

Asbestos Victims Support Groups' Forum UK

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Mr. Stephen Hadrill
Director General
Association of British Insurers
51 Gresham St.
London EC2V 7HQ

9 June 2009

Dear Mr. Hadrill,

Employer's Liability Insurance: An Open Letter to the ABI

Asbestos victims have gathered at your conference venue today to express the outrage felt by so many asbestos victims at the refusal of insurers to pay compensation where EL insurance policies cannot be traced.

The cost of the failure to trace policies, and the abject failure of the Tracing Scheme, is borne solely by asbestos victims. This is the case even where exposure to asbestos occurred after 1972 when EL insurance was a legal requirement and there was universal compliance with this requirement. Simply put, your members are evading their liability to pay compensation for insurance they were most certainly paid for. Hiding behind the institutional failure to centrally record EL policies, and demanding policies that have been lost and will never be found, your members are saving millions of pounds at the expense of dying asbestos victims. Not only are asbestos victims cheated, but, in some instances, policy holders are cheated as well.

It is incredible that the Motor Insurer's Bureau (MIB) pays compensation to motor accident victims where negligent motorists flagrantly break the law and drive with no insurance, yet asbestos victims, innocent victims of a failure to properly record EL policies, remain uncompensated. This ludicrous and disgraceful situation is deplored by the All Party Parliamentary Group on Occupational Safety and Health who have called for an Employers Liability Insurance Bureau, similar to the MIB.

As for pre-1972 policies, it is accepted that 90% of employers held EL insurance. If the large number of motor accident victims injured by unlawful drivers are compensated then there is no reason whatsoever why a small number of asbestos victims whose defunct employers held no insurance should not also be paid compensation.

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We reject any proposal that a central database for EL policies would on its own, if agreed, address the plight of asbestos victims. On its own, a data base would not address the problem of untraced, historic policies. As an integral part of an ELIB it would, of course, provide an essential safeguard for future claims from sufferers of diseases of long latency.

You will know that for 10 years your members were allowed to reduce the compensation they paid to asbestos victims in cases where the government had made lump sum payments in lieu of full compensation. Now, the government has remedied their failure and recovers lump sum payments when compensation is paid to benefit mesothelioma sufferers. But, to enrich themselves your members took full advantage of this government failure: they received a 'windfall payment' of over £14 million pounds during those 10 years. This was money they had no moral right to and we asked that the money be given for mesothelioma research. They refused and pocketed the money. Just like some MPs, whose expenses were 'legal' but found unacceptable your windfall was also unacceptable. The big difference however is that your members not only took money from the tax payer, they kept money which might have helped dying asbestos victims.

For the above reasons, we do not accept your assurance in your letter of 1 June that, *"As an industry, we do take the plight of mesothelioma sufferers very seriously, and we are always looking for ways to make the claims process for them faster, fairer and easier."*

If your assurance was sincere you would, as an industry, agree an ELIB and make a large donation to mesothelioma research in respect of the windfall you received at the tax payers expense for so many years. It is our hope that you will voluntarily agree to an ELIB, and if you refuse, that the government will force you to do so.

Yours sincerely

Tony Whitston

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