65,126 |
| 87 | £62,549 |
| 88 | £59,972 |
| 89 and over | £57,395 |

Table 2: 70% of average civil compensation in 5 year age bands

| Average for five year age bands | 70% of average civil compensation |
|--|--|
| 40-45 | £177,217 |
| 46-50 | £163,045 |
| 51-55 | £150,161 |
| 56-60 | £137,277 |
| 61-65 | £124,392 |
| 66-70 | £111,508 |
| 71-75 | £98,624 |
| 76-80 | £85,740 |
| 81-85 | £72,856 |
| 86-89 | £61,260 |

Analysis to support the passage of the Mesothelioma Bill. Estimated costs of the proposed Diffuse Mesothelioma Payment Scheme

2) Estimated costs if the scheme payment was raised to various percentages of average civil compensation

6. The current proposal for the scheme payment is 70% of the calculated average civil compensation from the NIESR survey (mentioned previously). Here, figures have been run for the following percentages to demonstrate how much the levy would then cost, and what percentage of gross written premium would be for active insurers in employers' liability (EL) insurance market (i.e. the insurers on which the Mesothelioma Bill levy will be imposed).

Table 3: Levy to be paid by insurers

| % | Levy (in millions) (over the first four years of the scheme) | % of GWP for employer liability insurance (over the first four years of the scheme) | Levy (in millions) (over the first ten years of the scheme) | % of GWP for employer liability insurance (over the first ten years of the scheme) |
|----------|---|--|--|---|
| 70% | £157 | 2.61% | £322 | 2.13% |
| 75% | £169 | 2.79% | £343 | 2.27% |
| 80% | £180 | 2.98% | £365 | 2.42% |
| 85% | £191 | 3.16% | £386 | 2.56% |
| 90% | £202 | 3.34% | £408 | 2.70% |
| 95% | £213 | 3.53% | £430 | 2.84% |
| 100% | £224 | 3.71% | £451 | 2.99% |

3) Estimated volumes and costs if the scheme started on particular dates

7. On backdating the start of the DMPS to 1968 (where we first have actual mesothelioma death figures⁵), we can estimate how many people would have been eligible for payment under the DMPS, how much they would have received, and what the total cost of the levy would be. The table below is based on the average over the ten year periods shown. The scheme payments and cost of the levy are based on 100% of average civil compensation.

⁵ <http://www.hse.gov.uk/statistics/tables/meso01.xls>

Analysis to support the passage of the Mesothelioma Bill. Estimated costs of the proposed Diffuse Mesothelioma Payment Scheme

Table 4: Costs of the scheme 1968 to 2007⁶⁷

| Year | Total number of meso deaths | Number expected to apply for scheme payment | Number successful in receiving a payment from the scheme | Amount individuals receive directly from scheme⁸ in millions | Total - levy (if no government funding) in millions |
|-------------|------------------------------------|--|---|--|--|
| 1968-1977 | 2,282 | 313 | 282 | £37.64 | £45.52 |
| 1978-1987 | 5,590 | 767 | 690 | £92.20 | £110.87 |
| 1988-1997 | 11,200 | 1,537 | 1,383 | £184.73 | £221.69 |
| 1998-2007 | 18,665 | 2,562 | 2,305 | £307.85 | £369.15 |

8. A table of one year periods has also been provided for the years 2008 to 2010 based on HSE death certificates mentioning mesothelioma, providing figures on the total number of deaths from mesothelioma, with figures relating to how much the DMPS would have paid out and cost, had it been set up. The figures in bold italics (for the years 2011 and 2012) are based on HSE forecasts of mesothelioma deaths, since actual death data is not currently available for these two years. The scheme payments and cost of the levy are based on 100% of average civil compensation.

⁶ The single figure of £154k is used for scheme payments, not a figure which changes linked to age.

⁷ Figures are in GB terms.

