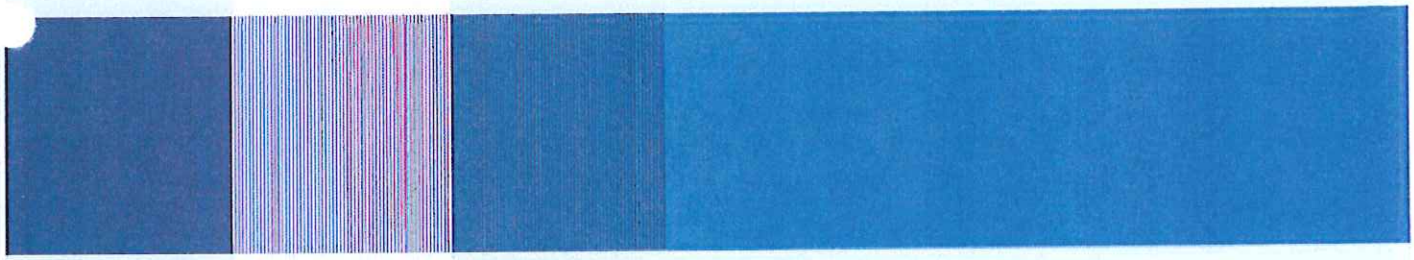
# The T&N UK Asbestos Trust
# and
# The T&N EL Trust

## Trustee's Annual Report 2008



The T&N UK Asbestos Trust and The T&N EL Trust
Trustee's Annual Report 2008

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APPENDICES



Please note that capitalised terms bear the meanings given to them in the Trust Distribution Procedures included in the Company Voluntary Arrangement and The EL Scheme documents.

# 1. Introduction

## 1.1. Purpose of this Report

The purpose of this report is to provide an update to the key stakeholders of the UK Asbestos Trust and EL Trust (the Trusts). The report is the second annual report issued by the Trustee

This report includes detail in relation to operational, financial and legal matters which have been of relevance to the Trusts throughout the period. This report should be read in conjunction with the Trustee's previous report.

## 1.2. The Trustee

The Trustee is 'The T&N Asbestos Trustee Company Limited' being a limited company, number 05548874, registered in England and Wales.

The Directors of the Trustee are James John Gleave, Anne Clare O'Keefe and Christopher Melton QC. James Gleave and Anne O'Keefe are partners in Zolfo Cooper; Christopher Melton QC is a barrister at Byrom Street Chambers. *Please note that following the recent completion of a Management Buy-Out, Kroll's UK Corporate Advisory and Business Recovery practice is now operating under the Zolfo Cooper brand name.*

## 1.3. Background to the Trusts

The T&N UK Asbestos Trust and The EL Trust were set up following the exit of the Federal-Mogul Group of companies from Administration in the UK. The purpose of the Trusts is to provide a mechanism for compensation of Trust Claimants who were exposed to asbestos by companies in the UK Federal-Mogul Group.

The T&N UK Asbestos Trust comprises two Trust Funds being the T&N Fund and the Chester Street Fund. These Funds were set up by the Company Voluntary Arrangements (CVAs) of the Federal Mogul companies and provided for £33 million and £22 million, respectively, to be made available for Trust Claimants and Chester Street Trust Claimants.

In addition, upon finalisation of the CVAs of the Federal Mogul Group of companies further funds will be remitted to the T&N UK Asbestos Trust. We anticipate that these funds will be transferred to the Trust within the next two months. The exact amount of the transfer will only become known when the CVAs are finalised but we estimate that it will be approximately £15 million. We will provide a detailed analysis in our next annual report.

The EL Trust received the sum of £36 million, following settlement of a legal action commenced by the Administrators against a number of employer's liability insurers of the Federal-Mogul Group.

## 1.4. Core Objective

The Core Objective of the Trust Funds is broadly to allow Trust Claimants to receive a payment (or payments) from the appropriate Fund or Funds which:

- Reflects the value of their underlying claim;
- Is fair and proportionate, having regard to the interests of other Trust Claimants with similar Trust Claims claiming out of the same Fund or Funds;
- Is calculated and paid in an efficient and cost effective manner, following an efficient and cost effective assessment of the Trust Claim.

Attached at Appendix A, is a more detailed explanation of the claims agreement process that has been adopted.

## 2. Claims

### 2.1. Overall Claims Levels

The claims submitted to the Trusts in the first two years of operation can be summarised as follows. You will see that during the first two years of the Trusts approximately £12 million has been paid to claimants. This is reflected in the Receipts and Payments Account attached at Appendix D.

| Status | As at 10.10.07 | As at 10.10.08 | No of claims |
|---|---|---|---|
| Paid / awaiting payment | 178 | 263 | 441 |
| Awaiting information from claimant | 130 | 6 | 136 |
| Pending issue of Admission Notice | 14 | - | 14 |
| Subject to Expert review process | 2 | (2) | - |
| Cape Claims | - | 102 | 102 |
| Rejected | 49 | 45 | 94 |
| Total | 373 | 417 | 790 |
| Total Paid Out | £4.9m | £7.2m | £12.1m |

The level and rate of claims received have been lower than anticipated in the Actuarial Reviews prepared for the purposes of our initial dividend calculations. The Trustee's Actuarial Adviser estimated that approximately 1,500 claims (excluding Pleural Plaques) would be paid during the first two years.

In order to assist claimants, we have again attached at Appendix H, a summary of the most common errors and omissions that occur based on a review of the Trust Claim Forms submitted to date.

### 2.2 Disease Analysis

The claims paid by the Trusts during the first two years of operations can be analysed between diseases as follows:

| Disease | Portion of Total Claims (by number) | Average Payment |
|---|---|---|
| Mesothelioma | 45% | £51,363 |
| Lung Cancer | 15% | £45,687 |
| Asbestosis | 29% | £12,911 |
| Pleural Thickening | 15% | £10,231 |
| | 100% | |

## 2.3 Dividend Levels

The table below shows the dividend levels currently being paid to Trust Claimants from The UK Asbestos Trust and The EL Trust along with the Trustee's estimation of the additional payment. The additional payment will be made five years after the initial payment. These payment levels have remained unchanged since the inception of the Trust. It also includes details of the declared dividend levels on the relevant CVAs from which Trust Claimants may also receive a contribution, via the UK Asbestos Trust.

| | Dividends (p in the £) | | |
|---|---|---|---|
| Fund | Initial | Expected Additional | Total |
| EL Fund | 61.0 | 15.0 | 76.0 |
| T&N Fund | 17.0 | 3.0 | 20.0 |
| Chester Street Fund | 21.0 | 3.0 | 24.0 |
| TBA Industrial Products | 30.0 | 4.0 | 34.0 |
| Federal-Mogul Friction Products | 100.0 | 0.0 | 100.0 |
| Hercules Fund | 0.0 | 6.5 | 6.5 |

The Trustee intends to commission a review from the Actuaries of the divided levels currently being paid and the expected additional dividend. The review will be based on the claims experience of the Trusts during the first two years of operations and any material changes to the asbestos medical/legal environment since the inception of the Trusts. The preliminary indications are that it is most unlikely that we will be able to adjust the initial dividend; however we should be able to provide a better estimate for the additional dividend.

### 2.3.1 Paid Claims

Payments are currently being issued every two weeks and claims are generally paid within seven days from the expiry date of the Admission Notice.

