

# Compensation for Miners

Coal Health Claims

NEWSLETTER 15

June 2008

## Three years on



I have now been the Minister responsible for the Coal Health Schemes for some three years. Over this time I have overseen the schemes through a number of important issues and they have been rigorously examined. That is appropriate as they remain by far the largest schemes of their kind and by their completion we will have delivered over £4 billion in compensation directly to miners and their families.

Parliament recently debated a range of reports undertaken by the Public Accounts Committee which included the Coal Health schemes. The issue of legal fees and deductions was again raised as a major concern. This has remained one of my key concerns and I have been disappointed by the failure of some solicitors to accept that they should repay deductions made. My Department and the Ministry of Justice continue to support the work of the Legal Complaints Service to pursue those firms that have acted unfairly.

On a brighter note we have largely completed the Vibration White Finger scheme with around 3,000 claims remaining and now expect to substantially complete the respiratory disease (COPD) scheme by autumn 2009. By then, some 750,000 claims will have been handled overall. This edition of the Newsletter focuses on what can be done to bring outstanding COPD claims to a conclusion.

As volumes reduce we are proactively scrutinising the oldest claims to ensure their resolution. But it is equally important that claimants respond promptly to any letters or other contacts made by their solicitors in respect to their claims. Likewise if you are subject to any change of circumstance (for example you have recently moved) then please make sure you inform your representative immediately.

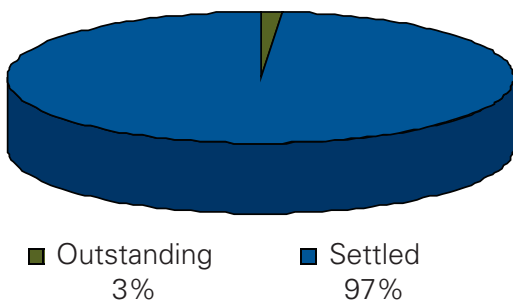
We remain steadfast and committed to settling these claims fairly and as quickly as possible. Together we will complete this task which the National Audit Office has described as a major achievement.

## VWF

### Update on VWF: Good news for all claimants

The Vibration White Finger (VWF) scheme is nearing completion. Out of the 169,612 claims submitted by miners, 97% of all claimants have had their claim settled. Compensation paid amounts to some £1.7 billion. If a claimant has not received a decision in their case or their compensation, they should check the status of their claim with their Solicitor but the Department hopes that the remaining claims will be resolved by the year end. It would help if claimants could respond promptly to any outstanding queries regarding their claim so that the small number of remaining claims can be progressed as quickly as possible.

#### VWF Claims – Progress to date

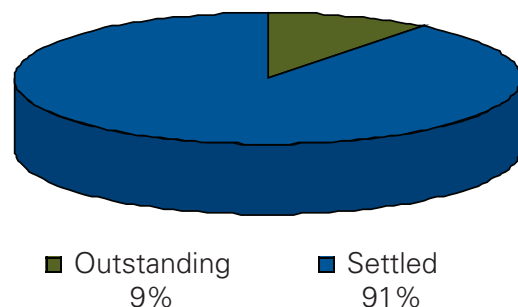


## COPD

### Progress toward scheme completion

91% of all 591,760 COPD claims have been settled with over £2.3bn having been paid out in compensation. The scheme is now expected to complete in autumn 2009.

#### COPD claims – Progress to date



There are a number of cut-offs in place which should enable resolution within this timescale of all remaining claims where settlement has not yet been achieved. Claimants should be made aware by their solicitor if they are affected by these cut-offs. Claimants will need to act promptly in conjunction with their solicitor if they still wish their claim to progress to resolution successfully.

There now remain three broad categories of claims which have yet to settle.

These are where:

- Probate remains outstanding. This affects approximately 3,000 claims
- A claim has been medically assessed but further information is required to enable a comprehensive offer to be made. This affects about 10,000 claims.
- There is Co-defendant involvement which is presently stopping the claim from progressing. This affects about a further 4,500 claims.

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## The Cut Offs

**Probate:** All claims relating to deceased miners will require the claimant to provide Capita with a grant of probate by Friday 19 December 2008 if not already done. Claims where probate is not provided by this date are liable to be struck out. Claimants will be informed by their solicitor if their claim is affected by this cut-off. If this is relevant to your claim, please respond to your solicitor as soon as possible.

