

The T&N UK Asbestos Trust
and
The T&N EL Trust

Trustee's Report for the year to 30 September
2021

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Appendices

The appendices to this report contain the audited financial statements for the year ended 30 September 2021:

Appendix A: The T&N UK Asbestos Trust

Appendix B: The T&N EL Trust

1. Executive summary

1.1 Overview

The purpose of this report is to provide an update to the key stakeholders of the T&N UK Asbestos Trust and the T&N EL Trust (the **Trusts**).

The T&N UK Asbestos Trust consists of four separate funds (the **Funds**) which hold cash and investments. Under the terms of the Trust Deed, the Funds must remain separate and cannot be co-mingled.

This report is the fifteenth report issued by the T&N Asbestos Trustee Company Limited (the **Trustee**). This report contains terms which are defined in the Trust Distribution Procedures (the **TDP**).

1.2 Claims data

During the year the number of Trust Claims received and paid by the Trusts was as follows:

	Received	Paid
T&N excluding Cape Trust Claims	59	49
T&N – Cape Trust Claims	-	92
EL Scheme	20	25
Chester Street	87	61
Total	166	227

Note: Excludes second dividends

Payments to Trust Claimants for the year ended 30 September 2021 were as follows:

£ million	1 st Dividend	2 nd Dividend	Total
T&N Fund	1.24	-	1.24
T&N EL Trust	0.63	-	0.63
Chester Street Fund	0.54	-	0.54
FMFP Fund	0.34	-	0.34
TBA Fund	0.01	-	0.01
T&N Hercules Fund	0.15	0.53	0.68
Chester Street Hercules Fund	0.05	0.18	0.23
T&N Fund – Cape Trust Claims	0.26	-	0.26
Total	3.22	0.71	3.93

During the year, second dividends were only paid by the T&N Hercules Fund and Chester Street Hercules Fund. Both these funds do not hold any cash or investments.

These funds are determined as the surplus funds of the Chester Street Fund, once all its liabilities have been met, and is calculated by the Trustee's actuarial advisers (**WTW**). This process follows the previously reported Court consent, received by the Trustee in September 2016.

Payments to Trust Claimants and associated fees and expenses since the inception of the Trusts can be summarised as follows:

£ million	As at 1 October 2021	Paid	As at 30 September 2021	% of total
Payments to Trust Claimants	104.48	3.93	108.41	91.9
Trust Claimants' legal fees	7.41	0.41	7.82	6.6
Trust Claimants' medical costs	1.61	0.07	1.68	1.5
Total	113.50	4.41	117.91	100.0

1.3 Investment performance

During the year, the investment return achieved by the Trusts was 6.9%.

In the previous two years the performance of the Trusts' investment portfolio has been subject to considerable volatility, primarily because of the COVID-19 pandemic (the **Pandemic**). The Trusts invested with four different investment managers during the year and the allocation of capital at the year-end is summarised as follows:

£ million	Total	Target return
Blackrock DDGF	12.3	4.2%
Blackrock SAIF	9.9	5.0%
M&G REDF	10.4	5.6%
M&G Alpha Opps	8.0	5.0%
Cash	1.3	-
Total	41.9	

The Trusts' investments are held in the individual Funds as follows:

£ million	
T&N Fund	22.8
T&N EL Trust	7.8
Chester Street Fund	10.2
FMFP Fund	0.5
TBA Fund	0.6
Total	41.9

As the Trustee reported last year there was considerable concern at the volatility in investment markets caused by the Pandemic and how this may impact long term returns. In order to review this matter with the Trusts' advisers and reflect on the dividend policy, payments were suspended on 1 October 2020. The advice received by the Trustee stated no changes to dividend policy were required and assumptions used in the modelling remained appropriate. The rate of return assumed is 4% per annum.

Whilst investment performance during the year was good, in line with global markets rebounding after losses suffered at the outset of the Pandemic, it has not continued after the year end. Global macroeconomic concerns have impacted post year-end returns and this has been exacerbated by the impact of events caused by the war in Ukraine.

1.4 Actuarial review

Under the terms of the Trust Deeds, the Trustee is obliged to complete a full actuarial review on the fifth anniversary of the inception of the Trusts and every subsequent five years. Therefore, payments to Trust Claimants were suspended on 1 October 2021 to enable the review to be completed.

Whilst the historic rate of return from investments has been lower than anticipated, the forecast level of future claims has reduced since the last review. There have been some significant changes in asbestos disease trends since the last review in 2016, particularly with respect to the mesothelioma analysis. The impact of the Pandemic on mortality rates has also been reflected in the liabilities.