### 2.3.2 Claims Awaiting Information

There are a large proportion of claims awaiting information from the Trust Claimants or their representatives in order to satisfy the criteria set out in the TDP. In order to bring some finality to these situations, the Trustee has implemented a policy in relation to requests made by the Trustee for further information which are as follows:

- Initial request for further information / documentation;
- Follow up letter after 30 days;
- After a further 30 days, a second follow up letter is issued putting the Trust Claimant on notice that their Claim will be rejected;
- Claim rejected 30 days later.

Please note that these timings relate to claims where no response is received. The Trustee acknowledges the time taken to obtain information to support claims and the timescale above does not apply if the Claimant indicates that he is still trying to obtain supporting information. However, it should be ensured that the Trustee is kept informed of progress so that Trust Claims are not rejected inappropriately.

2.3.3 Subject to Expert Review Process

At the year-end no claims were pending determination by the TDP Expert.

A total of 12 claims have been referred to the TDP Expert during the year. The reasons for referral were varied and a summary of the outcome in relation each of these claims is detailed in Section 3.

2.3.4 Rejected Claims

A total of 49 claims have been rejected through the year making a total of 94 over the first two years of operations. All rejected claims are reviewed and discussed in detail at a meeting of the Trustee Directors. This meeting includes the independent third Director.

A detailed explanation of the reason(s) why a claim has been rejected is provided to the Trust Claimant at the time of rejection. Claims have been rejected for a number of reasons with the main ones, in order of the number of rejections, being as follows:

| Reason for Rejection | No of claims |
|---|---|
| Claim Withdrawn by Trust Claimant | 24 |
| No response to information requests, as per Section 2.2.2 | 16 |
| Failure to satisfy exposure criteria | 12 |
| Failure to satisfy medical criteria | 12 |
| Trust Claimant had already been compensated in full by either a non T&N Group company or a T&N Group company prior to Administration. | 11 |
| Exposure to asbestos was prior to 1965 and did not fall with the *Margereson / Hancock* judgment | 7 |
| Limitation grounds, with the Trustee considering it inappropriate to use discretion to waive limitation | 5 |
| Lung cancer not meeting Helsinki criteria | 4 |
| Other | 3 |
| Total | 94 |

2.4 "Cape Claims"

We have been asked to provide further information about Cape claims. The term "Cape Claims" is defined within the TDP. It refers to a broader class of claimant than those claimants originating from Southern Africa. Cape claims are defined as those claims arising in respect of alleged exposure by subsidiaries of the T&N Group occurring in Swaziland, Zimbabwe, Botswana, India or South Africa. The procedure for handling this category of claims is specifically detailed in the TDP.

Prior to the commencement of the Trust we had been informed that there were approximately 800 claims of this type pending, all being from Southern Africa with claimants being represented by two legal firms.

Due to the inherent difficulties with Cape Claims, the Trustee agreed to extend the deadline for Cape Claimants to avail themselves of the Expedited Review Process to 1 June 2008. A total of 101 Proofs of Claim were received prior to this date and we have been advised by the Claimants' Legal Representatives that they will not be submitting further claims on behalf of their clients.

Due to the standard of medical evidence submitted with the Cape Claims it was agreed with the Claimants' Legal Representative that all claims would be submitted to Dr Rudd for his comments on the level of medical evidence and whether or not it accurately supported the level of disability stated on the claim. The Trustee has now issued payments to the Cape Claimants' Legal Representative using Dr Rudd's assessment of the level of disability.

3. Claims Referred to the Expert

As detailed in Section 2.2.3, 12 claims have been reviewed by the Expert. A summary of the reasons for referral are detailed below.

| Reason for Referral | No of claims | Expert Outcome |
|---|---|---|
| Pre 1965 Exposure | 6 | Agreed with Trustee's rejection of claim on one case and overturned Trustee's decision in five cases |
| Quantum Dispute | 2 | Both claim values increased (one by less than 20% and one by more than 20%). |
| Employment Period Dispute | 1 | Agreed with Trustee's rejection of claim. |
| Contribution Share Dispute | 1 | Increased Trust's share |
| Claim for further damages when previously settled by company on full and final basis | 1 | Agreed with Trustee's rejection of claim. |
| Less than six months exposure in asbestosis claim | 1 | Agreed with Trustee's rejection of claim. |
| Total | 12 | |

4. Trust Fund Investment Decisions

4.1 Investment Strategy

The Trustee has the power to invest Fund assets as it sees appropriate. The Trustee's approach has been to take a fairly prudent view on investment but also remaining conscious of the fact that the Trust Funds are long term and Trust Claims are likely to continue for several decades. To this end the Trustee has adopted an investment approach similar to that of a pension fund trustee.

4.2 Funds Held at Year End

At the year end the Trustee held the following investments:

| Investment | Amount (£m) | % of total |
|---|---|---|
| Blackrock Managed Investment Unit Trusts | 75.30 | 97.5 |
| Guaranteed Fixed Deposits | 1.11 | 1.4 |
| Bank Deposit Accounts | 0.83 | 1.1 |
| Total | 77.24 | 100.0 |

Detail as to the nature of each of these investments is included in the following sections.

In 2007 the Trustee selected Blackrock Inc (Blackrock) as their Investment Managers. The Trustee concluded that a targeted return strategy would be the most appropriate for the Trust Funds, and Blackrock are instructed to seek a target return of LIBOR plus 3% over a rolling three year period. Such a strategy allows Trust Claimants to benefit from potentially increased returns over the medium to long term without exposing them to an inappropriate level of investment risk.

The investment performance of the fund can be summarised as follows:

| Trust Funds | Amount At Inception (£m) | Original Cost (With-drawals)/ Additions | Amount at 11 October 2008 (£m) | Valuation at 11 October 2008 (£m) |
|---|---|---|---|---|
| UK Asbestos Trust (T&N Fund) | 30.00 | (1.00) | 29.00 | 27.40 |
| UK Asbestos Trust (Chester Street Fund) | 20.00 | 1.80 | 21.80 | 20.50 |
| The EL Trust | 30.00 | (1.00) | 29.00 | 27.40 |
| Total | 80.00 | (0.20) | 79.80 | 75.30 |

During the year the performance of the funds was as follows:

| Trust Funds | Gain / (Loss) (£m) |
|---|---|
| UK Asbestos Trust (T&N Fund) | (2.76) |
| UK Asbestos Trust (Chester Street Fund) | (2.05) |
| The EL Trust | (2.76) |
| Total | (7.57) |

The performance for the year is clearly extremely disappointing equating to a loss of approximately 9.5%. The target return for the funds (LIBOR+3%) equates to a return of positive 8.8% for the same period. We have discussed this performance with our Fund Managers and our Investment Advisors. They have highlighted that this 12 month period contained some of the worst declines in asset values in many years. These declines encompassed all asset classes and all regions. Due to the conservative nature of the portfolio of assets contained with the funds they did not suffer the extent of the declines experienced by worldwide equity markets. However, with the exception of cash, all asset classes suffered substantial losses and this is inevitably reflected in the funds' performance. During the year the Fund Managers have adopted an increasingly conservative strategy with an increasing proportion of the Funds held in cash assets.

The Trustee believes that although the losses for the period were substantial, the Fund Managers have performed at least on par with the market comparatives. However, during the course of the next 12 months we will closely monitor their performance, although in view of the current market economic turmoil it is unlikely that the target return will be achieved.

4.3 Guaranteed Fixed Deposits

Funds are also held on a number of Guaranteed Fixed Deposits (GFD) with a variety of Banks and other financial institutions. These funds are generally held on month long rolling deposits with rates of return periodically reviewed by the Trustee.

