

Compensation for Miners

dti

Coal Health Claims

NEWSLETTER 13

MAY 2007

No Let Up in Pace of Payments



A message from Malcolm Wicks, the Minister of State for Science and Innovation (with responsibility for the Coal Health Schemes).

During 2006 we made excellent progress in settling health related claims. At the beginning of 2007 approximately 80% of vibration related and 70% of respiratory claims had been settled, totalling over £3.5 billion in compensation payments so far. DTI continues to pay out around £1.8 million every working day in compensation to sick miners and their families.

Our overall aim for the health schemes has always been to ensure that all eligible claimants receive their compensation as quickly as possible. And the Department and our contractors

continue to work hard to make this happen. The Fast-Track scheme for respiratory disease claims has been a great success and allowed over 132,000 claims to be processed through the scheme much more quickly. Over the next 12 months we will continue to work with the Courts to ensuring that those claims still outstanding are moved through the process to settlement.

The schemes are now moving into their final stages. We are expecting to have the Vibration White Finger scheme substantially complete in the next 12 months and the respiratory scheme by Spring 2009. We predict that there will be a small number of claims that will fall outside of this and we will continue to work with the claimant solicitors to ensure these are compensated appropriately.

That said I remain concerned that we still have some claimants who have been waiting too long for their compensation. I have asked my team to continue to give these claims priority. Similarly we are asking claimants' representatives to respond promptly to our enquiries.

The Monitoring Groups overlooking the schemes will continue to provide an important role in keeping the Department and Solicitors' Claimant Group on track, especially as we get closer to the end of the schemes. I am pleased that Michael Clapham, my Parliamentary colleague for Barnsley West & Penistone, has written about the role of these Groups on page 2 of this Newsletter.

The timetable going forward will be challenging, but as long as we all pull together I know we can succeed.

Role of the Legal Complaints Service – see page 5

Coal Health Monitoring Groups - Putting Communities First

In 1998 the Labour Government accepted liability for injuries to coalminer's health caused by Chronic Obstructive Pulmonary Disease (COPD) and Vibration White Finger (VWF). The Department of Trade and Industry (DTI) set about, under direction of the court, negotiating the Claims Handling Agreements (CHAs) with the Claimants Solicitors Group (CSG).

Helen Little MP the then Energy Minister invited myself, Peter McNestry the former General Secretary of the National Association of Colliery Overmen Deputies and Shotfirers (NACODS) and Vernon Jones MBE the Chief Executive of the Coal Industry Social Welfare Organisation (CISWO) to form the English Monitoring Group (EMG). Monitoring Groups were also established for Wales and Scotland.

The following terms of reference for the monitoring Groups were agreed:

To review on a regular and transparent basis and to advise the Minister for Energy of progress with the implementation of the Handling Agreements so that communities concerned can be confident that everything possible was being done to ensure a sensitive, rapid and effective delivery of compensation to ex-miners.

The CHAs are extremely complicated and initially there was frustration in the communities about the length of time things were taking. Moreover it became clear within a short period after they came into being that the number of claimants was going to be extremely large. By the time the schemes closed there were 170,000 VWF claims and 582,000 COPD claims.

With such a large number of cases and with many elderly miners suffering severe COPD there was bound to be concern in the coalfields about the nature of the examination process and the speed at which settlements were made. Against this background the Monitoring Group attended spirometry centres, spoke with stakeholders including the Minister and civil servants, kept MP's informed, attended Court hearings and visited claimants in their own homes. In total the EMG has attended more than 320 meetings over the seven years since it was formed.

The process was enhanced when it was decided to introduce Regional Monitoring Groups to address some of the more localised issues.

I believe that the Monitoring Groups have gone to great pains to discharge their remit and have over the period made some key recommendations that have been accepted by Ministers in relation to both schemes. Their engagement with the community and dissemination of information through the local media has helped to clarify the perception that delays particularly in relation to the COPD scheme were cost related and intended to save money.

The process of dialogue between the EMG and all the contracted service providers contributed to ensuring transparency. This was most important given the volume of claims and the large number of firms of solicitors handling claims in England.

It was the Monitoring Groups that first made the Minister aware of the scandalous activity of claims handling firms and the solicitors who engaged them. This has resulted in firms of solicitors and claims handlers being named and shamed in Parliament by coalfield MP's. Most solicitors who have double charged have refunded claimants. If you

consider that your solicitor has charged you a fee for dealing with your coal health claim including a claim for pneumoconiosis either contact your MP with the details or submit a complaint to the Legal Complaints Service, as detailed elsewhere in this newsletter.

