

Health and Social Care Committee

HSC(4)–33–12 paper 6

Recovery of Medical Costs for Asbestos Diseases (Wales) Bill – Stage 1 consideration

To: Health and Social Care Committee
From: Legislation Office
Meeting date: 5 December 2012

Purpose

1. To invite the Committee to consider and agree its approach to and framework for Stage 1 scrutiny of the Recovery of Medical Costs for Asbestos Diseases (Wales) Bill ('the Bill').

Background

2. On 13 November 2012, the Business Committee agreed that the Bill should be referred to the Health and Social Care Committee ('the Committee'), with a reporting deadline of 8 March 2013.

3. On 3 December 2012, Mick Antoniw AM, the Member in Charge of the Bill, introduced the Bill and Explanatory Memorandum.

4. A paper outlining the purpose and provisions of the Bill has been provided separately.

Role of the Committee

5. The role of the Committee at Stage 1 is to *consider and report on the general principles of the Bill* (SO 26.10). There are no specific requirements in Standing Orders governing the way in which the Committee carries out this scrutiny. A suggested approach is set out below, along with a suggested framework within which the Committee will work.

6. Once the Committee has reported, there will be a Stage 1 debate in plenary for the Assembly to agree the general principles of the Bill.

If the general principles are agreed, Stage 2 of the process will involve the detailed consideration of the Bill by the Committee, including the disposal of amendments (Stage 2 is currently scheduled for the period 21 March – 10 May 2013).

Suggested framework

7. In considering its approach to scrutinising the general principles of the Bill at Stage 1 it is suggested that the Committee works within the following broad framework:

To consider:

- i. the need for the Bill, which will enable the Welsh Government on behalf of the NHS in Wales to recover the costs of medical treatment and care provided to patients in Wales who have sustained asbestos-related disease (Mesothelioma, Pleural Plaques, Pleural thickening, lung cancer and other associated diseases) and have achieved a civil settlement or judgment in or out of court from an employer or other body.
- ii. whether the Bill achieves its stated purposes;
- iii. the key provisions set out in the Bill and whether they are appropriate to deliver its stated purposes;
- iv. financial implications arising from the Bill;
- v. potential barriers to the implementation of the key provisions and whether the Bill takes account of them;
- vi. whether there are any unintended consequences arising from the Bill;
- vii. the views of stakeholders who will have to work with the new arrangements;
- viii. whether the Bill contains a reasonable balance between the powers on the face of the Bill and the powers conferred by Regulations.

Committee's approach to Stage 1 scrutiny

8. In line with the deadline set by the Business Committee, the Committee will need to complete its scrutiny of the Bill and lay its report no later than 8 March 2013.

9. The reporting deadline allows nine sitting weeks in which to undertake this work, although it is likely that it will have to be carried out alongside scrutiny of two other Bills as well as policy work agreed by the Committee. Time has been set aside during the Committee's meetings on 10, 16 and 24 January 2013 for scrutiny of witnesses and on 7 and 20 February to consider key issues and the Committee's draft report on the Bill.

10. The Committee has previously agreed the following general approach to scrutiny of legislation at stage 1:

- **General call for evidence**

Issue a general call for evidence, which would be notified to the Welsh media and published on the Assembly's website. The draft consultation letter and a list of the draft consultation questions are attached at **Annexe 1**.

- **Invite written submissions**

Invite written submissions from selected organisations and individuals. A suggested list of consultees is attached at **Annexe 2**.

- **Oral evidence**

Invite key stakeholders to give oral evidence at future meetings (alongside the consultation exercise). A provisional list of witnesses drawn from the relevant sectors is attached at **Annexe 3**. In addition, it is suggested that specific written information is requested in writing from two organisations, although it is not considered necessary to call these organisations as witnesses. (See **Annexe 4**)

- **Outreach**

Given the nature of the Bill, and that it mainly affects central government bodies and specific private interests, the use of the Assembly's Outreach Team to engage with a section of the general public to gauge views on the Bill is not recommended on this occasion.

11. The reporting deadline allows for a five-week consultation period, from 5 December 2012 to 10 January 2013. This should allow the Committee to consider whether to invite any additional witnesses to give evidence to the Committee in light of the written evidence received, although the timetable would be very tight.

12. The evidence gathered, both written and oral, will help inform the Committee's consideration of the Bill and its subsequent report.

13. For information, Standing Orders enable both the Finance Committee and the Constitutional and Legislative Affairs Committees to report on the relevant aspects of Bill.