4.4 Bank Deposit Accounts

Funds required for payments during the month are retained in a high interest deposit account until payments are issued.

4.5 Payments Account

All payments due to Trust Claimants from the various Trust Funds (and CVA Reserves if applicable) are transferred to a Payments Account. The Trust Claimants are then issued with an individual payment.

The Trustee does not hold a balance of funds in this account.

5. Chester Street Fund

As detailed earlier, the Chester Street Fund is a separate sub-fund (totalling £22 million) of the T&N UK Asbestos Trust and is set aside for a specific category of claimants detailed in the CVA documents. The Trustee has reached agreement as to the amount to be paid by way of dividend to one class of Chester Street Trust Claimants. This class relates to claims that were paid by Chester Street prior to their insolvency. Due to the number of institutions involved this has taken some time, but all parties have now signed the Agreement. In addition to these claims, there are potentially many more claims relating to periods after Chester Street's insolvency. The Trustee will now begin considering these additional claims.

6. Hercules

The UK Asbestos Trust is entitled to 11.9% of any recoveries from the Hercules Reinsurance Policy. The balance is due to the US Asbestos Trust. The Hercules policy has a face value of £500 million, although it is likely that any settlement will be significantly less than the face value of the policy. No funds have yet been received from this source.

At the inception of the Trust, it was agreed that the US Asbestos Trust would take the lead in negotiations with the reinsurers over the Hercules. The US Asbestos Trust came into existence at the discharge of the Chapter 11 proceedings at the beginning of 2008. However, in practical terms, it only became operational in the middle of 2008. As a result little progress has been made during the past 12 months. We have met with the US Asbestos Trustees on two occasions and maintain an open dialogue with them. They are currently planning their negotiation strategy.

The Trustee still anticipates some recoveries under the Hercules policy, although it is clear that this will not be resolved in the short term.

7. Tax

7.1 Tax Status

In our last report we detailed the steps that had been taken to clarify the tax status of the Trust. You will recall that our initial discussions with HMRC were not encouraging. In view of the significance of this issue we concluded that it was appropriate to obtain specialist tax advice. Accordingly we have engaged Ernst & Young. We have initially asked them to consider three specific issues.

i Whether the views expressed by HMRC about the tax status of the Trusts are correct

ii Whether there are alternative arguments that can be advanced, using existing tax legislation, which would lead to the Trusts paying a lower rate of tax

iii Whether they believe it is feasible to lobby HMRC for a more favourable tax treatment than is available under current legislation. If so, what do they consider is a reasonable objective

Due to the current uncertainty about the tax status of the Funds we have been unable to complete tax returns for the Trusts. Neither have we been able to pay any tax to HMRC. In order to protect the position of the Trustee, we have purchased Certificates of Tax Deposit equivalent to the maximum potential liability of the Trusts.

The deposits of tax purchased are as follows:

| Certificates of Tax Deposits | (£m) |
|---|---|
| UK Asbestos Trust (T&N Fund) | 0.59 |
| UK Asbestos Trust (Chester Street Fund) | 0.39 |
| The EL Trust | 0.48 |
| Total | 1.46 |

7.2 Impact of Taxation on Dividend Levels

Taxation has a significant impact on the level of funds available for distribution to Trust Claimants.

Actuarial projections prepared for the Trustee, and used for calculating the initial dividend levels, included a provision for ongoing tax liabilities at 40%. The current dividend levels will not therefore reduce should taxation remain payable by the Trusts. In the event that tax is payable at reduced levels (or not at all) then dividend levels are likely to increase significantly.

## 8. TDP Changes and Trustee Stance on Key Matters

During the period, the Trustee has made a number of amendments to the TDP to reflect ongoing advice and the changing legal environment. All changes are agreed at a meeting of the Trustee Directors and then a full consultation process is conducted with members of the Trust Advisory Committees (TAC). These changes have now been incorporated into the TDP.

A detailed document (The 2008 Amending Deed), formalising the changes, is attached at Appendix B.

An overview of the changes made and the rationale for these changes, as detailed in the letter to the members of the TAC, is attached at Appendix C.

## 9. Professional Costs

9.1 Costs Reserve

The majority of professional costs incurred in relation to the ongoing administration of the Trusts, including a significant proportion of the Trustee's fees, are currently paid from a

dedicated fund set aside for this purpose. This fund does not form part of the Trust's assets and fees drawn from this fund do not impact on the overall return to Trust Claimants. Payments in this respect can be drawn at the Trustee's discretion without any further approval.

9.2 The T&N EL Trust

The T&N EL Trust contained provisions for the allocation of certain costs specifically related to the operation of this fund. Costs have been allocated as per the Receipts and Payments Account (Appendix F) and included in these costs is the sum of £193,000 paid to Zolfo Cooper in relation to the Trustee's costs and disbursements. This comprises less than 3% of the amounts distributed to Trust Claimants from this Fund.

We will liaise with the EL Trust TAC in relation to obtaining approvals for the drawing of these amounts.

9.3 The Chester Street Fund

As with The EL Trust, the Chester Street Fund contains provisions for the allocation of certain costs specifically related to the operation of this fund. Costs have been allocated as per the Receipts and Payments Account (Appendix E) and included in these costs is the sum of £39,684 paid to Zolfo Cooper in relation to the Trustee's costs and disbursements.

These costs relate primarily to ongoing discussions with the Supervisors of the Chester Street Scheme of Arrangement.

## 10. Legislative Changes

In October 2008 the Government enacted the Child Maintenance and Other Payments Act 2008 (CMOP). The Act was intended to assist mesothelioma victims by making it possible to claim an early payment from the Department of Work and Pensions (DWP). Essentially the CMOP contains similar provisions to the Pneumonicosis etc (Workers' Compensation) Act 1979 (PWCA) but applies to any UK resident individual not just employees of asbestos manufacturing companies who have gone out of business.

However, one clause within the CMOP enables the DWP to reclaim payments made to asbestos victims under the CMOP or the PWCA from damages paid to the victim.

The inclusion of the PWCA within these provisions is extraordinarily onerous for T&N Asbestos victims and is a significant change from previous legislation. Prior to the passing of the CMOP many claimants were entitled to receive a payment under the PWCA and make a full claim against the Trust. Now the Trustee is obliged to deduct the PWCA payment from the claimant's entitlement. During the drafting phase of the legislation we maintained regular contact with the DWP. We made a number of points to them including the effect the Act would have on T&N Asbestos claimants. Although the DWP did take on board some of the technical points we made, the central applicability to T&N remained unchanged.

Once the Act came into effect it very quickly became apparent that the effects on claimants were significant. On average, relevant claimants were having approximately £9,000 deducted from their damages. For claimants who do not have the benefit of EL insurance (the majority of claimants) this averaged out at 50% of their entitlement. Between October 2008 and December 2008 the Trustees were obliged to deduct in excess of £250,000 from claimants' damages. This equated to 17.4% of the total due to claimants for this period.

In view of the seriousness of this situation we again approached the DWP. We also sought the assistance of members of the TAC, in particular the members from UNITE and

Thompsons. Through UNITE we were able to secure a meeting with Terry Rooney MP, the Chairman of the Parliamentary Select Committee on Work and Pensions. He agreed to champion our cause and together with UNITE arranged for us to meet with James Parnell, the Secretary of State for Work and Pensions and Lord Mackenzie the under Secretary with specific responsibility for asbestos matters. At the meeting our delegation, which was led by Terry Rooney, outlined why we believed the CMOP was grossly unfair to T&N Asbestos claimants. At the end of the meeting the Secretary of State agreed to reconsider the issue and indicated that he would get back to us a matter of urgency.