The Law Society's Regulation Board and Solicitors Disciplinary Tribunal have required refunds and compensation to be made in some cases. In addition, the Compensation Act 2006 introduced for the first time ever a procedure for regulating claims handlers. Until then only lawyers had been regulated but now dishonest claims handlers can be brought to book.

COPD and VWF are the biggest common law damages claims that have been run anywhere in the world. There have been many delays with both schemes and these have been a cause for concern amongst claimants particularly the elderly. Nevertheless, to date some £3.5 billion has been paid to former miners and their families. The Monitoring Groups have without a doubt played a valuable role in removing blockages and ensuring that compensation has reached sick miners. They have helped in large measure to retain the confidence of the coalfield communities in the integrity of the schemes.

Michael Clapham MP

Chair of the English Monitoring Group

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New Director at DTI to Lead on Coal Health Schemes



Ian McKenzie became Director of DTI's Coal Liabilities Unit in June 2006. Ian's key priority is ensure that those claimants waiting for confirmation of their compensation entitlement now do so as quickly as possible consistent with the scheme arrangements.

In his first nine months in the job Ian has been busy meeting those involved in the schemes, with the representatives of claimants and some claimants themselves.

Commenting on progress Ian said: "I am pleased with the progress being made to settle claims but we have more to do.

We are continuing to work with claimant representatives; the Unions and the Coalfield representatives to ensure outstanding claims are progressed rapidly to completion".

The Vibration White Finger scheme now has under 5,000 claims left to settle out of a total of the 170,000 originally received. The outstanding claims mainly relate to where miners have worked with a number of employers. These can be complex to resolve but **Ian commented:** "I am satisfied that clear processes are now in place to bring these claims to a conclusion and enable settlement".

The respiratory scheme with nearly 600,000 claimants is also now well past the halfway mark in terms of compensation payments made. Spirometry testing was completed in June 2006; deadlines are agreed for completing the 'Fast Track' claims; and to ensure claimants provide information and completed questionnaires to enable their claims to progress to resolution. Commenting on progress **Ian confirmed:** "2007 will be an important year for the respiratory scheme as working with solicitors we move the claims remaining further through the process towards settlement and on to payment".

Reflecting the progress being made with medicals DTI now has agreement to move ahead with the phased closure of the medical assessment centres in areas where the work is nearly complete.

Ian said: "Whilst some of the medical centres are now closing we will be ensuring suitable facilities are still available. These are usually mobile units to maximise their flexibility. But it is important that claimants keep up their appointments to ensure their tests are completed".

Ian confirmed the DTI's ongoing commitment to completing the compensation schemes on a fair and transparent basis. Reinforcing this commitment and the drive towards completion

Ian said: "We are committed to bring the current health compensation schemes to a successful, timely close, and ensuring that claimants receive appropriate compensation. We are also committed to putting in place arrangements to deal with any residual claims, and future health-related policy issues and compensation schemes."

THE ROLE OF THE LEGAL COMPLAINTS SERVICE IN DEALING WITH THE ONGOING ISSUE OF DEDUCTIONS FROM MINERS' CLAIMS

What is the Legal Complaints Service (LCS)?

The Legal Complaints Service is responsible for complaints about poor service provided by solicitors.

What type of issues can the LCS help you with?

The majority of miners' complaints received by the LCS relate to solicitors who have made an inappropriate deduction of money from the customer when handling their claim, either for themselves or for a third party such as a Trade Union.

We can help to recover these monies, often through conciliation with the firm concerned.

What has the LCS done to help former miners to date?

By the middle of February 2007 we had received 1,607 inadequate service complaints from former miners or their families relating to Vibration White Finger (VWF) and Chronic Obstructive Airways Disease (COAD).

Of these 1,509 complaints - more than 90 per cent - have been resolved, with 769 being consolidated. We have recovered more than £560,000 for customers.

What is the LCS doing to make contact with former miners and their relatives?

We are committed to raising the profile of the LCS within former mining communities by taking the following steps:

- placing adverts in local newspapers
- embarking on a series of local radio interviews featuring a Legal Complaints Board member who has pursued her own miners compensation claim in regard to a relative
- circulating advice posters to Consumer Advice Bureau offices and GP surgeries
- introducing a dedicated phone line for use by CAB officers who are approached regarding miners compensation issues
- embarking on a series of LCS Road Shows in mining communities in a bid to speak directly to former miners and their families.

