



Department  
for Work &  
Pensions

## MINUTES OF THE MEETING

<b>Title:</b>	<b>Diffuse Mesothelioma Payment Scheme (DMPS) Oversight Committee Meeting</b>	
<b>Date:</b>	<b>17<sup>th</sup> November 2021</b>	
<b>Time:</b>	<b>14:00 hrs to 15:30 hrs</b>	
<b>Location:</b>	<b>Meeting via Microsoft Teams</b>	
<b>Attendees:</b>	<b>Oversight Committee Members</b>	<b>DWP Secretariat</b>
	Baroness Rita Donaghy – Chair	Stuart Whitney Dawn Harrison (Minutes)
	Laurence Besemer – Forum of Insurance Lawyers	<b>TopMark Scheme Administrator Representatives</b>
	Joanne Gordon – Asbestos Victim Support Group Forum	Susan Jeffrey Sandra Williamson Christopher Burns
	Richard Thompson – Zurich Commercial Occupational Disease Claims Unit	
	Neil McKinley – Association of Personal Injury Lawyers	<b>Guest Observers</b>
		George May DWP
<b>Apologies:</b>	<b>DWP</b>  Alison Kempton Darren Bird Alison Mossman	

ITEM	LEAD
<b>1) Welcome, Introductions and Apologies</b>	<b>Chair</b>
The Chair welcomed everyone to the meeting and made apologies for those unable to attend.	
<b>2) Matters Arising from the Minutes of the Meeting 19<sup>th</sup> May 2021</b>	<b>Chair</b>
There were no matters arising from the meeting of 19 <sup>th</sup> May 2021 and the Chair and Members agreed the minutes as an accurate account of the meeting.	

<b>3) i) Affirmation and Introduction to New Member – Richard Thompson ii) Acknowledgement of Mary Bell’s Retirement</b>	<b>Chair</b>
<p>The Chair welcomed Richard Thompson to the committee and affirmed him as a new member. The Chair acknowledged Mary Bell’s retirement and thanked her for the contributions she made whilst being a member of the committee.</p>	
<b>4) Action Log</b>	<b>All</b>
<p>DWP provided updates on 2 standing items on the action log (agenda item 8 refers), and the addition of an action for TopMark regarding the Redacted Case exercise scheduled for October 2022.</p>	
<b>5) Covid – 19 Impacts</b>	<b>All</b>
<p>DWP provided assurances to the Chair and Members that despite Covid-19 restrictions, a “business-as-usual” approach continues to be maintained between DWP and TopMark and that the scheme continues to operate professionally and efficiently.</p> <p>DWP stated that cases are effectively managed and successful applicants continue to be paid in a timely manner.</p> <p>Both TopMark and DWP work very closely and will continue to monitor the Covid situation on a regular basis.</p> <p>The Chair acknowledged this and thanked both DWP and TopMark for their efforts in operating efficiently during the constraints of the Covid-19 pandemic.</p>	
<b>6) DMPS Levy Update</b>	<b>DWP</b>
<p>DWP confirmed that the new levy was in the process of being calculated and will be of a similar value to this year. After prior consultation with the Association of British Insurers (ABI), it will be formally announced mid-January 2022.</p>	
<b>7) DMPS Scheme Administration MI</b>	<b>DWP / TopMark</b>
<p>TopMark presented the recent MI to everyone for general discussion. The main points summarised from information relating to the period April '21 to 31 October '21 include;</p> <ul style="list-style-type: none"> <li>• Total number of claims so far 190 - like last year</li> <li>• 30% of applicants aged 80 and over</li> <li>• 55% of applicants are between the ages of 70 and 79</li> <li>• 15% of applicants under the age of 69 – a decrease of 10% from last year</li> <li>• 16% of female applications – an increase of 7% from last year</li> <li>• Average payment £139,000</li> <li>• Success rate averages 70%</li> <li>• Unsuccessful/withdrawn rate averages 30%</li> <li>• 7 cases have been reviewed - the majority of which were upheld by TopMark</li> <li>• 4 First Tier Tribunal Cases – 1 unsuccessful and 3 pending a decision</li> <li>• Common reasons for unsuccessful claims due to insurers been traced, negligent asbestos exposure not proven and insufficient medical evidence provided</li> </ul> <p>The Chair thanked TopMark for the detailed presentation of the MI.</p>	

A member queried the level of success rates amongst female applicants, particularly in view of the increase in numbers of female applications to the Scheme.

TopMark agreed to look into this further and produce some statistical information relevant to female success rates and to share this information with the Chair and the Oversight Committee Members.