On 13 February 2009 the DWP issued a Press release announcing that they intended to enact a change to the CMOP, such that T&N Asbestos claimants would be exempt from the requirement to reimburse the DWP for PWCA benefits (unless the claimant is receiving full compensation). Clearly this was very good news and the Trustee must acknowledge the enormous assistance of UNITE and Thompsons in achieving this result. A copy of the press release is attached at Appendix G.

At the time of writing this report the DWP has not announced an implementation date or any interim arrangements. However as soon as these become available we will put details on our website.

## 11. Trust Funds Accounts

The Trustee has instructed independent auditors to prepare audited accounts for all Trust Fund accounts for the period from 11 October 2007 to 10 October 2008. The auditors have completed their field work. However we are not yet able to finalise the accounts due to certain presentational issues. We anticipate that the accounts will be finalised shortly and they will be circulated to the Trust Advisory Committee and posted on to our website.

### 11.1 Trust Claims Payments

A total of £13,105,508 has been paid out in respect of Trust Claims, split as follows:

| | Amount (£m) | % of total |
|---|---|---|
| Payments to Trust Claimants | 12.13 | 92.6 |
| Trust Claimants' Legal Fees | 0.83 | 6.3 |
| Trust Claimants' Medical Costs | 0.12 | 1.0 |
| Other | 0.02 | 0.1 |
| Total | 13.10 | 100.0 |

#### 11.1.1 Payments to Trust Claimants

This is the amount paid to Trust Claimants in respect of their Trust Claim.

#### 11.1.2 Legal Fees

This is the amount paid in actual legal fees and calculated on an individual claim basis, as per the Trust Distribution Procedures.

#### 11.1.3 Medical Costs

This is the amount paid in respect of the costs incurred by Trust Claimants or their representatives in providing medical evidence required under the Trust Distribution Procedures. This is again calculated on an individual claim basis as per the Trust Distribution Procedures.

## 12. Contact Details

Should you wish to discuss any aspect of this report or obtain further copies; the Trustee can be contacted at the following address:

The T&N Asbestos Trustee Company Limited
Suite 11b
Manchester International Office Centre
Styal Road
Manchester
M22 5WB

Telephone : 0161 838 4559
Fax : 0161 493 9488
Website : *To be confirmed*

The Trust has recently commissioned a review of the current website. As a result of this review the Trustee has concluded that it is appropriate to completely redesign the existing website. We anticipate that the new website will completely functional by Summer 2009. Attached at Appendix I, is a diagram showing the new website structure.

James Gleave
Chairman

## Appendix A - Claims Agreement Process

### Claim Submission and Review

All Trust Claims received are recorded on a bespoke claims management system specifically designed for claims against Trusts. The Trust Claims are reviewed by a team of former T&N Limited staff experienced in the types of claims being asserted against the Trusts.

The claims management database also retains copies of all documentation received by the Trustee in electronic format and links this to individual claims for ease of reference.

All claims are reviewed in line with the criteria detailed in the Trust Distribution Procedures ("TDP") and the claims management system incorporates these provisions to allow claim values and payments to be calculated consistently and accurately.

### Trustee Review

Periodic reports generated approximately every two weeks are forwarded to the Trustee for consideration of claims that are proposed to be admitted to The UK Asbestos Trust and/or The EL Trust. A summary of each claim is reviewed by the Trustee using the online aspect of the claims management database and additional information is reviewed as appropriate from the documents uploaded to the database.

All claims proposed for rejection from The UK Asbestos Trust and/or The EL Trust are discussed at the Trustee meeting with the third independent Director. These meetings are held every one to two months.

### Notice of Trustee's Decision on Trust Claims

All claimants are notified in writing of the decision in relation to their Trust Claim. Admitted claims are provided with a detailed breakdown of their claim valuation and payment calculation. The notification also contains details of any amounts the Trustee is obliged to deduct from the claimants entitlement and remit to the Department of Work and Pensions under the provisions of the Child Maintenance and Other Payments Act 2008. The notification is issued with a covering letter and detailed guidance notes explaining each aspect of the Admission Notice.

Rejected claims are issued with a formal letter advising of the rejection and providing a detailed explanation of the reasoning for this rejection. Common reasons for claims being rejected are detailed further in Section 2.3.4.

### Expert Referral Process

Trust Claimants have the right to refer any decision of the Trustee to the Expert for review provided they elect to do so in the specified 28 day timescale. The Trustee provides Trust Claimants with the relevant notice to allow them to refer their claim when they advise of admission or rejection of a Trust Claim.

The claims management database is updated to record any elections to have Trust Claims reviewed by the Expert and full details of the Trust Claim are passed to the Expert for review. The Expert may request further evidence in relation to a Trust Claim from both the Trustee and the Trust Claimant prior to making his decision regarding admission or rejection of a Trust Claim.

Notice of the Expert's decision will be issued to the Trust Claimant when the following batch of Admission or Rejection Notices are issued. In accordance with the terms of the CVAs, the Expert's decision is final and there is no further right of appeal.

## Payment

Trust Claims are eligible for an initial payment 28 days after an Admission Notice is received by the Trust Claimant, assuming a Notice of Referral to the Expert is not received. Claims admitted by the Expert are eligible for payment immediately as there is no further right of appeal.

The Trustee processes payments in batches approximately every two weeks.

## Appendix B - The 2008 Amending Deed (Draft)

# 2008 Amending Deed

## Amendments to the UK Asbestos Trust Distribution Procedures

Dated 21 May 2009

The T&N Asbestos Trustee Company Limited

## Contents

# 2008 Amending Deed

This Deed is made on the day of 2009 by The T&N Asbestos Trustee Company Limited ("the Trustees"), registered in England with company number 05548874, whose registered office is at 10 Fleet Place, London, EC4M 7RB.

**Recitals**

A The Trustees were appointed as the Trustees of this Trust by the terms of the Trust Deed dated 10 October 2006.

B The Trust Deed established the Trust to compensate persons holding Trust Claims in respect of T&N or any of the Companies alleging (a) Asbestos Exposure, and (b) that T&N or any of the Companies is liable in respect of Asbestos Disease caused by that exposure.

C Clause 19.1 of the Trust Deed provides that amendments may be made to the TDP (among other things) subject to ensuring that the Core Objective stated in Clause 1.3 of the TDP is maintained.

D The Trustees consider that it is necessary to make certain amendments to the TDP in furtherance of the Core Objective, set out further below.

**Now this Deed witnesses as follows:**

1 **Definitions and Interpretation**

1.1 This Deed shall be referred to as the "2008 Amending Deed".

1.2 In the case of inconsistency between this 2008 Amending Deed and the TDP, this 2008 Amending Deed shall prevail.

1.3 In this 2008 Amending Deed, unless the context otherwise requires or expressly provides:

(a) defined terms shall bear the meanings given in the Definitions and Interpretation Schedule;

(b) the interpretation provisions set out in the Definitions and Interpretation Schedule shall apply to the interpretation of this 2008 Amending Deed;

(c) references to the "2007 Amending Deed" refer to the deed entered into by the Trustees on 1 May 2008 which made certain amendments to the TDP.