Work Programme

14. A timetable for the Committee's Stage 1 consideration of the Bill is attached at Annexe 5.

Action

15. The Committee is invited to:

- agree the general framework within which it will work (as outlined in paragraph 7);
- agree its approach to Stage 1 scrutiny (as outlined in paragraphs 8 – 13);
- agree a 5 week consultation exercise, the consultation questions and list of consultees (Annexe 1 and Annexe 2);
- agree the provisional list of witnesses and those invited to provide specific written evidence (Annexes 3 and 4);
- Note the timetable for the Committee's Stage 1 consideration of the Bill (Annexe 5).

Y Pwyllgor Iechyd a Gwasanaethau Cymdeithasol
Health and Social Care Committee

Cynulliad
Cenedlaethol
Cymru
National
Assembly for
Wales



Bae Caerdydd / Cardiff Bay
Caerdydd / Cardiff
CF99 1NA

5 December 2012

Dear Sir/Madam

Consultation on the Recovery of Medical Costs for Asbestos Diseases (Wales) Bill

As part of its Stage 1 consideration, the Health and Social Care Committee is calling for evidence on the general principles of the Recovery of Medical Costs for Asbestos Diseases (Wales) Bill. To assist with its consideration, the Committee would welcome your views on this subject.

What is a Bill?

A Bill is a draft law. Once a Bill has been considered and passed by the Assembly and given Royal Assent by the Queen, it becomes an 'Act of the Assembly'.

There is a four stage process for the consideration of a Bill. Stage 1 involves consideration of the general principles of the Bill by a committee (which includes the taking of written and oral evidence from interested parties and stakeholders), and the agreement of those general principles by the Assembly.

What does this Bill seek to achieve?

The Explanatory Memorandum that accompanies the Bill states:

“The purpose of the Bill is to enable the Welsh Ministers to recover from a compensator (being a person by or on behalf of whom a compensation payment is made to or in respect of a victim of asbestos-related disease), certain costs incurred by the NHS in Wales in providing care and treatment to the victim of the asbestos-related disease.”

What is the committee’s role?

The role of the committee is to consider and report on the general principles of the Bill. In doing so, the Committee has agreed to work within the following framework:

To consider:

- i) the need for a Bill to enable the Welsh Government, on behalf of the NHS in Wales, to recover the costs of medical treatment and care provided to patients in Wales who have sustained asbestos-related disease (Mesothelioma, Pleural Plaques, Pleural thickening, lung cancer and other associated diseases) and have achieved a civil settlement or judgment in or out of court from an employer or other body;
- ii) whether the Bill achieves its stated purposes;
- iii) the key provisions set out in the Bill and whether they are appropriate to deliver its stated purposes;
- iv) the financial implications arising from the Bill;
- v) potential barriers to the implementation of the key provisions and whether the Bill takes account of them;
- vi) whether there are any unintended consequences arising from the Bill;
- vii) the views of stakeholders who will have to work with the new arrangements.
- viii) whether the Bill contains a reasonable balance between the powers on the face of the Bill and the powers conferred by Regulations.

Invitation to contribute to the inquiry

The Committee would like to invite you to submit written evidence to assist in its scrutiny of the Bill. In particular, we would welcome your views on the questions listed in Annexe 1.

If you wish to submit evidence, please send an electronic copy of your submission to <mailto:HSCCommittee@wales.gov.uk> and entitle the e-mail "Consultation – Recovery of Medical Costs for Asbestos Diseases (Wales) Bill."

Alternatively, you can write to:

Olga Lewis, Deputy Clerk
Legislation Office
National Assembly for Wales
Cardiff Bay, CF99 1NA.

Submissions should arrive by 10 January 2013. It may not be possible to take into account responses received after this date.

When preparing your submission, please keep the following in mind:

- your response should address the issues before the Committee. Please reference your response using the title applied above;
- the National Assembly normally makes responses to public consultation available for public scrutiny and they may also be seen and discussed by Assembly Members at Committee meetings. If you do not want your response or name published, it is important that you clearly specify this in your submission;
- please indicate whether you are responding on behalf of an organisation, or as an individual; and
- please indicate whether or not you would be prepared to give oral evidence to the Committee.

The Committee welcomes contributions in English and Welsh and will consider responses to the written consultation and hold oral evidence sessions during the spring term.

For your information, the Committee has invited submissions from those on the attached distribution list (see Annexe 3). The Committee would be

grateful if you could forward a copy of the letter to any individuals or organisations that are not included on this list, but might like to contribute to the inquiry. A copy of this letter has been placed on the National Assembly's website with an open invitation to submit views.

