



Northern Ireland  
Assembly

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**COMMITTEE FOR  
FINANCE AND PERSONNEL**

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**OFFICIAL REPORT  
(Hansard)**

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**Consultation Responses on  
Pleural Plaques**

7 October 2009

**NORTHERN IRELAND ASSEMBLY**

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FINANCE AND PERSONNEL**

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**Members present for all or part of the proceedings:**

Mr Peter Weir (Deputy Chairperson)

Dr Stephen Farry

Mr Simon Hamilton

Mr Fra McCann

Mr Mitchel McLaughlin

Mr David McNarry

Mr Adrian McQuillan

Mr Declan O'Loan

Ms Dawn Purvis

**Witnesses:**

Ms Oswyn Paulin       )       Department of Finance and Personnel

Mrs Laura McPolin     )

**The Deputy Chairperson (Mr Weir):**

I welcome Oswyn Paulin from the departmental solicitor's office and Laura McPolin, legal policy adviser. There will be a Hansard report of this session. Please give the Committee a brief presentation on pleural plaques, and members will then ask questions.

**Mr Oswyn Paulin (Department of Finance and Personnel):**

I will update the Committee on what has happened since we were last here. Members will recall that pleural plaques are growths in the lung caused by exposure to asbestos. Under consideration are plaques that do not cause any symptoms.

On the last occasion I was here, I explained the background to the cases in the House of Lords, which established that an action in negligence could no longer be brought in respect of symptomless pleural plaques. I also set out the background to the Department's consultation exercise on the decision in the Johnston case, which was the House of Lords' decision that changed the law. At that stage, a preliminary read out of the consultation exercise had been prepared, and the Department was about to commence discussions on available policy options.

The corresponding consultation exercise in England and Wales concluded on 1 October 2008, but there had been no announcement on the way forward. Scotland had already decided to legislate to overturn the House of Lords' decision, and the Scottish Parliament were considering a Bill on the subject. That legislation, the Damages (Asbestos-related Conditions) (Scotland) Bill 2009, received Royal Assent on 17 April 2009, and the Act came into force on 17 June. It means that an action in negligence in respect of pleural plaques can now be brought in Scotland.

However, the new Act is the subject of a judicial review in the Scottish courts. The challenge was brought by several leading insurance companies, and I understand that actions relating to pleural plaques are being adjourned — the term “sisted” is used — in Scotland pending the outcome of the judicial review. Proceedings are due to come before the court again on 20 October, and four days have been set aside for the hearing. It is hoped that the parties will complete their final submissions during that time, and that judgement will be given shortly after.

Members may be aware that the UK Government stated that they would announce the outcome of the consultation in England and Wales prior to the summer recess. However, on 21 July, the Lord Chancellor and Secretary of State for Justice announced that the UK Government will give further consideration to compensation for people diagnosed with pleural plaques, and publish a final response to their consultation after the summer recess. The House of Commons is in recess until 12 October, and we are therefore looking to an announcement after that date.

I mentioned that discussions were to take place in the Department on the available policy options. At the conclusion of those discussions, Nigel Dodds, the then Minister of Finance and Personnel, announced that he would recommend a change to the law to allow those who have been negligently exposed to asbestos and have been diagnosed with pleural plaques to claim compensation. Since then, there has been a change of Minister, and Sammy Wilson has reflected

on the submissions made during the consultation exercise and post-consultation developments, and has decided to recommend a change to the law. The recommendation will be considered by the Executive in due course. In the meantime, the Minister has submitted the draft analysis of the responses to the consultation to the Committee for consideration.

Subject to direction from the Committee, I do not propose to rehearse the detail of the responses to the consultation exercise, which are set out in the draft analysis. Mrs McPolin and I will try to provide any further explanation required, or assist in any other way with the Committee's deliberations.

**The Deputy Chairperson:**

Thank you. The summary of responses is a very comprehensive document.

**Ms Purvis:**

Your submission states that the Minister's decision was taken through a sense of justice and fairness, as well as being in compliance with health and safety laws, and ensuring that employers comply with relevant legislation.

