

Diffuse Mesothelioma Payment Scheme (DMPS) Oversight Committee
17 December 2019
14.00-15.30
House of Lords
Minutes

Attendees

Baroness Rita Donaghy	Chair
Laurence Besemer	Forum of Insurance Lawyers
Bridget Collier	Association of Personal Injury Lawyers*
Graham Dring	Asbestos Victims Support Group Forum**
Joanne Gordon	Asbestos Victims Support Group Forum**
Kevin Rowan	Trades Union Congress
Beth Philp	Association of British Insurers
Susan Jeffrey	TopMark (Scheme Administrator)
Stuart Whitney	DWP (Secretariat)
Catherine Hegarty	DWP (Secretariat)

Apologies: Stephen Bellingham (Royal Sun Alliance Insurers) and Neil McKinley* (Association of Personal Injury Lawyers).

1. Welcome and introductions

- The Chair welcomed members and particularly new members to the meeting. The new members from 2020 succeeding those are as indicated with a * or **.

2. Minutes and actions from the last meeting

- Paper 1: Minutes of the meeting held 15 May 2019.
The Committee agreed the minutes as an accurate record of the meeting.
- Paper 2: Action log:
- Most of the actions had been cleared and closed down at the last meeting with one ongoing action remaining. It was stated that the closed actions will remain on the log as they would show new members the kinds of queries dealt with by the Committee and members since the start of the scheme.
 - A member brought up two points:
 - The first, whilst welcoming the commitment of a fundamental review of the level of tariff payments, the member argued that Lord Freud's commitment for annual increase of the tariff payments in line with CPI each year be considered. It was explained that the payments had been increased from 80% of civil claim payments to 100% in place of any annual CPI increase at the time and the level of payments would not be reviewed again until the wider tariff review was considered so that claimants did not lose out. DWP also confirmed any changes to the tariff would be done via regulations which were subject to the negative procedure.
 - Secondly, following discussions regarding Isle of Man (IoM) a member attended a recent meeting where it was explained that the numbers of claimants were

likely to be small, so although the IoM originally proposed to use the UK DMPS to compensate IoM resident claimants with the IoM Government reimbursing the DMPS costs in full, it is now setting up its own scheme. DWP had previously explained that IoM residents could only claim against the Scheme if their exposure was by a UK employer whilst working in the UK. Also, it would not have been feasible for IoM's proposition to have been implemented so it was good that they were now setting up their own scheme.

3. Scheme MI

- Bi-annual MI April 2019 – September 2019
 - The Committee noted that the number of applications to the scheme had remained fairly steady, and that there had been lower than average numbers of claims in both September and October with a spike to 42 in November. Over the last three months this averages out as normal.
 - The increase in the number of younger applicants seen last year has not continued.
 - DWP CRU have made a couple of recovery payments where insurers have subsequently been traced and the Scheme has been able to be re-imbursed without troubling the applicant to repay the monies paid from the Scheme. It was noted that the Scheme had correctly paid out at the time based on the information given.
 - Lawyers are not always advising TopMark straight away when insurers are found through ELTO despite searches only taking 5 weeks to be completed.
 - There is a general downward trend of the age profile of claimants from under 60s. More professionals from schools and hospitals are making claims, however there is usually an employer. More women who washed clothes are claiming and there had been a couple where the applicant had dependent children.
 - Where the sufferer had deceased, there had previously been some concerns where HMRC were taking some time to issue the employment history, requesting court orders and asking applicants of the deceased estate whether they were the right person to take a claim through. There have been some instances of this happening again, so TopMark and DWP are keeping a watching brief to see if this issue continues.
 - Numbers of claims are now reasonably steady after the number of handover of cases from the previous Administrator were more than expected in the previous year and the spike of under 50 cases.
 - Success levels remain at around $\frac{2}{3}$ of all claims.
- MI November 2019
 - The Committee noted the November MI and that there had been a spike in claims during this month. No issues were raised.

4. Feedback on External Audit of the DMPS

- The independent auditor has provided its audit report of TopMark's administrative processes and key controls for managing applications.

- DWP presented a summary of its findings to the Oversight Committee. It was concluded that TopMark had good processes in place and had made three minor recommendations, of which one was a restriction on access to the system by TopMark's chief executive and set up a delegated authority. DWP pointed out that the ABI should receive their copy of the audit report shortly.
- A member had asked if a random ELTO audit had/could be done, but the Chair pointed out it was not within the Oversight Committee's remit to make this request.
- DWP advised that ELTO had requested to do such an audit but it had not yet been set up. Also, the technical audit previously requested by the insurer member had still not been carried out, neither had any details of what was required been received by DWP. There was also the potential issue whether such an audit would be impartial.

5. Update on the DMPS Levy

- The Levy will be announced as a business as usual measure in January. The process will be made easier as the same Minister has returned following the election.
- The Levy will be lower than £39.8m last year with an indication of the direction of travel having been indicated to the Employer Liability insurers.
- Surplus funds from previous years have now been used so no longer available when calculating the next levy in January.

6. Update on DMPS Levy Collection Contract

- The Motor Insurance Bureau have had the contract for the levy collection since the beginning of the scheme. Following a recent open market tendering process, MIB will continue collecting the levy for the next 5 years.

7. AOB and date of the next meeting

- Graham Dring thanked the Committee as this was his final meeting, stepping down and handing over to Joanne Gordon. He had enjoyed his time and the good relationships. He was encouraged by the direction of the Scheme going forward.
- The Chair and DWP thanked Graham for everything he had done on the Committee
- The next meeting will be in May 2020, the date possibly being the 12th. A request for confirmation will go out shortly.