Disclosure of Information

It is normal practice for the National Assembly to publish evidence provided to a Committee. Consequently your response may appear in a report or in supplementary evidence to a report. The National Assembly will not publish information that it considers to be personal data.

In the event of a request for information submitted under UK legislation, it may be necessary to disclose the information that you provide. This may include information which has previously been removed by the National Assembly for publication purposes.

If you are providing any information, other than personal data, which you feel is not suitable for public disclosure, it is up to you to stipulate which parts should not be published and to provide a reasoned argument to support this. The National Assembly will take this into account when publishing information or responding to requests for information.

If you have any queries, please contact Steve George, Committee Clerk on 029 2089 8242 or Olga Lewis, Deputy Clerk on 029 2089 8154.

Yours faithfully

Mark Drakeford AM
Chair

Consultation Questions

General

1. Is there a need for a Bill to allow recovery of costs of NHS treatment for asbestos-related diseases in Wales? Please explain your answer.
2. Do you think the Bill, as drafted, delivers the stated objectives as set out in the Explanatory Memorandum? Please explain your answer.
3. Are the sections of the Bill appropriate in terms of introducing a regime to allow the recovery of costs of NHS treatment for asbestos-related diseases in Wales? If not, what changes need to be made to the Bill?
4. How will the Bill change what organisations do currently and what impact will such changes have, if any?
5. What are the potential barriers to implementing the provisions of the Bill (if any) and does the Bill take account of them?

Powers to make subordinate legislation

6. What are your views on powers in the Bill for Welsh Ministers to make subordinate legislation (i.e. statutory instruments, including regulations, orders and directions)?

In answering this question, you may wish to consider Section 5 of the Explanatory Memorandum, which contains a table summarising the powers delegated to Welsh Ministers in the Bill to make orders and regulations, etc.

Financial Implications

7. What are your views on the financial implications of the Bill?

In answering this question you may wish to consider Part 2 of the Explanatory Memorandum (the Regulatory Impact Assessment), which estimates the costs and benefits of implementation of the Bill.

Other comments

8. Are there any other comments you wish to make about specific sections of the Bill?

Suggested list of consultees

Local Authorities

Blaenau Gwent County Borough Council
Bridgend County Borough Council
Caerphilly County Borough Council
Cardiff Council
Carmarthenshire County Council
Ceredigion County Borough Council
City and County of Swansea
Conwy County Borough Council
Cyngor Sir Ynys Mon
Denbighshire County Council
Flintshire County Council
Gwynedd County Council
Merthyr Tydfil County Borough Council
Monmouthshire County Council
Neath Port Talbot County Borough Council
Newport City Council
Pembrokeshire County Council
Powys County Borough Council
Rhondda Cynon Taff County Borough Council
Torfaen County Borough Council
Vale of Glamorgan Council
Wrexham County Borough Council
Society of Local Authority Chief Executives

Voluntary Sector

Age Alliance Wales
Age Cymru
ARC Cymru
Better Government for Older People
Diverse Cymru
Contact the Elderly
Cruse Bereavement Care Cymru
The Civic Trust for Wales
Disability Wales
Independent Living Advocacy and Support Group Gwynedd (ILASGG)

National Old Age Pensioners Association In Wales
National Federation of women's institutes
Patients Association
Pensioners Forum Wales
Rethink
Wales Pensioners
Women's Royal Voluntary Service Cymru

Advisory Groups

Care and social Services Inspectorate Wales (CSSIW)
Care Council for Wales
Cancer Research UK
Citizens Advice Cymru
Civil Service Pensioners Alliance
Coalition on Charging Cymru
Consumer Focus Wales
Diverse Cymru
Equality and Human Rights Commission
National Voices
One Voice Wales
Opan Ageing Research Wales
RNIB Cymru
Action on Hearing Loss Cymru
UNISON Cymru
Wales Council for the Blind
Wales Council for the Deaf

Representative Organisations

Asbestos Awareness Cymru
Asbestos Victim Support Groups Forum
Aslef
Association of British Insurers
Association of Personal Injury Lawyers Wales
Association of Directors of Public Health
BMA Wales
British Lung Foundation Wales
Cardiff Business Club
Clydeside Action on Asbestos
Confederation of British Industry
Confederation of British Industry Wales