I have a number of questions about the timing. When will the recommendations be put to the Executive? Moreover, will the proposed change in legislation be retrospective? In other words, will it date back to the House of Lords' ruling on the Johnston case on 17 October 2007?

**Mr Paulin:**

When the proposals will be put to the Executive is very much in the Minister's hands. However, we have to work up legislative proposals and instruct legislative counsel. That has not yet happened. We need more detail about what form the policies in the legislation will take. Thereafter, it must fit in with the Executive's general legislative programme, and the Executive have to agree to it. Therefore, we are at an early stage.

Whether the legislation will be retrospective is a policy consideration that will have to be examined. It must be informed by the outcome in Scotland. The Scottish courts are close to reaching a decision, and the retrospective aspect will be important in deciding on the policy and approach of the legislation.

**Ms Purvis:**

The insurers claim that, given previous settled arrangements, the decision contravenes the European Convention on Human Rights. Will the outcome of the judicial review affect the drafting of the Bill?

**Mr Paulin:**

Given that a judgement is so close, it would be useful to await the decision before making a final policy decision on how to frame our Bill. However, if it becomes apparent that there will be a considerable delay, we will not suggest that the Minister waits until that decision is finalised. There is always a risk that, if either party is dissatisfied with the court's decision in the first instance, they could, ultimately, appeal to the House of Lords, or the Supreme Court as it is now known.

**Ms Purvis:**

This question is probably too hypothetical: however, if the outcome is that previously settled arrangements remain, is there another way to legislate for people who had sought to claim prior to the Johnston case but who were refused? Justice and fairness are supposed to be the heart of the matter, and people were able to claim compensation for almost 20 years before it was stopped. If the change in legislation is made within the next few years to allow people to claim again, some people will have been disallowed in the interim. To my mind, that is unfair and unjust. Will there be some way to look after those people?

**Mr Paulin:**

We could do so by making the legislation retrospective.

**Mrs Laura McPolin (Department of Finance and Personnel):**

Ms Purvis is asking what will happen if the decision in Scotland rules out the retrospective aspect; because there is always a possibility that it could be allowed but in a forward-looking manner. It is a difficult matter to assess at this stage. We will need to examine the detail of the judgement. However; if the court were to rule again on the retrospective aspect, that would be a critical consideration for us to take into account when determining the shape of the legislation in Northern Ireland.

**Mr McNarry:**

You are very welcome. This is a complicated and complex issue that affects many of my constituents in Strangford and, obviously, Dawn's constituents in East Belfast. Does the question of legal aid arise, so that people can have proper representation?

**Mr Paulin:**

If people meet the requirements, they will be entitled to legal aid to pursue their case, although there may have been some change in relation to legal aid and personal injuries; I am not entirely up to date with that. My whole practice has been against people who are using legal aid, so I do not know very much about the legal aid rules, and I do not know if there have been changes. I think that most people who have brought cases have been assisted by their trade unions. However, there may be people who do not fall into those categories.

**Mr McNarry:**

If you do not know the answer, will you find out for the Committee?

**Mrs McPolin:**

Certainly; part of the difficulty in relation to legal aid, as Mr Paulin said, is that there have been changes to the rules, and additional changes are being considered. At this stage, it is very difficult to predict what the legal aid rules will be at a particular point in the future. We can make enquiries as to current practice and report back to the Committee.

**Mr McNarry:**

That is fine. Some of my constituents feel that they are little boys fighting against big boys. They might need a bit more support. I have a few technical questions, which are partly due to my ignorance and not fully understanding the matter. In making pleural plaques a compensatable condition, what exactly is the compensation for?

**Mr Paulin:**

As I understand it, the House of Lords' decision was that pleural plaques do not amount to a personal injury. Although they represent a change to the lungs, pleural plaques are not classified as a personal injury because there are no symptoms. New legislation would make them a compensatable injury, saying that because something has changed in the body, it is an injury, even though there are no symptoms.

**Mr McNarry:**

Is that something new or is there precedent for making such a condition compensatable?

