



**Zahida Manzoor CBE**  
Commissioner

**PRESS NOTICE**

**26 JULY 2006**

### **MINERS LET DOWN BY THE LAW SOCIETY**

The Legal Services Complaints Commissioner, Zahida Manzoor CBE, has today released the findings of an audit by her office. The audit looked into the Law Society's handling of complaints by or on behalf of miners relating to the solicitors who represented them in claims covered by the Coal Health Compensation Scheme. It examined the Law Society's application of its own policy for dealing with these complaints, over 1,000 of which had been received by the Law Society at the time of the audit.

The audit found inconsistencies in the Law Society's approach to individual cases and that the solicitor being complained about often determined the way in which the complaint was resolved. Full investigations were not carried out in nearly half of cases audited, and there was variation in the amount of information shared with miners in relation to the investigation options available to them for resolving their complaints.

Speaking about the findings, the Commissioner said:

"I am concerned that these findings show that the Law Society is not consistently applying its own policies. How can it be that the amount of compensation a miner receives is determined by which caseworker investigates the case and who the miner's solicitor was?"

"The people who have raised complaints have either suffered from serious illness themselves or have seen a member of their family suffer. They may have been let down by the solicitor handling their claim. Some of these individuals have then subsequently been let down by the Law Society, the body that regulates and represents solicitors."

There was evidence of caseworkers steering a miner's decision in one case by advising them that the Law Society's own adjudication process could go on "indefinitely". Commenting on this, the Commissioner stated:

"I am concerned to note that caseworkers believe adjudication, a process which is wholly controlled by the Law Society, could go on "indefinitely". It is worrying that caseworkers may be leading consumers down a particular route by making some of the options sound less appealing.

"The Law Society should not shy away from its responsibilities to investigate complaints thoroughly."

The Commissioner has recommended that the Law Society revisit those cases where there has not been a full investigation into the case and where the miner has not been fully advised of their options around complaint resolution.

## Notes to Editors

1. Ms Manzoor CBE was appointed Legal Services Complaints Commissioner (the Commissioner) in February 2004 in addition to her role as Legal Services Ombudsman (LSO). The Commissioner only has powers in relation to the Law Society of England and Wales. Ms Manzoor was reappointed as both Commissioner and LSO for a period of three years in March 2006.
2. The roles of the LSO and the Commissioner are distinct. The LSO examines the handling of individual complaints by the legal professional bodies on behalf of members of the public. The Commissioner examines the Law Society's capability to handle complaints made about its members efficiently and effectively.
3. In March 2006, the Commissioner's Research and Investigations team completed an audit of the Law Society's handling of complaints made by or on behalf of miners relating to solicitors, who represented them in claims covered by the Coal Health Compensation Scheme. This audit examined complaints made to the Law Society against a total of 98 solicitor firms, with the largest number of complaints being made against 15 of these.
4. A total of 272 service complaint casefiles and 10 conduct complaint casefiles were audited. These were made up of 99 complaint casefiles that were still under investigation and 183 complaint casefiles where investigations had concluded. Files were selected to be representative of the profile of casefiles over the period 2003 to the end of January 2006, and therefore ranged in age from a few months to a number of years.
5. Below are two example case studies extracted from the audit report.
  - (i) In this case the caseworker notified the solicitor of the miner's complaint (made by an MP) as one of a group of other complaints they were dealing with at the same time. The solicitor offered an amount of compensation based on standard amounts they believed to be in operation at that time (in this case £200). The caseworker did not investigate the service issues raised by the MP on behalf of the miner and instead focused on recovering the deduction. The caseworker asked the solicitor if they wanted to offer less because the amount of the deduction was less than £200 and they decided to do this. The caseworker suggested to the miner that if they wanted to close the matter they might wish to accept the offer, which they subsequently did.
  - (ii) This complaint was made by the miner's MP on their behalf. The caseworker did not issue a formal letter to the solicitors and there was no investigation of the service issues. The solicitor offered to compensate for an amount that was initially rejected by the miner. The caseworker discussed the second offer with the miner advising them that if they proceeded to adjudication they could get "nothing". There was no further advice on the options available to the miner or what the amount offered represented in terms of any Inadequate Professional Service.
6. For enquiries please contact Marie Craven, tel: 0113 2615446.

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## Background information on the Coal Health Compensation Scheme

1. Following the break up of British Coal, the liability for miners' compensation claims transferred to the Department for Trade and Industry (DTI) on 1 January 1998.
2. DTI set up a personal injury scheme in 1999 designed to compensate miners, (or if they were deceased, their widows and estates), for a group of respiratory diseases related to inhaling coal-dust and vibration white finger.
3. Claims are made through a solicitor or a claims handling agent to Capita, DTI's main claims processing contractor. Once all the data relating to a claim has been collected, Capita calculates the compensation due and makes an offer based on the calculation.
4. As part of the scheme to date, over 750,000 claims for compensation have been made by miners and their families involving over 500 firms of solicitors. It is estimated that the Government will spend over £7.5bn in total.<sup>1</sup>
5. Information provided to miners on the DTI website advises that if a claim is successful there should be no need for solicitors, or other claims handling organisations, to charge a fee or deduct any compensation from the miner because the legal fees in successful cases are paid by the DTI. It also suggests that miners should ask if there is any charge if their claim is unsuccessful, as many solicitors have waived their charges in these cases.
6. However, it was found in some cases that charges were still made by solicitors in successful cases and deducted from miners' compensation before it was paid to them.

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<sup>1</sup> Taken from the DTI website – [www.dti.gov.uk](http://www.dti.gov.uk)