

Improving Claims Handling for Mesothelioma Cases - Your Views

British Lung Foundation Response



To: Workplace Health Division
Department for Work and Pensions
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The British Lung Foundation (BLF) is the only charity working to help the eight million people in the UK with *all* lung conditions.

We welcome the opportunity to comment on proposals to improve claims handling for mesothelioma cases and would like to offer the following recommendations.

We were pleased that the Government acted to reverse the House of Lords decisions in the *Barker v Corus* case. We felt strongly that without this, the process of achieving compensation would have been over-complicated and much lengthier. The amendment to the Compensation Bill means that claimants will stand an improved chance of receiving their compensation before they die.

As a medical research and patient support organisation, our priority is the impact of complicated procedures on people living with mesothelioma and their families.

Impact on the individual and their family

- We feel strongly that the Department of Work and Pensions should take a person centred approach when looking at this and consider the process from the perspective of someone who likely has less than a year to live. It is vital that systems are as simple to understand, and consume as little time, as possible.
- Mesothelioma is a particularly cruel disease which causes the sufferer significant pain and discomfort. People with this disease, understandably, want to spend as much time as possible with their family and friends without having to worry about complicated legal processes.

ABI code on disclosure

- We would suggest that the current voluntary ABI code on disclosure should be made statutory as there are concerns that the current arrangement is not working effectively and claimants are not being able to identify the relevant company with which to lodge their claim. A simple and cost effective measure

to address this for the future would be the mandatory inclusion of insurers and policy details on company annual returns.

- Where the insurer cannot be identified from the voluntary ABI arrangement, solicitors often have to employ the services of insurance archaeologists to trace the relevant policy. Where an insurer, that is signed up to the ABI code, is subsequently found to be involved in a claim but had not voluntarily offered information on their involvement, we would recommend that they should pay the costs of the insurance archaeologist. These costs can often be substantial and should not be taken from the claimant's settlement.

Claims against the Ministry of Defence

- There is currently an anomaly in the law regarding claims against the Ministry of Defence (MoD), which asserts that while service personnel, who were exposed to asbestos through the armed services and subsequently developed mesothelioma, are unable to make a compensation claim because the MoD has Crown Immunity, an individual who develops mesothelioma but was employed by the MoD as a civilian, and was exposed to asbestos in the same place at the same time, would be entitled to compensation. This anomaly should be addressed to allow service personnel to have access to equal support as their civilian colleagues.

Provision of information

- Information should be provided in appropriate and easy to understand language which will ensure claimants fully understand the stages of the compensation process, what will be required of them and where they can go for additional information and support.
- The British Lung Foundation has a comprehensive website (www.lunguk.org), telephone helpline (08458 50 50 20) and range of information and publications available to support people with asbestos related illnesses and their families. We would be pleased to work with the DWP in the development of appropriate information and would be happy for our contact details to be included as a source of additional support.

Simplification of the benefits system

- In addition to this, we would recommend a simplification of the benefits system for people with mesothelioma. Industrial Injuries Disablement Benefit is only paid to people who were in employment at the time of their exposure. People who were self employed, exposed at home (from fibres on a family member's clothing for example) or from neighbourhood exposure (from living near to a factory for example) cannot claim this benefit.
- The benefits system is hugely complicated and people don't know what they are entitled to claim. The British Lung Foundation recommends the development of one form for people with mesothelioma who meet a basic criteria - this could

be a history of asbestos exposure and a consultant's letter confirming the diagnosis. On completion of this form all available benefits, such as Industrial Injuries Disablement Benefit and Disability Living Allowance, would be processed. As highlighted earlier in our submission, mesothelioma is a distressing condition with a terminal diagnosis, and individuals with the condition should not be forced to spend time filling out a multitude of forms nor endure the delays that result from each application. A simplified single assessment system would also save time and administration costs within Government.

Action Mesothelioma

- Together with a coalition of asbestos support organisations, the British Lung Foundation launched the Action Mesothelioma campaign, on 27 February 2006, with the aim of raising awareness of mesothelioma among healthcare professionals, the public and politicians. Central to the campaign is the Mesothelioma Charter, which calls for better care and treatment, better protection for employees and more funding for research. I have enclosed a copy of the Charter for your information.

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We are happy to provide further information or clarification of any of the points raised in this submission, please contact Donna Castle, Senior Parliamentary Officer on 020 7688 5563, donna.castle@blf-uk.org.



Dame Helena Shovelton
Chief Executive

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