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Lord Alton of Liverpool  
House of Lords  
London  
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01 April 2019

Dear Lord Alton

During the lump sum schemes uprating debate in the House of Lords on 14<sup>th</sup> February 2019, you asked why the level of payments made under the Ministry of Defence lump sum compensation scheme has not increased since its inception in 2016. You also remarked that there has been little research on why exposure to asbestos has occurred in the Armed Forces. I have asked the Ministry of Defence about these points and have set out their response below.

### **War Pensions Scheme**

Since the Great War, any veteran who believes they have suffered ill health due to service is eligible to claim no-fault compensation under the War Pensions Scheme (WPS). War pensions are payable in respect of any illness or injury due to service in HM Armed Forces before 6 April 2005. There are no time limits and a low standard of proof and benefit of reasonable doubt is always given to the claimant. Death benefits are similarly paid to widows and widowers where death is attributable to service. Disablement and death claims and awards have long been made for mesothelioma. Decisions are medically certified and follow consideration of service and medical evidence. Where the evidence supports a causal link to service, entitlement will be given. The right of appeal to an independent tribunal is notified to the individual if the claim is rejected. The Office of National Statistics (ONS) data indicates that on average men of the generations most at risk of mesothelioma are three years older than their wives at marriage. Based on average longevity, widows' pension may be payable for many years.

War Pensions are up rated annually from April in line with the increase in disability benefits paid by the Department for Work and Pensions (DWP) which is based on the Consumer Price index (CPI) of the previous September. War Pensions will be increased by the CPI figure of 2.4% as at September 2018 from 8 April 2019.

War Pensions have always been available to those service personnel suffering from mesothelioma, and after their death, to their spouse or partner. Additionally,

from April 2016 Veterans with diffuse mesothelioma, accepted as due to military service prior to 6 April 2005, have the option to instead receive a lump sum payment of £140,000, regardless of age, under the WPS. This alternative to war disablement pension in life, and dependents' benefits paid to the widow until her death, was campaigned for by the Royal British Legion in recognition of the increasing percentage of the population that are single. ONS data confirms that recent and future social moves and increased longevity are likely to mean further increases in the numbers of single people in this century.

Other Government compensation schemes for mesothelioma pay awards which are related to age at the time of diagnosis, whereas the WPS pays a blanket rate of £140,000. The Ministry of Defence is satisfied that this level of award remains appropriate for veterans, with over half the recipients aged 80 years or over. The lump sum option has proved very popular among all veterans, compared to traditional disablement and spouse pension payments.

As mesothelioma has a median life expectation from diagnosis of between one to two years, Defence Business Services Veterans UK introduced an accelerated claims process for this group of claimants. They also provide welfare support and, if a lump sum is available to the claimants, advice on whether the individual should seek independent financial advice.

### **Armed Forces Compensation Scheme (AFCS)**

The AFCS was only introduced in April 2005 and covers injury and disorder caused by service on or after that date. Reflecting the long latent period for development of mesothelioma, and the protective and preventive measures introduced from 1963 and well established by 2005, no AFCS claims for mesothelioma have been made nor were expected at this date.

### **Independent Medical Expert Group (IMEG)**

In 2014 around the introduction of the Diffuse Mesothelioma Compensation Scheme, the Defence Minister asked IMEG, who provide independent expert medical and scientific advice, to look at the medical and scientific aspects of mesothelioma in the armed forces. Their findings are included in their third report dated March 2015 at the following link:

<https://www.gov.uk/government/publications/imeg-third-report-on-medical-and-scientific-aspects-of-the-armed-forces-compensation-scheme>

The key points from that report are:

- The UK has the highest incidence of mesothelioma in the world, with almost all cases in men attributable to asbestos exposure some 30-50 years before onset of symptomatic disease.
- Asbestos was widely used as insulation material on ships and more recently in buildings. The use of asbestos in naval ships increased greatly before and during the world wars and naval service, especially sea-going service and ship re-fitting between 1939 and 1973 was considered a high risk activity.
- From 1963 the Royal Navy began to replace asbestos insulation materials and introduced respirator protection.

- A Medical Research Council unit was set up to study the health of the workforce at Devonport dockyard, which included a number of cases of mesothelioma over time.
- A study in 1980 showed an increasing number of cases from 1962 to 1977. At follow-up looking at cases from 1979 to 1999 showed that deaths from mesothelioma further increased from 1979 with a peak in 1991: cases then began to decline and by 1999 had reduced to a third.
- The predicted continuing high rates of mesothelioma until 2050 predominantly relate to those in the construction industry, where exposure to asbestos continued until the 1980s. Construction trades are relatively underrepresented in the armed forces and a decline in new RN cases is expected in successive five year periods beyond 2013.

IMEG also considered the adequacy and appropriateness of the WPS and AFCS. Special arrangements in terms of presumption of a service link have been long established where there is Royal Navy service of any duration on sea-going ships between 1939 and 1973, and where entitlement due to mesothelioma is certified, disablement will be assessed at 100 percent from the outset. This approach is shared with the Industrial Injuries Disablement Benefit scheme.

The greatly improved control of asbestos exposure and the long latent interval of more than 30 years before the development of the disease mean that mesothelioma should only very rarely, and only in the future, be an issue for disorders claimed under the AFCS i.e. caused on or after 6 April 2005. The context is likely to be overseas in combat, or humanitarian missions or by accident. The WPS dating back to 1917 continues to make awards to veterans and their spouses where disablement, death or both is attributable to military service pre 6 April 2005.

### **Diffuse Mesothelioma Payment Scheme (DMPS)**

You also asked about the level of payments made under the Diffuse Mesothelioma Payment Scheme and whether they might be increased in line with CPI.

My officials have confirmed that, in line with commitments made during the passage of the Mesothelioma Bill, the intention is to review the DMPS payment tariffs. The purpose of the review will be to ensure payments made under the Scheme are maintained at the appropriate level. It is hoped that the review of the tariff payments can be carried out in the coming financial year.

### **Asbestos Removal in Independent Schools**

Following the debate, you asked for a response to an additional question raised by Graham Dring of the UK Asbestos Victims' Forum about whether the funding available for the removal of asbestos from state schools also extended to independent schools.

I am advised by the Department for Education that independent schools are responsible for the safety of their buildings and are expected to meet their own capital costs, including the costs of any remedial work to manage or remove asbestos, which may be necessary.

I would like to thank all the Noble Lords who spoke during the debate on Mesothelioma Lump Sum Payments 2019 and the sustained and serious interest shown in this important issue. I am copying this letter to all those who took part in the debate, and will place a copy in the House Library.

I am copying this letter to all those who took part in the debate and also placing a copy in The Library.

A handwritten signature in black ink, appearing to read 'Buscombe', written in a cursive style.

**Baroness Buscombe**  
**Minister for Work and Pensions (Lords)**