## 2 Amendments

2.1 The amendments to the TDP set out in this 2008 Amending Deed shall have effect.

2.2 For ease of reference these amendments are shown in the version of the TDP comprising the substantive provisions (but not Schedule 4) attached to this 2008 Amending Deed as Appendix 1, with new text shown as underlined and deleted text shown as struck through. In addition, to avoid confusion with amendments made to the TDP by the 2007 Amending Deed, the amendments made by this 2008 Amending Deed are shown in red.

## 3 Product liability claims – post-1976 Asbestos Exposure

3.1 Clause 2.4.3 shall be amended to provide for the treatment of product liability claims arising from Asbestos Exposure that took place partially or entirely on or after 1 January 1976. The amended Clause 2.4.3 shall read as follows (with new text shown as underlined):

> "The following claims can only proceed by way of Individual Review:
>
> (a) Australian Asbestos PI Trust Claims,
>
> (b) Cape Trust Claims notified to the Trustees after the first anniversary of the Effective Date,
>
> (c) EL Asbestos Insured Trust Claims,
>
> (d) Indirect Asbestos Trust Claims, and
>
> (e) Chester Street Trust Claims (as to which see Section 4),
>
> (f) together with neighbourhood and clothing claims as defined in Clause 2.6.4A where the Asbestos Exposure took place entirely before 1 October 1965, and
>
> (g) product liability claims as defined in Clause 2.5.6 where:
>
> (i) the product liability claim is for Disease Levels I or II and the Asbestos Exposure took place entirely on or after 1 January 1976, or
>
> (ii) the product liability claim is for Disease Levels III, IV or V and more than 20 percent of the period of Asbestos Exposure took place on or after 1 January 1976,
>
> ~~can only proceed by way of Individual Review.~~"

3.2 A new Clause 2.5.4B shall be inserted in the following terms:

"As to product liability claims (as defined in Clause 2.5.6):

(a) For all Disease Levels, product liability claims where the Asbestos Exposure in question occurred entirely on or after 1 January 1976 shall proceed by way of Individual Review, in accordance with Clause 2.4.3.

(b) For Disease Level I and II cases where the Asbestos Exposure occurred entirely before 1 January 1976, or partly before and partly on or after 1 January 1976, the Trustees shall consider the Trust Claims in the normal way provided by Clauses 2.5.1 to 2.5.4.

(c) For Disease Level III, IV and V cases where the period of Asbestos Exposure began before 1 January 1976, if:

(i) it ended before 1 January 1976 or 20 per cent or less of the period of Asbestos Exposure took place on or after 1 January 1976, the Trustees shall consider the Trust Claims in the normal way provided by Clauses 2.5.1 to 2.5.4.

(ii) more than 20 per cent of the period of Asbestos Exposure took place on or after 1 January 1976, the Trust Claims shall proceed by way of Individual Review, as stated in Clause 2.4.3."

4 **Product liability claims – Expedited Review: discount for litigation risk**

4.1 The original wording of Clause 2.5.6 was deleted by clause 9 of the 2007 Amending Deed. New wording for Clause 2.5.6 shall provide for product liability claims as follows (with old text shown as struck through and new text shown as underlined):

" ~~Valuation of Established Claims: clothing and neighbourhood claims [DELETED]~~

Valuation of Established Claims: product liability claims

Where the Trustees determine that a UK Asbestos PI Trust Claim brought by or in respect of a person who suffered exposure to asbestos contained in product(s) manufactured by T&N or any relevant Company ("product liability claims") should be admitted as an Established Claim under the Expedited Review Process, the Trustees shall value the Established Claim as set out in Clause 2.5.5, and they shall then discount that value by one third to reflect litigation risk."

5 **Consequential changes in relation to Clause 2.5.6**

5.1 On account of the change set out in Clause 4 of this 2008 Amending Deed, the reference to Clause 2.5.6 in Clause 6.2.1 (a) shall be restored (having been deleted by clause 10 of the 2007 Amending Deed), so that the amended Clause 6.2.1 (a) reads (with restored text here shown as underlined):

> "Where the Established Claim is assessed by Expedited Review, the Trustees shall value it by the application of the Expedited Review Value for that five year period, subject to any discounts made pursuant to Clauses 2.5.6 and 2.5.7."

6 **Scottish claims – Expedited Review – Schedule 3 claims values**

6.1 Table 3 of Schedule 3 shall be amended to increase the Expedited Review values for Scottish claims. New wording for Table 3 of Schedule 3 shall provide as follows (with old text shown as struck through and new text shown as underlined):

> **Trust Claims concerning deceased Injured Persons which are made under the laws of Scotland where Asbestos Disease (Levels I, II or III) was causative of death**

| Disease Level | Expedited Review Value | Maximum Value |
|---|---|---|
| I Mesothelioma | £150,000 ~~£140,000~~ | £335,000 ~~£325,000~~ |
| II Lung Cancer | £120,000 ~~£110,000~~ | £285,000 ~~£275,000~~ |
| III Severe Asbestosis | £120,000 ~~£110,000~~ | £285,000 ~~£275,000~~ |

7 **Governing Law and disputes**

7.1 This 2008 Amending Deed is governed by and shall be interpreted in accordance with the laws of England and Wales.

7.2 Any disputes arising out of or in connection with this 2008 Amending Deed shall be subject to the exclusive jurisdiction of the High Court of Justice of England and Wales.

**Executed as a Deed by The T&N Trustee Company Limited and delivered on this**

21 day of May 2009

Executed as a deed by the
**T&N Asbestos Trustee Company Limited**
acting by two directors

.....

DIRECTOR
NAME :

.....

DIRECTOR
NAME :

## APPENDIX 1

## TRUST DISTRIBUTION PROCEDURES FOR THE UK ASBESTOS TRUST

# EL 2008 Amending Deed

## Amendments to the Trust Distribution Procedures relating to the EL Schemes

Dated 21 May 2009

The T&N Asbestos Trustee Company Limited

## Contents

# EL 2008 Amending Deed

This Deed is made on the day of 2009 by The T&N Asbestos Trustee Company Limited ("the Trustees"), registered in England with company number 05548874, whose registered office is at 10 Fleet Place, London, EC4M 7RB.

**Recitals**

A The Trustees were appointed as the Trustees of this Trust by the terms of the Trust Deed dated 23 November 2006.

B The Trust was set up to enable Established Claims of EL Claimants to be established, ascertained and paid from the Trust Fund in accordance with and subject to the provisions of the EL Schemes, the Trust Deed and the TDP.

C The Trustees consider that it is necessary to make certain amendments to the TDP in furtherance of the Core Objective and these amendments are set out further below.

D The Trust Committee has considered the proposed amendments in accordance with Clause 2.13.1 of the TDP.

**Now this Deed witnesses as follows:**

1 **Definitions and Interpretation**

1.1 This Deed shall be referred to as the "EL 2008 Amending Deed".

1.2 In the case of inconsistency between this EL 2008 Amending Deed and the TDP, this EL 2008 Amending Deed shall prevail.

1.3 In this EL 2008 Amending Deed, unless the context otherwise requires or expressly provides:

(a) defined terms shall bear the meanings given in the Definitions and Interpretation Schedule;

(b) the interpretation provisions set out in the Definitions and Interpretation Schedule shall apply to the interpretation of this EL 2008 Amending Deed;

(c) references to the "EL 2007 Amending Deed" refer to the deed entered into by the Trustees on 1 May 2008 which made certain amendments to the TDP.

