

**DIFFUSE MESOTHELIOMA PAYMENT SCHEME (DMPS)
OVERSIGHT COMMITTEE MEETING
6 NOVEMBER 2024**

Date: Wednesday 6 November 2024
Time: 12 pm to 1 30 pm
Location: Via Microsoft Teams

ATTENDEES

Oversight Committee Members

Baroness Rita Donaghy – Chair
Laurence Besemer – Forum of Insurance Lawyers
David Ellis – Asbestos Victim Support Group Forum
Shelly Asquith – Trade Union Congress
Richard Thompson – Zurich Insurance Company, Complex Disease Claims Team
Kevin Johnson – Leigh Day Association of Personal Injury Lawyers

Department for Work and Pensions (DWP) Secretariat

Stuart Whitney
Dawn Harrison (Minutes)

TopMark Scheme Administrator Representatives

Sandra Williamson
Christopher Burns
David Smith
David Hoyle

Guest Observers

Penny Higgins – DWP
Andrew Baxter – DWP
Sarah Bartram – DWP

AGENDA ITEMS

1 Welcome, Introductions and Apologies – Lead: Chair

The Chair welcomed everyone to the meeting and there were no apologies.

2 Matters Arising from the Minutes of the Meeting 22 May 2024

There were no matters arising from the minutes of the meeting held 22 May 2024, and all agreed the content as an accurate account of the meeting. DWP confirmed that the minutes of this meeting had been published on GOV.UK.

3 Review of the Action Log – Lead: Chair

DWP confirmed that two open Action Points were included on the Agenda (items 6 and 7) for further discussion. All agreed.

4 Review of DMPs Scheme Administration MI – Lead: TopMark

TopMark presented MI data for the period 1 April 2024 to 31 October 2024 and the main points covered included;

- 228 applications were received – similar to the same period last year.
- Applications aged 80 and over – 89 were received
- Applications aged 70 – 79 – 73 were received
- Applicants aged 69 and under – 11 were received
- 117 successful payments have been awarded with an average payment of £140k
- Of the 66 decisions made during this period, 45 were successful (68%)
- 5 applications were withdrawn and 15 applications were unsuccessful
- 5 withdrawn applications were because of insurers being traced
- There are still several applications pending a decision to date
- 6 reviews – 4 of which were overturned to successful and 2 were upheld
- 2 FTT cases were received in this period and both applications were denied
- Currently there are 289 longstanding applications that remain open and are reviewed monthly
- 182 of long-standing applications are protected claims
- 1 complaint was received regarding a delay in payment and remedial action was duly taken

TopMark stated that following the complaint, they have reviewed their business resilience model to ensure that payments are not delayed.

DWP queried the protected claim status and how TopMark have been able to identify a long-standing protected claim. TopMark stated that this was done by reviewing the correspondence for each long-standing application and also being reliant on solicitors informing them that their clients are lodging a protected claim whilst a civil claim is being pursued.

A member requested information on the timescales regarding the processing of applications to the Scheme (that are successful) to the final payment being awarded. Regarding protected claims, a member commented that it would be useful for solicitors to identify in the first instance on the application form that the application is noted as a “protected claim”.

TopMark agreed that this would be extremely useful to help identify a protected claim for MI recording purposes. Due to the lack of current certainty on whether a claim received is a protected claim or not, the figure presented for protected claims may reflect an under reporting.

The Chair thanked TopMark for the presentation of the MI data.

5 Tariff Review Updates- Final Stages – Lead: DWP

DWP confirmed that following lengthy engagement with DWP legal and legislative teams, preparations were underway for the making and laying of the statutory instrument (SI). Also, that a written submission to Minister has been prepared to request permission to amend the Scheme regulations to increase the tariff payments.

The Chair queried the timeframes for the Parliamentary procedure and DWP confirmed that providing the parliamentary business and secondary legislation committee approved the SI, this should come into force by (hopefully) the end of February 2025.