Confederation of Community Health Councils
FBU (Fire Brigade Union)
Faculty of Public Health
Forum of Insurance Lawyers
GMB (General Municipal and Boiler Makers Union)
Institute of Directors Wales
Law Society Wales
Macmillan Wales
Mari Curie
Mesothelioma UK
NASUWT Cymru
NUT Cymru
PCS Wales
Public Health Wales
RMT (National Union of Rail, Maritime and Transport)
Tenovus
UCATT Union Office
Unite Cymru, Regional Secretary, Andy Richards
Wales TUC
Welsh NHS Confederation

Government/Local Government

The Auditor General for Wales
Better Government for Older People
Older People's Commissioner for Wales
The Children's Commissioner for Wales
The Civic Trust for Wales
One Voice Wales
Public Service Ombudsman Wales
Wales Council for Voluntary Action
Welsh Local Government Association (WLGA)

Health/Public Health

Community Practitioners & Health Visitors Association
British Medical Association
Board of Community Health Councils in Wales
Chief Executives of NHS Trusts in Wales
General Medical Council Wales
General Practitioners' Committee Wales
Community Health Councils in Wales

Community Pharmacy Wales
Health Commission Wales
Healthcare Inspectorate Wales
Local Medical Committee
Royal College of General Practitioners
Royal College of Nursing Wales
Royal College of Physicians
Royal College of Surgeons
Royal Pharmaceutical Society of Great Britain
The Welsh NHS Confederation
Welsh National Board for Nursing, Midwifery and Health Visiting

Health Boards and NHS Trusts in Wales

Abertawe Bro Morgannwg University Health Board
Aneurin Bevan Health Board
Betsi Cadwaladr University Health Board
Cardiff and Vale University Health Board
Hywel Dda Health Board
Cwm Taf Health Board
Powys Local Health Board
Public Health Wales
Velindre NHS Trust
Welsh Ambulance Service NHS Trust

Fire Services

Mid and West Wales Fire and Rescue Service
North Wales Fire and Rescue Service
South Wales Fire and Rescue Service

Suggested persons/organisations to provide oral evidence to the Committee:

Member in Charge

- Mick Antoniw AM

Insurance Industry

- Association of British Insurers

Representatives of Employees* and Asbestos Victims

Panel Evidence Comprising:

- RMT
- GMB
- Asbestos Awareness and Support Cymru
- Asbestos Victims Support Groups' Forum UK

Representatives of Business

Panel Evidence Comprising:

- Federation of Small Businesses
- Confederation of British Industry

Medical professionals

Panel Evidence Comprising:

- British Lung Foundation
- Health Economist (Professor Ceri Phillips).

Legal professionals

Panel Evidence Comprising:

- Association of Personal Injury Lawyers
- Forum of Insurance lawyers
- Law Society

Minister for Health and Social Services

- Lesley Griffiths AM)

*Possible alternative Trade Union organisations to invite

UNISON Cymru

Unite Cymru

TUC Wales

Union of Construction, Allied Trades and Technicians (UCATT)

Suggested organisations to be asked to provide specific written evidence to the Committee:

Compensation Recovery Unit (UK Government Department for Work and Pensions)

- In respect of their willingness and ability to undertake the role envisaged by the Member in Charge in his Explanatory Memorandum.

Law Commission

- In respect of the ABI's interpretation, as quoted in correspondence relating to the Bill, that the Law Commission has previously advised against extending the NHS charges recovery scheme to include disease claims.

Draft Work Programme – provisional tbc

Date	
5 December 2013	11.10 – 12.10: Approach to Stage 1 Discussion
Christmas Recess	
10 January 2013	<p><u>AM</u></p> <p>09:00 – 10:00 Evidence from Mick Antoniw AM – Member in Charge</p> <p>10.00–10.15 – Discussion of Member in Charge’s evidence (private)</p> <p>10:15 – 11:00 Evidence Session 1 (Panel)</p> <p>11:00 – 11:45 Evidence Session 2 (Panel)</p>
16 January 2013	<p><u>AM</u></p> <p>09:00 – 10:00 Evidence Session 3 (ABI)</p> <p>10:00 – 10:45 Evidence Session 4 (Panel)</p> <p>10:45 – 12:30 Evidence Session 5 (Panel)</p>
24 January 2013	<p><u>AM</u></p> <p>Evidence Session 6 (Minister)</p> <p>Mick Antoniw AM – Member in Charge (60 Minutes)</p>
7 February 2013	<u>Private</u> consideration of (Key Issues Paper)
February Recess	
20 February 2013	<u>Private</u> consideration of draft report

27 February 2013	<u>Private</u> consideration of draft report (if not agreed on 20 February)