With effect from 1 October 2021 the new dividend levels are as follows:

Fund	Initial	Second	Total
T&N Fund	25	2	27
T&N EL Trust	66	2	68
Chester Street Fund	28	2	30
FMFP Fund	20	-	20
TBA Fund	10	-	10
T&N Hercules Fund	6	-	6
Chester Street Hercules Fund	6	-	6

The Trustee has always been conscious of the concerns raised at paying Trust Claims by two dividends over a five-year period and has sympathies with this view. The actuarial review provides support, by the analysis of the forecast liabilities, for the Trustee reducing the proportion of the second dividend and thereby increasing the initial dividend for those Funds affected.

The Trustee has added T&N Hercules Fund and Chester Street Hercules Fund to those funds which no longer pay second dividends. The aim of the Trustee is to eliminate the second dividend entirely as soon as conditions permit. This is discussed in greater detail in Section 4.2.

2. T&N Fund/T&N EL Trust Claims

2.1 Trust Claims analysis

The Trust Claims submitted in the first 15 years of operation are summarised below:

Status	As at 30 September 2020	As at 30 September 2021
Paid	4,477	4,646
Awaiting further information from Trust Claimants	38	23
Pending issue of Admission Notice	49	15
Withdrawn	116	124
Rejected	281	292
Total	4,961	5,100

2.2 Rejected claims

During the year, 11 Trust Claims were rejected, making a total of 292 rejected Trust Claims over the first fifteen years of operation. This represents 5.7% of the total number of Trust Claims received. All rejected Trust Claims are reviewed and discussed in detail at a meeting of the directors of the Trustee. A detailed explanation of the reason for rejection is provided to the Trust Claimant at the time of rejection.

The reasons for rejection are shown below:

Reason for rejection	As at 30 September 2020	Activity	As at 30 September 2021
Failure to satisfy exposure criteria	91	5	96
Failure to satisfy medical criteria	66	3	69
No response to requests for further information	45	-	45
Trust Claimant had already been compensated in full	22	-	22
Exposure pre-1965 and not within Margereson/Hancock	24	-	24
Limitation grounds	22	2	24
Lung cancer not meeting Helsinki criteria	5	1	6
Other	6	-	6
Total	281	11	292

There were no referrals to the Expert during the year.

2.3 Cape Trust Claims.

During the year the Trusts received no Cape Trust Claims because of Pandemic restrictions on travel to India. Trust Claim submissions recommenced earlier in 2022, with 200 Cape Trust Claims being received to date. Most Cape Trust Claims being submitted are now household exposure claims to which a 75% discount is applied for litigation risk. Consequently, whilst Cape Trust Claim numbers are high, individual payments are relatively low.

3. Chester Street Fund

The purpose of this fund is to provide compensation to Chester Street, an insolvent insurer, and related parties. This fund provides a contribution towards Trust Claims made against T&N and other Federal-Mogul companies, as joint tortfeasors, by Chester Street.

The Trust Claims submitted to the Chester Street Fund in the fifteen years of the Trusts' operation can be summarised as follows:

Trust Claims	As at 30 September 2020	As at 30 September 2021
Paid/established	931	1,013
British Shipbuilders' settlement	2,219	2,219
Awaiting further information	3	10
Rejected/Withdrawn	186	190
Total	3,339	3,432

The Trustee notes that a strong relationship has been built with the claims handling team at PwC with interactions on individual claims which may be rejected instead being discussed before submission, resulting in no claims being rejected during the year.

4. Actuarial review

4.1 WTW review

Under the terms of the TDP, the Trustee is obliged to commission a full actuarial review of the anticipated value of future claims every five years. In accordance with the terms of the TDP the review commenced on 1 October 2021 and was completed by 31 December 2021.

WTW concluded that the Trusts' liabilities were lower than those forecast when the 2016 review was completed. The reduction was predominantly due to the better-than-expected experience on mesothelioma claims combined with the impact of a shorter run-off profile on mesothelioma, reflecting several UK-wide changes since 2016. Other asbestos-related disease types have remained broadly stable.

These changes include lower than expected life expectancy improvements, re-parametrised latency profiles and stable (rather than increasing) propensity to claim. Adjustments have also been made in respect of the excess mortality seen since March 2020 due to the Pandemic.

4.2 Dividend policy

On concluding the actuarial review, the Trustee set new dividends which are as follows:

Fund	Dividends to 30 September 2021			Dividends from 1 January 2022		
	1 st Dividend	2 nd dividend	Total	1 st dividend	2 nd dividend	Total
T&N Fund	20	3	23	25	2	27
T&N EL Trust	47	3	50	66	2	68
Chester Street Fund	23	3	26	28	2	30
FMFP Fund	20	-	20	20	-	20
TBA Fund	3	-	3	10	-	10
T&N Hercules Fund	2	7	9	6	-	6
Chester Street Hercules Fund	2	7	9	6	-	6

As part of this work, the Trustee reflected on the dividend policy with respect to the payment of an initial dividend on accepting a Trust Claim and a second dividend being paid five years later subject to the financial position of the Trusts at that time.