## 2 Amendments

2.1 The amendments to the TDP set out in this EL 2008 Amending Deed shall have effect.

2.2 For ease of reference these amendments are shown in the version of the TDP comprising the substantive provisions attached to this EL 2008 Amending Deed as Appendix 1, with new text shown as underlined and deleted text shown as struck through. In addition, to avoid confusion with amendments made to the TDP by the EL 2007 Amending Deed, the amendments made by this EL 2008 Amending Deed are shown in red.

## 3 Scottish claims – Expedited Review – Schedule 3 claims values

3.1 Table 3 of Schedule 3 shall be amended to increase the Expedited Review values for Scottish claims. New wording for Table 3 of Schedule 3 shall provide as follows (with old text shown as struck through and new text shown as underlined):

**Deceased EL Claims made under the laws of Scotland Where Asbestos Disease Is Causative of Death**

| Disease Level | Expedited Review Value | Maximum Value |
|---|---|---|
| I Mesothelioma | £160,000 ~~£140,000~~ | £336,000 ~~£325,000~~ |
| II Lung Cancer | £120,000 ~~£110,000~~ | £285,000 ~~£275,000~~ |
| III Severe Asbestosis | £120,000 ~~£110,000~~ | £285,000 ~~£275,000~~ |

## 4 Governing Law and disputes

4.1 This EL 2008 Amending Deed is governed by and shall be interpreted in accordance with the laws of England and Wales.

4.2 Any disputes arising out of or in connection with this EL 2008 Amending Deed shall be subject to the exclusive jurisdiction of the High Court of Justice of England and Wales.

**Executed as a Deed by The T&N Trustee Company Limited and delivered on this**

21 day of May 2009

Executed as a deed by the
**T&N Asbestos Trustee Company Limited**
acting by two directors

.....

DIRECTOR
NAME :

.....

DIRECTOR
NAME :

## APPENDIX 1

## TRUST DISTRIBUTION PROCEDURES RELATING TO THE EL SCHEMES

## Appendix C - Letter to the Trust Advisory Committees

15 January 2009

Our ref: JJG/MCM/TN05
Your ref:

Letter to the Trust Advisory Committee

When telephoning please ask for:
Margaret McDougall

Direct Line:
0161 838 4531

Dear

**T&N UK Asbestos Trust & T&N EL Asbestos Trust**
**Consultation on Amendments to the TDPs for Product Liability Claims and The Schedule 3 Values for Scottish Claims**

## 1 Product liability claims

1.1 The Trustee has received a number of UK Asbestos PI Trust Claims where the Injured Person alleges that he has developed mesothelioma because he was exposed to asbestos contained in products manufactured by T&N or one of the other Companies. We refer to these claims as "product liability claims".

1.2 Product liability claims give rise to a variety of difficult issues, particularly the question of whether the Injured Person can prove causation - ie whether he can show on the balance of probabilities that he was exposed to products manufactured by T&N or one of the other Companies, rather than products manufactured by Cape Plc, for example. The Trustee has now started to receive product liability claims and accordingly has now concluded that clear guidelines are required.

1.3 In order to develop a clear response to the issues raised by product liability claims, and to consider the question of causation in more detail, the Trustee received advice from David Allan QC. David considered the following questions:

(a) Does the current wording of the TDP allow for product liability claims? Are they capable of constituting, for example, UK Asbestos PI Trust Claims, entitling the Injured Person to lodge a Proof of Claim with the Trustee?

(b) If not, and given the Core Objective of the TDP, should the TDP be amended to cover product liability claims?

(c) Should product liability claims be rejected because substantive evidence of Asbestos Exposure was generally inadequate?

(d) In relation to evidence of Asbestos Exposure, could David suggest any broad guidelines that the Trustee should bear in mind for product liability claims?

(e) If it is possible for product liability claims to be considered by the Trustee, would it be preferable to require them to proceed by Individual Review rather than Expedited Review?

(f) If the Trustee determines that they should admit a Trust Claim in respect of product liability as an Established Claim, should they consider applying a discount to reflect litigation risk? If so, what would be an appropriate discount figure?

(g) Alternatively should the Trustee consider creating matrices of Expedited Review Values and Maximum Values for product liability claims?

(h) Do the Trustee need new sections in the Proof of Claim form to deal with product liability claims?

1.4 In summary, David advised:

(i) He was not aware of any product liability claims regarding asbestos that have been subject to Court hearing in the UK. However, he is aware that a number of claims have been settled without a Court hearing.

(j) The words in the Presumptive Medical and Exposure Criteria at Schedule 1 that the Asbestos Exposure must have been "*caused by the activities of T&N*" are sufficiently wide to allow product liability claims to be admitted as Established Claims, in principle.

(k) Applying conventional principles, as far as causation is concerned, there has to be some evidence that an individual had significant exposure to T&N products.

(l) David considered three specific Trust Claims.[1] In all three cases he concluded that on the balance of probabilities the Injured Persons were exposed to asbestos dust from T&N products and that this exposure contributed to the risk of contracting mesothelioma.

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1 Important Note: please may we ask you to treat references to and discussion of these Trust Claims as strictly confidential.

(m) David considered three aspects of causation in detail: (i) evidence required of exposure to T&N products; (ii) whether such exposure made a material contribution to the risk of developing mesothelioma, and (iii) the relevance of warnings.

(i) Causation 1: David assumed that T&N's market share in products of the relevant type was substantial. He concluded "*That being the case, it is reasonable not to impose too heavy a burden on the standard of evidence to establish exposure to asbestos dust from a T&N product*". He could not suggest detailed guidelines because the circumstances of exposure will vary a great deal among the Trust Claims. We considered the possibility of developing guidelines at length and have rejected it as being impracticable.

(ii) Causation 2: David accepted Dr Rudd's view that the evidence shows that exposure to commercial chrysotile will increase the risk of developing mesothelioma. Exposure to the products described in the 3 cases would make a material contribution to the risk.

(iii) Causation 3: as to warnings, whether suitable warnings would have been sufficient is a difficult fact-specific issue. On Expedited Review, to take account of this risk, David suggested a discount of one third be applied to the gross value of Established Claims. On this basis, it would be appropriate to deal with such claims by Expedited Review.[2]

(iv) Causation 3 continued: If exposure was entirely after 1976 when warnings were displayed on T&N products (particularly "Big Six"), were the warnings adequate? David thought that this is a difficult question and suggested such cases are dealt with by Individual Review. (The adequacy of warnings is not featured in the Presumptive Medical and Exposure Criteria at Schedule 1. The appropriate solution is to place such product liability claims in the Individual Review Process where all the circumstances can be properly investigated.)

(n) David concluded that the Proof of Claim Form does not need to be amended specifically in relation to product liability issues.

---

2 The one third discount figure represents litigation risk for Trust Claimants arising from the strength of evidence that they were exposed to a T&N product. The figure represents an assessment of how substantial those difficulties are in the average case. Other figures have been considered with David – a 25% discount was thought to be too low, and a 50% discount would seem harsh.

1.5 David's advice with regard to mesothelioma claims was based on the fact that claims for mesothelioma are "non-divisible". In other words, liability for mesothelioma is not divided between defendants according to periods of employment. Instead, any employer who exposed the claimant to asbestos can be sued for the full value of the claim. Claims for lung cancer are treated in the same way. The importance of this for product liability claims is as follows. If part of a mesothelioma claimant's exposure took place before warnings were introduced in 1976, then the warnings will not be relevant to the claim. The defendant will be liable for the whole of the claim, regardless of the warnings, by virtue of the fact that some of the exposure occurred before the warnings were introduced. This is why:

(a) the warnings are only relevant to mesothelioma claims where all of the exposure took place on or after 1 January 1976 (see paragraph 1.4(m)(iv) above), such that only those claims need to proceed by Individual Review; and

(b) the warnings are irrelevant to mesothelioma claims where part of the exposure took place before 1 January 1976, such that those claims may proceed by Expedited Review.