**Mr Paulin:**

I am not aware of any precedent, other than what has happened in Scotland, where the same issue is being dealt with.

**Mr McNarry:**

Is there any analysis of how the Department of Enterprise, Trade and Investment (DETI) might be exposed given that Harland and Wolff was in public ownership for a period of time?

**Mr Paulin:**

If the legislation is changed, there is no doubt that DETI will be exposed. As I understand it, there is also a problem concerning the insurance of Harland and Wolff. If pleural plaques are made compensatable, the public purse will be exposed.

**Mr McNarry:**

Is it too soon to quantify that?

**Mr Paulin:**

We do not have figures for that.

**The Deputy Chairperson:**

The problem is that there is an element of hypothesis in this. The Committee received a letter from the Association of British Insurers (ABI), suggesting that the cost to the public purse would be £10 million. I do not know whether you are in a position to comment on that, or whether that is a hypothetical situation.

**Mr Paulin:**

We are not really in a position to comment on that. As people do not have symptoms, they do not know that they have pleural plaques. It is only when someone goes for a chest x-ray for some other purpose that the radiologist will see the pleural plaques. The person will then work out how he or she could have got them. A group of people cannot be identified as having pleural plaques and we cannot establish what percentage of people will have them. Therefore, we cannot say who can claim. The level of damages is also now uncertain. It would be extremely difficult to

quantify what the exposure to DETI would be.

**Ms Purvis:**

I recall that when Sir Reg Empey was Minister of Enterprise, Trade and Investment, he was asked about asbestos-related diseases when Harland and Wolff was in public ownership and what the cost may be. His answer was given in a Hansard report.

**The Deputy Chairperson:**

Was that £10 million?

**Mr McNarry:**

It may be a hypothetical situation, but my constituents, who feel that they are involved in this, are asking searching questions, and I am trying to help them with some answers. I suppose that we are all hoping that we will get some answers.

**Mrs McPolin:**

I do not know where the ABI got the figure of £10 million; it may have been from its own knowledge within its remit. Having discussed the matter with colleagues in DETI, I understand that they were not consulted to provide any information to produce that figure.

Harland and Wolff, in its response to the consultation exercise, said that it felt that an actuarial report would be needed to determine its prospective liability. The figures cited previously may no longer be relevant. We must consider where we stand at any given point in time.

**Mr Paulin:**

Asbestos-related illnesses include much more than pleural plaques.

**Mr McNarry:**

Where did the impetus for the policy come from? It is a priority now; but, to many people, it has always been a priority. Is pressure being applied on this issue? Is it the case that people wanted the issue to go away and that it is not going away? You mentioned the judicial review that is under way in Scotland and that the Minister might be minded to move forward if that process is delayed. Where has the pressure come from?



**Mr Paulin:**

In November 2007, a decision was made in the House of Lords to change the law. The ruling was that something that the courts had been compensating for the past 20 years should not be compensated for. Immediately after that, those who were affected detrimentally by that decision raised concerns and wrote to Ministers, including the Minister of Finance and Personnel and almost every other Minister in the Executive. It often took a while for people to realise that, in Northern Ireland, the issue was the responsibility of the Department of Finance and Personnel.

In addition, a private Member's Bill was tabled at Westminster, and the Scottish Government decided to legislate. All of this contributed to the impetus of the issue. The Department of Finance and Personnel issued a consultation paper less than a year after the decision was made in the House of Lords.

There has been constant movement on the issue, and the Minister has received many letters from constituents about it. I do not know whether that has been organised, but I suspect that people who are in trade unions are taking advice and that that is contributing to the numbers who have raised concerns with Ministers.

**Mr O'Loan:**

The issue is obviously very important, and one can only have enormous sympathy when the serious effects of exposure to asbestos in the workplace are considered. Many people have died, and many others are living with serious, often terminal, illness. Their families are exposed to all of the anguish around that. One of many comments in the consultation report states:

"We were never at anytime warned or told of the dangers of asbestos, we were never given any safety clothing or masks. The owners of the shipyard never enlightened us at any time of the dangers of the illness we would suffer in later life."

