



Chair: Tony Whitston - Secretary: Joanne Gordon
Windrush Millennium Centre, 70 Alexandra Road
Manchester M16 7WD

asbestos.gmavsg@gmail.com
Tel: 0161 636 7555 or 07748189837

Alpa Parmar
Ministry of Justice
4:37, 102 Petty France
London
SW1H 9AJ

25 July 2013

Dear Ms. Parmar,

Complaint regarding the consultation Reforming mesothelioma claims.

I am writing on behalf of the Asbestos Victims Support Groups Forum UK to formally register our profound concerns about the consultation, Reforming mesothelioma claims. We have already expressed some of our concerns in our letters dated 12 June and 17 July to the Courts Minister, Helen Grant, and in my e mail to you dated 24 July.

Our first, and foremost complaint, is that the agenda for reform¹ announced in the Minister's statement 18 December 2012, and contained in the consultation paper 24 July 2013, is the agenda of the Association of British Insurers (ABI). The ABI drafted the mesothelioma pre action protocol, designed the proposed electronic gateway and are advocates of fixed costs. During the two years² in which the ABI has been working with Government on the proposed reforms no opportunity was given to claimants' representatives to express their concerns about the mesothelioma claims process or to propose their options for reform. One option for reform which we put forward in our letter to Helen Grant dated 12 June was dismissed. This consultation is wholly one-sided.

An opportunity was provided to mesothelioma sufferers and their families to comment on the mesothelioma claims process through the British Lung Foundation's Mesothelioma Compensation Survey 2013, which is yet to be published. The survey was part-funded by the ABI. This unpublished survey has been used to inform the MOJ consultation, and has been used by the ABI.

Our second complaint concerns the ABI's report (ABI Report), Reforming the civil justice system for mesothelioma, which was sent to all Parliamentarians on the

¹ A mesothelioma pre action protocol; electronic gateway; fixed costs

² ABI Helping People with Mesothelioma January 2013. "Insurers take their responsibilities towards mesothelioma sufferers seriously. For the past two years the Association of British Insurers (ABI) has been working with the UK Government to develop a package of proposals which will make sure people with mesothelioma get the support they need as quickly as possible"

eve of the House of Lord's debate on the Mesothelioma Bill at Report stage, 17 July 2013, and just seven days before the publication of the MoJ's consultation paper. The ABI Report selectively uses quotes from distressed mesothelioma sufferers, and families of mesothelioma sufferers, from the unpublished BLF survey to support it's proposals for reform. Fifteen quotes are selected, all of which express concerns about the mesothelioma claims process. It is right that the concerns of mesothelioma sufferers and their families should be heard, but it is wrong to present to Parliamentarians, or anyone else for that matter, such a biased and wholly inaccurate presentation of a survey, especially a survey which is unpublished and the findings cannot be verified. After several representations to the BLF we have now received a copy of the draft survey report and we are appalled at the ABI's misrepresentation and exploitation of the survey.

There are many other misrepresentations and misleading partial information contained in the ABI Report in addition to the misrepresentation of the BLF survey which are, frankly a disgrace. It is our view that the ABI Report damages and undermines the MoJ's consultation. The MoJ should publicly repudiate the ABI Report. It is not good enough for the MoJ to simply express concerns about it privately.

We are also concerned that the MoJ cited the BLF unpublished survey in its consultation document. We think it unprofessional and unfair to all concerned in this consultation process to cite documents that are not publicly available.

The ABI have conducted their own studies of the mesothelioma claims process, which they refer to in the ABI Report. The studies rely on information from defendant law firms and insurers and present a far more detailed analysis of the times taken at different stages of the claims process than that contained in the consultation paper. The consultation paper uses secondary data from the NIESR survey, whose authors sought to ensure that data was not selectively provided by claimants or defendants. In order to get the most objective and informed data about the claims process we provided a list of the sort of data that would be helpful, if available from the NIESR survey, or other reputable source, and asked for that data in our letter dated 12 June. Our request was refused. We have re submitted that request.

Our view is that the consultation process is deeply flawed and, as a result, is not in the interests of mesothelioma sufferers. The consultation should not proceed in its present form. It should be re-framed so that it contains options for reform which reflect the views of mesothelioma sufferers, their families and their representatives as well as insurers and defendants.

Yours sincerely

Tony Whitston.