1.6 This leaves the question of how to deal with claims for "divisible" diseases such as asbestosis. For these claims, the warnings will be an issue if any part of the exposure to asbestos took place on or after 1 January 1976. This means that the difficult questions surrounding the warnings could become relevant to a larger number of these claims, even where only a small part of the exposure took place on or after 1 January 1976. Processing all of these claims by Individual Review would increase the cost of the process. David Allan considered this and advised by telephone that it would be fair to deal with claims for divisible diseases as follows:

(a) where 20 per cent or less of the period of exposure occurred on or after 1 January 1976, the claim may proceed by Expedited Review; and

(b) where more than 20 per cent of the period of exposure occurred on or after 1 January 1976, the claim should proceed by Individual Review.

1.7 On the basis of his advice, we are proposing to amend the TDP by a 2008 Amending Deed to provide as follows:

(a) in respect of product liability claims for Disease Levels I and II (mesothelioma and lung cancer):

(i) where the Asbestos Exposure occurred entirely after 1 January 1976, the claim must proceed by way of Individual Review;

(ii) where the Asbestos Exposure occurred entirely before 1 January 1976, or partly before and partly on or after 1 January 1976, the claim may proceed in the usual way by Expedited Review;

(b) in respect of product liability claims for Disease Levels III, IV, and V (asbestosis, diffuse pleural thickening, and pleural disease not causing disability):

(i) where the Asbestos Exposure occurred entirely after 1 January 1976, the claim must proceed by way of Individual Review;

(ii) where the period of Asbestos Exposure began before 1 January 1976 and ended before 1 January 1976 or 20 per cent or less of the period of Asbestos Exposure took place on or after 1 January 1976, the claim may proceed in the usual way by Expedited Review;

(iii) where the period of Asbestos Exposure began before 1 January 1976 and more than 20 per cent of the period of Asbestos Exposure took place on or after 1 January 1976, the claim must proceed by way of Individual Review;

(c) in the Expedited Review process, the gross value of a product liability claim admitted as an Established Claim be discounted by one third to reflect litigation risk.

We suggest changing Clause 2.4.3, inserting a new clause 2.5.4B, inserting a new Clause 2.5.6, and making a consequential change to Clause 6.2.1 (a) to bring this into effect.

## 2 Scottish claims

2.1 We have also taken advice from Andrew Hajducki QC, a Scottish barrister, as to the treatment of Scottish claims and consulted with Frank Maguire, a member of the Trust Advisory Committees.

2.2 Andrew advised that the Family Law (Scotland) Act 2006 had, with effect from 4 May 2006, broadened the class of family members who could make claims under the Damages (Scotland) Act 1976 (paragraphs 3.3 to 3.8 and 3.32 of Andrew's note). This change is not reflected in the figures currently in Schedule 3 of the TDP and would have the effect of increasing them. Andrew also advised:

(a) that award values in the Scottish courts have increased by about 12% in the past two years or so; and

(b) that there is an apparent anomaly in the difference between the English Expedited Review values for mesothelioma and lung cancer (£20,000) and the difference between the equivalent Scottish values (£30,000).

2.3 The Trustee discussed Andrew's advice both with him and with David Allan QC, who had prepared the Schedule 3 figures. The Trustee considers that the figures in Schedule 3 pursuant to clause 8.1.1(b) of the TDP should be amended to take account of the effects of the Family Law (Scotland) Act 2006. This is because the TDP is, broadly, intended to reflect the law (Core Objective (a)) and the TDP does not, at present, reflect this particular law.

2.4 The Trustee does not consider that they should amend the figures in Schedule 3 to reflect general award "inflation" in the Scottish courts. This is because it would not be fair to increase the Scottish awards without also increasing English awards to reflect any "inflation" in the English courts. In addition, the Trustee considers that the proper time to review the Schedule 3 figures for award "inflation" is at the five yearly reviews that will be performed pursuant to clause 6.1 of the TDP.

2.5 Similarly, the Trustee does not consider that they should increase the Expedited Review value for Scottish lung cancer claims in order to narrow the differential between the Scottish values for mesothelioma and for lung cancer. The differential existed in the original version of the TDP and nothing has changed since then to justify narrowing the differential. However, the Trustee will consider the point again at the time of the five yearly review.

2.6 For these reasons, the Trustee proposes amending Schedule 3 of the TDP by a 2008 Amending Deed to take account of the effects of the Family Law (Scotland) Act 2006, but not to take account of award "inflation" or to narrow the differential between the Scottish Expedited Review values for mesothelioma and lung cancer. Following discussions with Andrew and David, the Trustee has concluded that the correct approach is to increase all of the values in Table 3 of Schedule 3 by £10,000.

## 3 The 2008 Amending Deed

3.1 We enclose a copy of the proposed 2008 Amending Deed which would implement these amendments. Please provide any comments on these issues to us in the course of the next two weeks. If we do not hear from you during this time, we will assume that you have no comments and would be happy for the 2008 Amending Deed to enter into force. This

accords with the approach that we adopted when we wrote to you in 2007 regarding the amendments contained in the 2007 Amending Deed.

3.2 Please let us know if you have any specific comments or questions or would like any further explanation of the changes that we propose to make in regard to this limited category of Trust Claims.

Yours sincerely

James Gleave
Director

Enc

**The T&N UK Asbestos Trust (T&N Asbestos Fund)** APPENDIX D
**Receipts and Payments Account for the Period 12 October 2007 to 11 October 2008 and Cumulative to 11 October 2008**

| | Period 12 October 2007 to 11 October 2008 | Cumulative 12 October 2006 to 11 October 2008 |
|---|---|---|
| **RECEIPTS** | | |
| CVA Asbestos Reserve | 0.00 | 33,000,000.00 |
| FM Friction Products Claims Contributions | 694,657.13 | 1,282,446.13 |
| EL Scheme Claim Contributions | 3,235,377.66 | 5,959,662.59 |
| J W Roberts Claim Contributions | 980.00 | 1,300.00 |
| TBA Industrial Products Claims Contributions | 956,807.92 | 1,330,607.67 |
| Federal-Mogul Bradford Claims Contributions | 0.00 | 14,515.00 |
| TBA Belting Co Claims Contributions | 10.00 | 15.00 |
| T&N Shelf 26 Claims Contributions | 6,060.00 | 7,080.00 |
| Washington Chemical Co Claims Contributions | 1,230.00 | 1,530.00 |
| Newalls Insulation Co Claims Contributions | 515.00 | 670.00 |
| FM Sealing Systems (Slough) Claim Contributions | 19,690.00 | 19,690.00 |
| FM Engineering Claim Contributions | 54,600.00 | 54,600.00 |
| Bank Interest Gross | 102,795.59 | 1,495,747.05 |
| Rebate on Management Fees - Black Rock | 6,546.45 | 6,546.45 |
| Charitable Donation | 0.00 | 100,000.00 |
| | 5,079,269.75 | 43,274,409.89 |
| **PAYMENTS** | | |
| Payments to Claimants | 7,165,837.00 | 12,130,664.00 |
| Claimants Legal Fees | 524,308.00 | 834,776.00 |
| Claimants Medical Fees | 86,449.00 | 116,728.00 |
| Claimants Issue Fees | 7,965.00 | 23,340.00 |
| Tax Deposit Bonds | 586,672.00 | 586,672.00 |
| Insurance | 9,450.00 | 9,450.00 |
| Bank Charges | 10.00 | 20.00 |
| Investment (Gain)/Loss on Revaluation | 2,760,035.31 | 1,608,857.86 |
| Legal & Medical Costs | 44,031.50 | 58,440.50 |
| Irrecoverable VAT | 10,155.94 | 10,155.94 |
| Trust Advisory Committee Expenses | 1,200.00 | 1,200.00 |
| | 11,196,113.75 | 15,380,304.30 |
| Balance | (6,116,844.00) | 27,894,105.59 |