***Action Point: TopMark to present statistical data to the Oversight Committee regarding the number of successful female applications.***

## **8) Tariff Review Updates**

**DWP**

DWP provided an update on the DMPS Tariff Review.

DWP confirmed that:

- the first phase of the review (historical background research and findings) had been completed,
- a Ministerial paper had been submitted – informing the Minister that work had formally commenced regarding the Tariff Review,
- DWP were experiencing difficulty in obtaining a key source of statistical information; this being the average payment for successful civil compensation claims for occupational mesothelioma for each year from 2015.

Re bullet point 3, DWP provided an explanation as to why this was the case, and suggested some options to redress this:

- engage with the Compensation Recovery Unit, to obtain statistical data relevant to individual cases whereby recoveries have been made on an annual basis from 2015,
- seek expressions of interest from an external body to undertake research using an existing Government commercial framework agreement. However, it was noted that this approach would come at a cost and take some considerable time,
- engage with the ABI to obtain the relevant data from the employers' liability insurers.

DWP stated that it was the preferred approach to use internal resources to obtain the crucial data and to potentially undertake the necessary analysis, as this would hopefully save time and money and represent a controlled and independent account of the review.

A general discussion took place regarding different approaches to address this problem.

A member expressed concerns that approaching the ABI could conflict with the independent scrutiny of the review and potentially undermine the integrity and independence of the data.

DWP agreed and asked Oversight Committee members if they could offer any further suggestions or help in any other way so that the key statistical information can be obtained in a fair and transparent manner.

Another member confirmed that there were two main arenas in order to obtain the relevant data;

- i) The Insurance Industry – that make the compensation payments and,
- ii) The Claimant Solicitor community – that receive the payments.

A member stated the Association of Personal Injury Lawyers (APIL) had a vested interest in the review and that various member solicitors could help in providing the information required. Furthermore, that a hybrid approach involving the DWP, ABI and APIL could provide a positive outcome, but DWP must lead. Furthermore, that if the ABI are not included, it may be difficult for them to accept the outcome of the review.

Another member agreed stating that from a victim perspective, involving another relevant party would be a positive approach providing this was overseen by DWP.

DWP agreed and provided assurances that as lead organisation, DWP would ensure that the approach to delivering the process would be transparent, fair and balanced throughout.

A member stated that DWP would need to take into consideration civil claims whereby claimants were in receipt of immunotherapy treatments. Also, that an approach to the University of Sheffield and Mesothelioma Research Centre may prove useful to provide an additional oversight of the process and to satisfy everyone that the data had been obtained as independently as possible, that it was robust and fit for its intended purpose. The Chair agreed.

A member confirmed that some of the Insurers who hold legacy data are no longer members of the ABI and their legacy books and employer liability (EL) portfolio had been sold on to re-insurers. Therefore, tracing the historic data may prove to be difficult.

The Chair queried the accessibility of the historic and future cases and whether access to this would be more reliable and therefore, easier to trace the insurer following the sale of the legacy books.

A member replied stating that those insurers to whom portfolios have been sold still have a responsibility to report to ELTO, and ELTO records have been updated to reflect transfers.

DWP confirmed that ELTO had a record of all EL insurers that contribute towards paying the levy for the Scheme, so these insurers are on the member list and fully traceable.

The Chair requested that members assist DWP and obtain the necessary historic data where they can in order to help DWP progress to the next phase of the review.

DWP requested that all information be sent to DWP following a formal request from DWP to the Committee members.

***Action Point: DWP to write to members who represent APIL, FOIL and the Insurers, to request information relating to legacy figures of the average civil compensation payments from successful claims for occupational mesothelioma.***

<b>9) Venue of Future Oversight Committee Meetings</b>	<b>Chair</b>
The Chair requested that the next meeting scheduled for 18 <sup>th</sup> May 2022, to be held in the House of Lords. The venue will be subject to any Covid restrictions and the situation with the Covid pandemic at that time.	
<b>10) Any Other Business</b>	<b>All</b>
DWP stated that the DMPS Annual Review 2020-2021 (including the Oversight Committee report) and Statistical Data is scheduled to be published on the Gov.uk website on 29 <sup>th</sup> November 2021.	
<b><i>Action Point: DWP to send the link to the Chair and Oversight Committee Members once the Annual Review is published.</i></b>	
<b>11) Date of Next Meeting</b>	<b>Chair</b>
Wednesday 18 <sup>th</sup> May 2022 at 2pm – 4pm. Venue - the House of Lords (tbc).	

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