⁸ (scheme payment and amount to cover legal fees, minus government social security benefits and lump sum payments)

Table 5: Costs of the scheme 2008 to end of June 2012⁹¹⁰¹¹

| Year | Total number of meso deaths | Number expected to apply for scheme | Number successful in receiving a payment from the scheme | Amount individuals receive directly from scheme ¹² in millions | Total - levy (if no government funding) in millions |
|-------------------------|-----------------------------|-------------------------------------|--|---|---|
| 2008 | 2,265 | 311 | 280 | £37.92 | £45.74 |
| 2009 | 2,334 | 320 | 288 | £39.07 | £47.12 |
| 2010 | 2,347 | 322 | 290 | £39.29 | £47.38 |
| 2011 | 2,275 | 312 | 281 | £39.27 | £47.36 |
| 6 months of 2012 | 1,154 | 158 | 143 | £19.96 | £24.21 |

4) Estimated payments people will receive under the proposed scheme taking into account an assumed additional payment of £2,000 for legal fees and the recovery of any government benefits and lump sum payments paid in respect of the mesothelioma.

9. In response to queries as to the likelihood of payments, net of recoveries and legal fees entering negative numbers, we have constructed the following table. It shows expected payments by age, net of the median and maximum recoveries made (also by age) between 2009 and 2012 and legal fees of £2,000. The 'median' column therefore gives expected payments, net of recoveries and fees, while the 'minimum' column gives the minimum likely payment, again net of recoveries and fees. All figures are rounded to the nearest £5,000.

10. While it is possible in theory that benefit recoveries could be so great as to exceed scheme payments (net of £2,000 legal fees), taking all recoveries made between 2009 and 2012 and treating subjects as if eligible participants in the scheme, there is no instance in which recoveries plus fees (£2,000) would have exceeded the scheme payment.

⁹ The 2013 impact assessment figures begin from this point in time

¹⁰ The single figure of £154k is used for scheme payments, not a figure which changes linked to age.

¹¹ Figures are in GB terms.

¹² (scheme payment and amount to cover legal fees, minus government social security benefits and lump sum payments)

Table 6: Estimated payments people could receive under the proposed scheme, minus the median and maximum recovered in government benefits

| Age | Net (£5,000 rounding) | |
|-----|--------------------------------|---------|
| | Average (Median) ¹³ | Min |
| 55 | £85,000 | £55,000 |
| 56 | £85,000 | £45,000 |
| 57 | £80,000 | £60,000 |
| 58 | £85,000 | £60,000 |
| 59 | £85,000 | £50,000 |
| 60 | £85,000 | £50,000 |
| 61 | £85,000 | £40,000 |
| 62 | £85,000 | £55,000 |
| 63 | £85,000 | £45,000 |
| 64 | £90,000 | £50,000 |
| 65 | £90,000 | £50,000 |
| 66 | £90,000 | £30,000 |
| 67 | £90,000 | £70,000 |
| 68 | £90,000 | £65,000 |
| 69 | £85,000 | £60,000 |
| 70 | £85,000 | £60,000 |
| 71 | £85,000 | £50,000 |
| 72 | £80,000 | £60,000 |
| 73 | £80,000 | £55,000 |
| 74 | £75,000 | £35,000 |
| 75 | £75,000 | £55,000 |
| 76 | £75,000 | £45,000 |
| 77 | £70,000 | £55,000 |
| 78 | £70,000 | £55,000 |
| 79 | £65,000 | £40,000 |

¹³ This is the average (median) amount of benefit recovery recorded by CRU in 2009 to 2012. Various factors are taken into account when benefit payments are made and so this should not be considered indicative of amounts any particular individual might have received.

Analysis to support the passage of the Mesothelioma Bill. Estimated costs of the proposed Diffuse Mesothelioma Payment Scheme

| Age | Net (£5,000 rounding) | |
|------------|--------------------------------------|------------|
| | Average (Median)¹³ | Min |
| 80 | £65,000 | £45,000 |
| 81 | £60,000 | £25,000 |
| 82 | £60,000 | £40,000 |
| 83 | £60,000 | £45,000 |
| 84 | £55,000 | £40,000 |
| 85 | £50,000 | £20,000 |
| 86 | £50,000 | £15,000 |
| 87 | £50,000 | £40,000 |
| 88 | £45,000 | £25,000 |
| 89 | £45,000 | £35,000 |
| 90 | £40,000 | £35,000 |