**Information Required for Comprehensive Offer (IRCO):** Capita have been conducting comprehensive reviews of all claims where a medical assessment has been completed, but an offer or denial has not yet been communicated to solicitors. For each claim where a review is undertaken, Capita will shortly notify solicitors of the outcome of the review and advise them of the information which will need to be provided in respect of each claim in order to enable Capita to make an offer for settlement. Solicitors will have a 90-day period from the serving of notice by Capita in which to provide the missing information. Where the requested information is not provided within the 90-day period the claim will then either be:

- (i) subject to an offer based upon the evidence currently available to Capita, or
- (ii) liable to be struck out.

Claimants should hear from their solicitor if their claim is affected by this issue. Again, if this is relevant to your claim, please respond to your solicitor as soon as possible.

**Co Defendant Protocols:** There are around 4,500 cases where there is joint liability for any claim for compensation. That liability is shared between British Coal Corporation (BCC, now taken on by BERR) and another party (such as UK Coal, Small Mines, Coal Mining Owners etc). Following the May 2008 Court Hearing, Court Order 2008/43 now allows Capita to request any information from these third parties that will allow all remaining offers to be made, seeks agreement from all parties

that they are content to pay their portion of that offer and if no agreement is given, for Capita to make a proportionate offer (which is likely to be the largest proportion of any offer).

## Surface Workers working in Coal Preparation Plants

Around 5,000 denied claimants are seeking resolution of their claim against the Department. A new issue has been raised which potentially limits the extent to which solicitors representing claimants working in coal preparation plants can take forward litigation where funding is being provided via trade unions. This meant that the issue of progressing the trial of sample cases was adjourned for the March court hearing causing further delays. Counsel representing these cases informed the Court of a ruling from the Solicitors Regulatory Authority (SRA) in regard to a potential breach of the Solicitors Code of Conduct. Since then the claimants' solicitors have sought a waiver from the SRA to enable them to continue the litigation. The Department understands that this appears likely to be granted and therefore the litigation will be able to be taken forward and a further Court hearing is planned for 7 July to progress arrangements for a trial which is likely to take place next year.

## Medical Centre Closures

As the number of claimants requiring a Medical Assessment Process (MAP) examination has now greatly reduced, we have closed the last remaining MAP Centres which had been set up to conduct lung function or Vibration White Finger testing of claimants. The closure of these centres reflects the fact that this part of the schemes is to all intents and purposes now successfully completed and we are able to release a large number of skilled health professionals back into the healthcare field. For the last few claimants where testing may still be required arrangements are in place to enable testing via home visits should this prove necessary.

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# The role of the Legal Complaints Service in dealing with the ongoing issue of deductions from miners' compensation claims



The Legal Complaints Service (LCS) handles complaints about poor service provided by solicitors who practice in England and Wales.

## 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 people to recover these monies, often through conciliation with the firm concerned.

## Working with the Department for Business Enterprise & Regulatory Reform and the Ministry of Justice.

In May 2007 Energy Minister Malcolm Wicks announced that his department, in conjunction with the Ministry of Justice, was working with the LCS to help claimants better understand their rights and how they can have their claim investigated. The LCS and the two government departments worked closely together throughout 2007 and we plan to continue awareness-raising initiatives which will bring further redress to former miners.

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

To date the LCS has received in excess of 3,400 complaints from former miners. More than £730,000 has been recovered by the LCS and returned to these people. Working in conjunction with Rother Valley MP Kevin Barron in July 2007 the LCS wrote to all living miners in his constituency in a bid to determine whether solicitors wrongly deducted money from their compensation awards. By November 1 2007, around 330 complaints had been received from former

miners living in the Rother Valley constituency. Work on these matters is continuing. Further information sessions hosted by MPs have taken place in other constituencies in England and Wales.

## But you do not have to wait for an information session to take place in your area before contacting the LCS.

If you feel there may have been an inappropriate deduction from your compensation award you can contact us directly.

## How can you contact the LCS?

The LCS is based at Victoria Court in Leamington Spa and you can contact the organisation by writing to:

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

Alternatively you can ring our helpline:  
0845 608 6565

Or use our website:  
[www.legalcomplaints.org.uk](http://www.legalcomplaints.org.uk)

## Scotland

It is our understanding that solicitors in Scotland have not made deductions from compensation. We are exploring this and will provide an update in the next edition of the Newsletter. In any event, the LCS covers only England and Wales. For anyone with a complaint about their Scottish solicitor, the Scottish equivalent is the Law Society of Scotland's Client Relations Office whose helpline number is 0845 113 0018.