Over the years several claimant lawyers have expressed the view that many Trust Claimants would prefer a larger initial payment with a commensurate reduction in the second payment. We have a lot of sympathy with this view but have always been concerned that increasing the proportion attributable to the first dividend would increase the risk that earlier Trust Claimants would receive a larger dividend than subsequent claims. We have long accepted that once we have made a payment to a Trust Claimant it is neither feasible nor desirable to seek a repayment if subsequent events indicate that they have been overpaid.

What is evident is that the average age of Trust Claimants is increasing and in these circumstances a payment made after 5 years has the potential to be significantly less valuable to them than an immediate payment.

In view of these concerns, we have concluded that it is now appropriate to substantially reduce or eliminate the second dividend. This policy does increase the risk of overpaying current Trust Claimants, but we believe, that considering the nature of the diseases and the age of the individuals, this is now acceptable.

5. Trusts' investments

5.1 Investment strategy

The Trustee continues to adopt a prudent investment policy whilst remaining conscious of the long-term nature of the Trusts. The Trustee receives advice from its investment adviser Mercer who also provide quarterly investment performance updates that are shared with the Committee.

As at 30 September 2021, the Trusts had funds invested in the following managed investments:

- BlackRock Dynamic Diversified Growth Fund (**BlackRock DDGF**). The objective of this fund is to seek capital growth by investing globally in a diversified portfolio of assets.
- BlackRock Strategic Alternative Income Fund (**BlackRock SAIF**). This fund invests in infrastructure debt, renewable energy, real estate debt and private credit to deliver predictable long-term cash flows.
- M&G Real Estate Debt Fund (**M&G REDF**). This fund concentrates on lending across the capital structure of high-quality real estate investments throughout Europe.
- M&G Alpha Opportunities Fund (**M&G Alpha Opps**) This is a bond fund which aims to maximise total returns which are consistent with prudent investment management.

5.2 Funds held at year end

At the end of the year the Trusts' allocation of its invested funds was as follows:

£ million	Total	%
Blackrock DDGF	12.3	30
Blackrock SAIF	9.9	24
M&G REDF	10.4	26
M&G Alpha Opps	8.0	20
Total	40.6	100

The analysis of investments by Fund is as follows:

Fund	Amount (£ million)
T&N Fund	22.1
T&N EL Trust	7.6
Chester Street Fund	9.8
FMFP Fund	0.5
TBA Fund	0.6
Total	40.6

5.3 Investment performance

During the year the Trusts' investments returned 6.9%.

The table below sets out the financial return for the Trusts' investments during the year:

£ million	As at 30 September 2020	As at 30 September 2021
Investment income	0.61	1.56
Change in market value of investments	0.08	1.46
Total	0.69	3.02

The most recent targeted return for each investment manager is set out below. During the financial year, except for the M&G REDFs, the actual rate of return achieved has been above target.

	%
BlackRock DDGF	4.2
BlackRock SAIF	5.0
M&G REDF	5.6
M&G Alpha Opps	5.0

The BlackRock DDGF and M&G Alpha Opps investments are quoted products which can be traded and so holdings vary with the cash requirements of the Trusts. The quoted price of these investments reflects the investment gain or loss.

The M&G REDFs and BlackRock SAIF investments are long term commitments which pay regular cash returns that are used to meet cash commitments or are alternatively reinvested.

Assessing performance after the year end illustrates that the 30 September 2022 financial year will likely see much lower returns for the Trusts' investments. Considerable macroeconomic and geopolitical uncertainty is being experienced by all investments markets. The Trustee will continue to monitor investment performance.

6. Professional costs

During the year the legal and other professional fees paid by the Trusts are detailed as follows:

£000	T&N	Chester St	T&N EL
Legal & professional fees	51	24	23
Audit fees	6	2	8
Actuarial fees	49	22	18
Total	106	48	49

7. Claims management fees

£000

T&N Fund	241
T&N EL Scheme Trust	84
Chester Street Fund	99
Total	424

The Trustee monitors the claims management fees incurred to operate the Trusts effectively. Whilst the current fees are materially lower than those whilst the Trusts were operated by AlixPartners, the Trustee nevertheless actively seeks opportunities to reduce costs.

Reflecting the gradual reduction of claims being received, two staff members have reduced their time commitment to the Trusts with effect from 1 October 2021. An exercise was completed during the summer of 2021 to condense the company records we must retain, which has enabled the Trusts to reduce its third-party storage costs.

During the current financial year, the Trustee is relocating the Trusts' administrative function to a smaller office suite in the same building. This will result in property costs reducing by over 50%.

The Trustee does acknowledge however that widely reported inflation will impact operating costs and has already begun to do so. The Trustee will continue to monitor its cost base.

8. Contact details

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Should you wish to discuss any aspect of this report please do not hesitate to contact us