How can you contact the LCS?

We based at Victoria Court and Leamington Spa and you can contact us by writing to:

Legal Complaints Service
Victoria Court
8 Dormer Place
Leamington Spa
Warwickshire
CV32 5AE

Telephone: 0845 608 6565

www.legalcomplaints.org.uk

Respiratory Disease Claims Update

Claims Registered

There are 591,511 registered in the scheme.

Claims Settled

407,708 claims, or nearly 70%, have been settled, either by payment (through the main scheme or risk offer), or the claim has been withdrawn, denied or struck out of the scheme.

Damages Paid Out

We have now paid out over £2 billion in damages to claimants.

Scheme Completion

The COPD scheme has been closed to new claims for nearly three years and the Department has developed a programme for achieving settlement of the remaining claims.

- Any claimant who wished to settle their claim by accepting a DOROS (Deceased Optional Risk Offer Scheme) offer must have done so by 28 February 2007.
- A process has now been ordered to ensure that LOROS (Live Optional Risk Offer Scheme) and expedited offers will need to be completed in mid 2007.
- The majority of Claims Questionnaires for Live claimants should now have been submitted to Capita. Claims Questionnaires for Widows and Estate claimants that do not wish to accept the DOROS offer must be submitted to Capita by **8 June 2007**.
- In the coming months, the Department will be working with its Medical Service Provider and Claimants' Representatives to encourage all Live claimants to attend a Medical Assessment by **June 2007**.

The first group of claims that had been withdrawn or denied for a period greater than 12 months has now been removed from the Scheme. The Department will continue to seek the Court's agreement to strike out those claims that have been withdrawn, denied or missed a cut off. It is important that claimants respond to enquiries from their solicitor or representative as promptly as possible.

Vibration White Finger Claims Update

Claims Registered/Settled

169,700 claims have been registered under the VWF scheme. The vast majority of claimants have had compensation under the General Damages part of the scheme - some 96% of claims have received payments in this respect. In addition, some 46,500 claimants have then gone on to claim assistance with household tasks - see 'Services' below.

Damages Paid Out

So far, we have paid claimants and their families over £1.4 billion in damages.

Cut-off Date

The VWF scheme has been closed to new claimants since November 2002. Whilst, the Department is no longer accepting claims under the VWF Scheme, it is still possible to submit VWF claims under common law procedures. If you believe that you have a valid claim and you are not in the scheme, you should contact a solicitor.

Scheme Completion

The Department is actively working with its contractors to try to substantially complete the General Damages scheme by October 2007.

Group 3 Occupations

Group 3 occupations are those in which miners would not normally have used hand-held vibration tools. However, it is accepted that, in some circumstances, miners in these occupations may have used such tools. Claimants are asked to provide evidence of this usage, which is then investigated to determine if British Coal have a legal liability under the VWF scheme.

The number of claims remaining at the various stages of this process continues to decrease and has now reached the stage where all first time investigations and disputes will have been completed by the end of March 2007, with the exception of a handful of claims. Claimants involved in Group 3 claims can help in reaching settlement on their claims by responding to questions raised by their solicitor or representative as quickly as possible.

Medical Assessment Centres

As the processing of claims within the VWF scheme comes to an end and the small numbers of remaining claimants are examined, the Medical Assessment Centres will be closing this year. Other parties, such as co-defendants and claimants solicitors continue to be chased for outstanding information to enable claims to be progressed towards settlement.

Services

A separate agreement has been negotiated with the claimants' solicitors for claimants who need additional assistance in carrying out 6 household tasks such as gardening and DIY. A separate medical is needed for this.

So far, 46,570 claims have been received.

By the end of December 2006, 31,000 examinations had been completed and over 25,000 Services claims had been settled.

The Department has recently made arrangements to make use of the staff at medical centres by bringing forward claimant's appointments, as the Services scheme moves into closedown. It is important that claimants respond to invitations to attend for assessment as quickly as possible.

The Department is also making provisions to start working on the Services aspect of a claim even if the General Damages has not yet been finalised. The purpose of this is to ensure a speedy conclusion to the scheme.

Future Court Hearings

The progress of the VWF scheme and other related matters continue to be overseen by a Judge at regular review hearings.



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