DWP caveated this date due to the required Equality Impact Assessment (EIA) currently being reviewed by DWP legal.

For the benefit of the Chair and members, DWP confirmed that the Minister is Sir Stephen Timms.

A member queried the availability of the draft analytical report previously compiled by DWP prior to the SI being laid. DWP confirmed that this would be available to Oversight Committee members when the written submission is sent to Minister Timms.

A member also requested that a review of the DMPS tariff be undertaken periodically in line with the Pneumoconiosis Scheme as this would be significant for those who have been diagnosed with mesothelioma. Also, that this should be done following on from the previous Government providing assurances to Parliament that the tariff would be aligned to changes with civil compensation payments.

The Chair agreed that a mechanism should be put in place to ensure that the DMPS tariff is reviewed.

DWP stated that as the DMPS differs to state schemes, in so far as the state schemes are uprated annually in line with CPI, it would prove difficult to review the DMPS tariff annually, but useful to review it biennially.

The main reason being that the data required to review the DMPS tariff is not solely based on CPI, but other complex contributing factors such as time and resources required to gather the data relevant to average civil compensation payments awarded for occupational mesothelioma and the associated legal fees applied against each civil action case.

The Chair requested that as a compromise and to provide assurances for victims of mesothelioma, the Minister be provided with information that explains the complexities around reviewing the tariff and why he should agree that the tariff be reviewed on a biennial basis. All agreed.

DWP agreed to keep the Chair and members updated between meetings about progress of the tariff review during the final phases.

6 Scheme Application Delays – Lead: TopMark

TopMark provided the Chair and members with details of some applications to the Scheme whereby delays had occurred in progressing claims and making payments. This was on the back of a concern previously raised with DWP by a committee member.

TopMark stated that the main cause for the delays with some cases was due to reduced staffing levels because of unexpected sickness absences within the company at that time. TopMark provided assurances that staffing levels had been reviewed to ensure that there would be no repeat of claim delays.

To reinforce this, DWP confirmed that for remedial purposes, procedures had since been put in place.

A member requested that as part of business resilience, mechanisms should be proactively put in place to cover planned staffing absences, for example during peak holiday periods. Also, that any new members of staff should receive effective training to respond in a timely manner to any solicitors' requests for information.

Another member queried the number of personnel working on processing Scheme applications particularly with there being an increase in the number of claims made.

DWP confirmed that as TopMark are contracted to deliver the services, key performance metrics and service levels are in place to monitor performance and service delivery, and that this information is also available on the monthly MI.

DWP suggested that it would be useful for members to visit TopMark premises so they can see how the claims are administered from receipt of application to award of payment.

The Chair and members welcomed this.

Action Point: DWP to arrange a visit to TopMark on behalf of the Chair and members. Date to be confirmed.

7 TopMark Complaints Procedure – Lead: TopMark

TopMark stated that this was raised at the last meeting and that both TopMark and DWP are working together to review the Scheme's complaint procedure and the website content.

A member stated that he was concerned that reviewing the entire website content could cause delays with the review of the Scheme's complaint procedure. He asked that the complaints policy for the website to be reviewed as priority and for this content to be transparent and consistent with good governance. This was agreed and welcomed by TopMark.

DWP stated that input would also be welcome from committee members to progress.

DWP stated that it was hoped that the review would be completed by mid- December 2024.

8 Annual Review – Lead: DWP

For the benefit of new members, the Chair and DWP provided a brief overview of the purpose of the Scheme's Annual Review.

DWP confirmed that the Review would be published on 27th November 2024.

9 Any Other Business – Lead: Chair

DWP stated that on the request of the DWP digital team and for publishing purposes, the minutes of the meeting are to be produced in a different format. All noted and agreed.

DWP requested that, if possible, once the meeting minutes had been circulated to the Chair and members, if they could be reviewed and agreed as soon as possible to ensure timely publication on Gov.uk. All agreed.

10 Date of Next Meeting

Wednesday 14th May 2025 at 12 30pm via Microsoft Teams.