

Mr Lewis Macdonald MSP
Convener
Health and Sport Committee
Scottish Parliament
EDINBURGH
EH99 1SP



4 November 2020

Dear Convener,

Liability for NHS Charges (Treatment of Industrial Disease) (Scotland) Bill

Thank you once again for the opportunity to give evidence before the committee yesterday.

I mentioned during my evidence, that I had attempted to use the information contained within the Financial Memorandum to outline a cost benefit analysis of the Bill.

The elements that could benefit from having more information available are:

- the average exposure periods for different types of diseases
- the time period between exposure and when the injured person will (i) seek treatment for the disease and thereafter (ii) make a claim for compensation.

I have therefore, assigned a presumed average figure to the diseases considered most likely to arise in the short to medium future.

The recovery framework is designed to cover hospital charges as a daily rate for out-patient and in-patient treatment. (subject to a maximum cap) Some cases will require more hospital treatment than allowed for, whilst others will require no hospital treatment at all.

I have approached the % recovery to reflect the reductions written into the bill for contributory negligence and exposure that will have occurred before the Bill is passed – the latter being by far, the largest reduction factor, especially for diseases that may require more hospital treatment.

If you require anything further, then please do not hesitate to contact me.

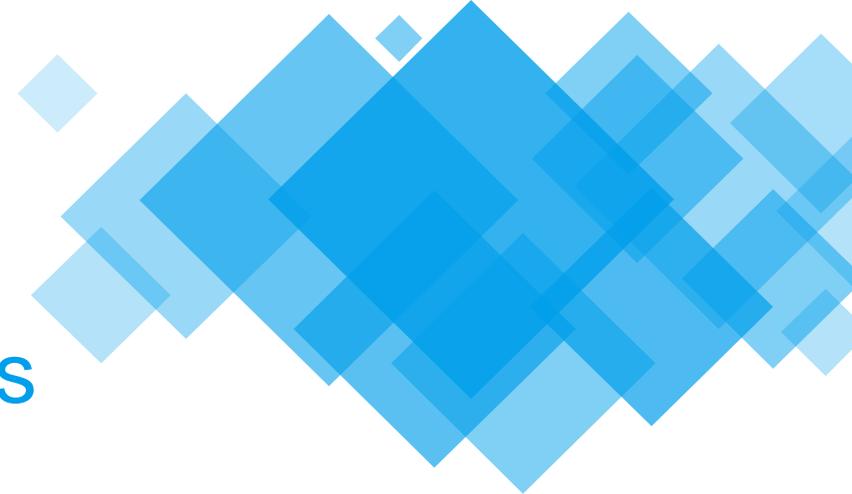
Yours sincerely,

Alan Rogerson
Chair
Forum of Scottish Claims Managers

Website: <http://www.fscm.org.uk>



Number of Cases and assumptions



Disease Category	Thompsons	All Cases (using Thompsons proportions)	Rate of Recovery (*allowing for pre-legislative exposure & contributory negligence - not co-morbid conditions, non solvent Defenders)					
	Average cases per year	Average cases per year	Full Recovery	50% Recovery	33% Recovery	25% Recovery	10% Recovery	5% Recovery
Asbestosis	119	148.75	These conditions are very unlikely to generate NHS charges for 20+ years because of the long period between exposure and symptoms					
Diffuse Pleural Thickening	38	47.5						
Mesothelioma	127	158.75						
Asthma	5	8.33	£13,800.00	£6,900.00	£4,600.00	£3,450.00	£1,380.00	£690.00
Skin Disease	6	10	£16,560.00	£8,280.00	£5,520.00	£4,140.00	£1,656.00	£828.00
Vibration White Finger	24	40	Noted in the Financial Memorandum as not requiring hospital treatment					
Strain injury (including Carpal Tunnel and Tenosynovitis)	48	80	£132,480.00	£66,240.00	£44,160.00	£33,120.00	£13,248.00	£6,624.00
Other diseases (including deafness, COPD, Pneumoconiosis)	6	10	Long period between exposure and symptoms					
Totals			£162,840.00	£81,420.00	£54,280.00	£40,710.00	£16,284.00	£8,142.00
	373	503.33	Section 2 of the Bill adjusts the NHS Charges to remove the proportion of the claim that occurred before the Bill came into force					
Assumption used per claim above is an average of			This is the NHS Charges apply on a Tariff based system with a cost per day whether out-patient or in-patient treatment up to a maximum cap:					
1 out-patient and 1 in-patient day @ 2020-21 rate = £1,656 (£743 + £913)			https://www.gov.uk/government/publications/compensation-recovery-unit-bulletins/recovery-of-nhs-charges-tariff-and-cap-increase-from-1-april-2020					
Total £1,656								

The % recovery columns are to try to forecast the percentage of NHS Charges that will be recoverable e.g.

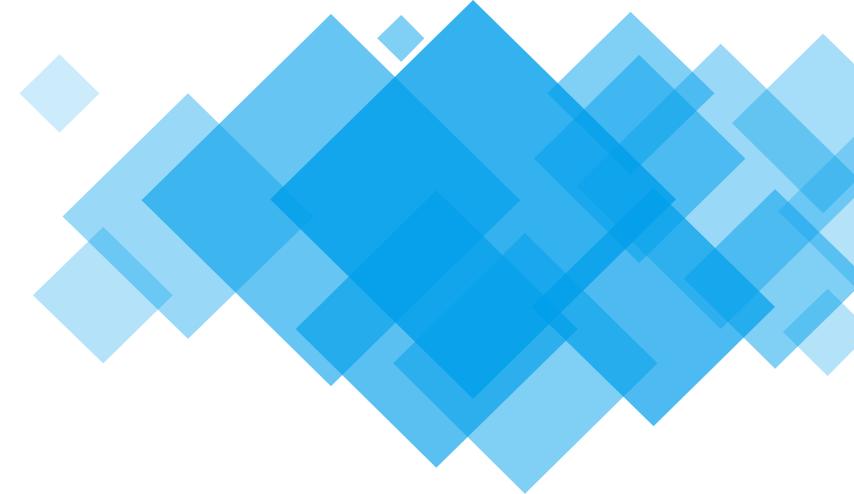
If there's 25% contributory negligence for not wearing PPE, then the starting point is 75% of the NHS are payable.

However, this needs to be adjusted for the exposure period.

If exposure happened over 10 years, with 9 years pre-dating the Bill and 1 year occurring after implementation, then the net recovery is 1/10th of 75% = 7.5%



Cost v Recovery – over 12 years



Year	Cost	Recovery
Year 1	£66,000	£0
Year 2	£66,000	£0
Year 3	£66,000	£0
Year 4	£66,000	£8,142
Year 5	£66,000	£8,142
Year 6	£66,000	£16,284
Year 7	£66,000	£16,284
Year 8	£66,000	£40,710
Year 9	£66,000	£40,710
Year 10	£66,000	£54,280
Year 11	£66,000	£54,280
Year 12	£66,000	£54,280
	£792,000	£293,112
		Shortfall

*also does not include any allowance for cases where the Defender will be Government, NHS or local authority