

WRITTEN MINISTERIAL STATEMENT

Wednesday 4 December 2013

MINISTRY OF JUSTICE

Mesothelioma Claims

The Parliamentary Under-Secretary of State for Justice (Mr Shailesh Vara):

Mesothelioma is a tragically aggressive and terminal occupational disease. It kills approximately 2,200 people in England and Wales each year, with sufferers having a median life expectancy of only 7 to 9 months from diagnosis. Yet claims for compensation for mesothelioma are often subject to delays and fraught with procedural and evidential difficulties, made all the more acute by the imminence of the claimant's death.

The Government has conducted a consultation on proposals intended to improve the speed and efficacy of the process for claimants to recover compensation in cases where a liable employer or insurer is traced. That consultation, which closed on 2 October 2013 and elicited over 100 responses, also incorporated the review required by section 48 of the Legal Aid, Sentencing and Punishment of Offenders (LASPO) Act 2012 regarding the application to mesothelioma claims of conditional fee agreement reforms contained in Part 2 of that Act.

The Government has reformed the way in which no-win-no-fee conditional fee agreements operate. It has always been the Government's intention that those reforms should apply to all areas of civil litigation, including personal injury compensation. Those reforms came into force generally in April 2013, although not in respect of proceedings for mesothelioma claims. Extending the reforms to those proceedings was delayed until a review had been undertaken and published in accordance with section 48 of the LASPO Act.

The Government has carefully considered the responses and has concluded that it intends to apply sections 44 and 46 of the LASPO Act to mesothelioma cases, as for all other personal injury cases. The Government does not believe that the case has been made for mesothelioma cases to continue to be treated differently, in particular by comparison to other personal injuries, which can also have profound consequences for the sufferer.

To ensure that key changes to the mesothelioma claims process are addressed in a synchronised manner, we propose to apply the LASPO provisions from July 2014, at the same time as the compulsory payment scheme for victims of mesothelioma is planned to come into force under the Mesothelioma Bill, subject to Royal Assent. Under the Bill, introduced into Parliament in May 2013 by the Department for Work and Pensions, victims of mesothelioma who are unable to trace their liable employer or

their employer's insurer would be eligible to claim compensation from a dedicated fund even though it is not possible to trace the persons actually liable to compensate them.

The Ministry of Justice has also carefully considered responses to its other consultation proposals. We have declined to take forward a dedicated Mesothelioma Pre-Action Protocol supported by a fixed recoverable costs regime as they currently stand on the grounds that there is not a strong enough case that they will meet the Government's declared aim of ensuring that mesothelioma compensation claims are settled quickly - where necessary - and fairly. In light of our consultation response the ABI will wish to reconsider the final consultation proposal, an electronic Secure Mesothelioma Claims Gateway, which they had proposed to host and fund.

At this stage we still hope to identify potentially valuable reforms to mesothelioma claims process from the responses to the consultation and the Government will work closely with interested parties to discuss how these can be taken forward.

The Government will publish its response to the consultation, and the report under Section 48 of the LASPO Act, shortly.