**The T&N UK Asbestos Trust (Chester Street Fund)** APPENDIX E
**Receipts and Payments Account for the Period 12 October 2007 to 11 October 2008 and Cumulative to 11 October 2008**

| | Period 12 October 2007 to 11 October 2008 | Cumulative 12 October 2006 to 11 October 2008 |
|---|---|---|
| RECEIPTS | | |
| CVA Asbestos Reserve | 0.00 | 22,000,000.00 |
| Bank Interest Gross | 111,013.48 | 1,048,460.14 |
| Rebate on Management Fees - Black Rock | 4,479.64 | 4,479.64 |
| | 115,493.12 | 23,052,939.78 |
| PAYMENTS | | |
| Trustee Recharges - Travel & Subsistence | 0.00 | 636.60 |
| Trustee Fees | 29,463.00 | 39,683.50 |
| Committee Expenses | 1,153.00 | 1,153.00 |
| Legal Fees | 90,329.00 | 121,366.46 |
| Tax Deposit Bond | 391,115.00 | 391,115.00 |
| Investment (Gain) / Loss on Revaluation | 2,055,207.77 | 1,284,585.04 |
| Irrecoverable VAT | 28,489.59 | 28,489.59 |
| Bank Charges | 10.00 | 30.00 |
| | 2,595,767.36 | 1,867,059.19 |
| Balance | (2,480,274.24) | 21,185,880.59 |
| REPRESENTED BY: | | |
| Deposit Account | | 3,433.34 |
| GFD | | 665,723.75 |
| Black Rock | | 20,516,723.50 |
| | | 21,185,880.59 |

APPENDIX F

**The T&N EL Trust**
**Receipts and Payments Account for the Period 12 October 2007 to 11 October 2008 and Cumulative to 11 October 2008**

| | Period 12 October 2007 to 11 October 2008 | Cumulative 12 October 2006 to 11 October 2008 |
|---|---|---|
| RECEIPTS | | |
| Settlement with EL Insurers | 0.00 | 36,000,000.00 |
| Bank Interest Gross | 100,419.28 | 1,426,449.24 |
| Gross Interest - Escrow | 0.00 | 5,028,419.09 |
| EL Insurers - Contribution to Costs | 0.00 | 2,000,000.00 |
| Rebate on Management Fees - Black Rock | 6,546.45 | 6,546.45 |
| | 106,965.73 | 44,461,414.78 |
| PAYMENTS | | |
| Trustee's Fees | 128,392.50 | 193,000.50 |
| Trustee's Legal Fees | 14,817.30 | 21,768.41 |
| Committee Expenses | 600.00 | 600.00 |
| Tenmat - Record Search Fees | 117.50 | 117.50 |
| Contribution to T&N Legal Fees | 0.00 | 2,024,357.26 |
| Tax Deducted at Source | 0.00 | 1,005,683.82 |
| Additional Medical & Legal Fees | 1,263.00 | 4,819.00 |
| Issue Fees | 0.00 | 1,250.00 |
| Payments to Claimants | 3,233,188.63 | 5,952,187.63 |
| Indemnity Rights Dividend | 4,965,140.00 | 4,965,140.00 |
| Irrecoverable VAT | 38,273.07 | 38,273.07 |
| Tax Deposit Bond | 481,996.00 | 481,996.00 |
| Bank Charges | 31.47 | 81.46 |
| Investment (Gain)/Loss on revaluation | 2,758,840.83 | 1,607,663.38 |
| | 11,622,660.30 | 16,296,938.03 |
| Balance | (11,515,694.57) | 28,164,476.75 |
| REPRESENTED BY: | | |
| Deposit Account | | 468,632.96 |
| GFD | | 301,717.40 |
| Black Rock | | 27,394,126.39 |
| | | 28,164,476.75 |

**APPENDIX G – CMOP Press Release**

# NEWS RELEASE

DWP Department for Work and Pensions

Reference

Date: 13th February 2008

## TURNER AND NEWALL COMPENSATION ANNOUNCEMENT

Today the Government has announced its intention to allow a group of Turner and Newall (T&N) workers with asbestos related diseases to keep their full Government compensation alongside that paid by the company.

The Government currently recovers the lump-sum amounts paid out under the Pneumoconiosis etc (Workers' Compensation) Act 1979, to those who are suffering from asbestos-related diseases, if they also receive reduced T&N compensation[1].

However, the Government has decided to act so that those receiving only a fraction of their full compensation from T&N will no longer have their lump sum from the Government deducted.

**James Purnell, Secretary of State for Work and Pensions said:**
"It is important that these workers get all the help they can, which is why I have taken this decision. We have been in discussion with those representing the workers and have decided not to make deductions any more. This will mean that those people receiving only a fraction of their full compensation will not be penalised further.

"We will work up the details of how this will be achieved and implemented so that the changes can be brought into effect as soon as possible."

-END-

**Media Enquiries:** John Stevenson 0203 267 5126
**DWP Press Office:** 0203 267 5144
**Out of hours:** 07659 108 883
**Website:** www.dwp.gov.uk

APPENDIX H

## Most Common Errors and Omissions when Submitting Proof of Claim Forms

1. Appendix 3 - Specific Power of Attorney and Indemnity
   In many cases, Appendix 3 is either not being completed at all, or not being completed in full.

2. Grant of Probate
   Where the Trust Claim relates to a deceased Injured Person and the claim is likely to exceed £10,000 in the CVA and £5,000 in EL, a Grant of Probate must be provided. This particular omission can delay the establishment of a claim for several months.

3. Question 21
   Where the Trust Claim relates to a deceased Injured Person, and the claim is brought by the Injured Person's Personal Representative on behalf of their relatives or dependants, the Personal Representative must confirm that all reasonable enquires have been made to identify all the Injured Person's relatives or dependants who may have a Trust Claim by signing question 21.

4. Medical Evidence
   For each of the asbestos diseases, diagnosis must be by an accredited respiratory specialist. The only exception is in respect of mesothelioma claims where the Trust Claimant elects the expedited review procedure. In those cases, a death certificate will suffice.

   Where the disease is asbestosis or pleural thickening, the asbestos related disability must be expressed in percentage terms to enable the relevant review value to be applied.

5. Inland Revenue Schedule
   The Injured Person's Inland Revenue schedule must be provided.

6. Legal and Medical Costs
   Details of legal and medical costs must be provided when the Proof of Claim form is submitted.

7. Individual Review Claims
   Where the Trust Claimant has elected the individual review procedure, as much documentary evidence as possible should be provided to confirm the special damages claimed.

8. General
   Where Proof of Claim forms are completed manually, please ensure that the writing is legible.

# Website Structure

Appendix 1