Public policy must be soundly based and evidence-based. Therefore, I have many concerns about the fact that the previous Minister of Finance and Personnel gave his view that he would move to introduce legislation on the matter before the consultation report saw the light of day. I am also concerned that the current Minister of Finance and Personnel is expressing the view that he will move to legislation without having heard from the Committee.

It would be very wise to move with a degree of caution. First, we must consider all the evidence and what will make for good public policy. We should look at the outcomes from the

judicial review in Scotland and the final decisions on the matter in England and Wales.

My understanding is that the fundamental principle of compensation is that there should be actual loss or damage. Pleural plaques, to my knowledge, do not lead to any loss of lung function. Although the condition is absolute evidence of exposure to asbestos, it does not, of itself, make a sufferer more likely to develop symptoms of asbestosis than someone who worked in the same occupation and was exposed to asbestos. In the legal sense, there is no actual loss or damage against which compensation could be obtained, which was the basis of the Johnston case. What, therefore, is the legal basis for such legislation?

**Mr Paulin:**

First, the previous Minister made his statement after he received the results of the consultation.

**Mr O’Loan:**

The consultation paper had not seen the light of day: it is only coming to us now.

**Mr Paulin:**

As far as the legal basis for compensation is concerned, the Assembly can legislate to compensate anyone for anything. However, if we consider the philosophy behind the legislation, then one of the judges who was in the minority in the Court of Appeal — I think it was Lady Justice Smith — made an interesting remark. She said that most ordinary people would conclude that pleural plaques represented real harm to the body, which was neither trivial nor undeserving of compensation. That is one of a number of views.

Our law is fairly pragmatic. Today, people receive compensation for things that would not have been compensated for in the past. Legislation has intervened to change the basis of compensation in all sorts of ways, and we have got used to that. Therefore, in this case, the legislation would be just another example of that.

**Mr O’Loan:**

You referred to a 20-year period in which compensation was paid for the condition. I take it that the underlying legal principles for compensation were the same then as they are now. What was different then? Was there a different understanding of the medical implications of pleural plaques?

**Mr Paulin:**

Only a brave person would say that the legal framework has remained unchanged. The norm is to be compensated for damage, and the question here is whether something that changes your body amounts to damage to your body even though it does not interfere with its function. Some people might say that a growth under the skin of the arm that produces a lump is damage, and some might not. The decisions that led to compensation being awarded in the past were made in the lower courts: they were never challenged in higher courts, such as the House of Lords. That may have something to do with it, or it may be that attitudes have changed; attitudes change, even among judges.

**Dr Farry:**

I am a sceptic on the matter. I will pick up on the point that Declan made about actual damage: is there medical consensus that there are no symptoms arising from pleural plaques or are we talking about a majority/minority situation?

**Mr Paulin:**

There is consensus. However, I presume that a person could have so many pleural plaques in his or her lungs that the lung function is reduced, and there would be symptoms. However, we are talking about pleural plaques that do not produce symptoms. If there are symptoms, there is no doubt that a person could be compensated. It is not the case that this is a condition for which no compensation will ever be available. If a person has a condition that has no symptoms, he or she would not get compensation.

**Dr Farry:**

Therefore, the legal system works fine where there are symptoms resulting from pleural plaques; there is no problem with the system as it stands?

**Mr Paulin:**

That is my understanding.

**Dr Farry:**

So, are we seeking to legislate to provide compensation for a condition that causes no physical harm?

**Mr Paulin:**

I do not like to say this, but it depends on what is meant by physical harm. It is a physical change.

**Dr Farry:**

I appreciate the argument about the invasion of personal integrity. However, the loss that a person suffers as a result of his or her state of health is negligible.

**Mr Paulin:**

There should not be any change in a person's health; otherwise, he or she would be compensated under a different heading.

**Dr Farry:**

I see difficulties with this issue, and I appreciate that it is an emotive subject. It has the potential to open a hornets' nest of precedents. I presume that pleural plaques are a potential marker for wider problems, including asbestosis. However, it would comprise a subset of people who have pleural plaques, rather than everyone with pleural plaques.

**The Deputy Chairperson:**

Before you answer that, Declan wanted to make a point.

**Mr O'Loan:**

I am glad that Stephen qualified what he said. There are people who develop asbestosis or mesothelioma who do not exhibit pleural plaques, and there are people with pleural plaques who live long lives and die of other causes. People with pleural plaques cannot be regarded as having a pre-disposition to more serious conditions. Pleural plaques are absolute evidence of exposure to asbestos.

**Mr Paulin:**

Yes; a person could be exposed to asbestos and not have pleural plaques but have something much more serious. Conversely, one could be exposed to asbestos and have no ill effects.

**Dr Farry:**

Going back to precedents, would people be able to sue for over-exposure to passive smoking?

**Mr McNarry:**

Who would they sue?

**Mr Hamilton:**

They would sue you, David. *[Laughter.]*

**Mr McNarry:**

Get a grip of yourself. *[Laughter.]*

**Dr Farry:**

In a situation in which there is no evidence of physical harm, there would be the potential for compensation to be sought. However, there are people who have been exposed to danger and for whom the medical evidence shows that there is potential for harm. If a person could sue for exposure to passive smoking, the courts would be packed and insurers would be broke.

**Mr Paulin:**

We are proposing a legislative change, and the legislation will be specific to this condition. It will not, therefore, enunciate a wider principle that one does not need to have suffered damage to one's physical capacity in order to sue.

**The Deputy Chairperson:**

I am sorry for interrupting. If we go down the route of legislation to provide compensation, can we set tariffs? There are related arguments about whether there should be the right to sue in circumstances where a condition is symptomless but where there are effects on a person's body to be considered. One potential way around that would be to say that where bodily changes have occurred, compensation should be paid, but that there is also the realisation that because the condition is symptomless, the level of compensation should be quite low. Could tariffs be included in the legislation, or are they a matter for the courts?

**Mr Paulin**

In normal circumstances, it would be left to the courts to work out the damages; and, presumably,

those would be based on past awards. However, it is open to the legislature to set tariffs in legislation. This is an odd matter: it falls under law reform, and that is why it is with the Department of Finance and Personnel. However, there are also damages and the powers of the courts to be considered, which are, at present, a reserved matter. One assumes that the legislation would go through the Assembly, with the consent of the Secretary of State, and deal with what the courts should and should not do. It would be up to the Assembly to decide whether a tariff system should be included in the legislation. However, it would be anomalous in that we do not have tariffs in any other personal injury legislation.

**The Deputy Chairperson:**

I am not advocating tariffs as being a good or bad idea; I am checking whether there is the competence for them to be included. I can see that being offered, for instance, as a compromise at one level. If there were concerns about whether the legislation should go through, it would be one element in allaying some of those concerns.

**Mr Paulin:**

It would be subject to the Assembly's competence to legislate in relation to the powers of the court.

**The Deputy Chairperson:**

I understand that.

**Mr Paulin:**

I assume that that would be sorted out.

**Dr Farry:**

What is the scope of the judicial review that is taking place in Scotland? Could the Scottish courts, and, ultimately, the UK Supreme Court, strike down the legislation as being a breach of the European Convention on Human Rights?

**Mr Paulin:**

Yes, because it is devolved legislation.

**Dr Farry:**

If the courts were to strike down the legislation in its entirety, I assume that we would not proceed with the legislation here.

**Mr Paulin:**

We would not proceed with it, unless we thought that the Scottish courts were wrong and we thought that we had some way around their decision. That would be for Ministers to decide.

**Dr Farry:**

It would be a brave thing to do: especially if the legislation were struck down by the Supreme Court. Am I right in saying that the UK Government are minded against this?

**Mr Paulin:**

We do not know what they are minded to do; they are playing their cards close to their chests.

**Dr Farry:**

Have any other jurisdictions in the EU decided to make pleural plaques compensable?

**Mr Paulin:**

The jurisdiction that uses the system most similar to our system is the Republic of Ireland; it has our system of common law damages, and so on. I do not know the position there, but the rest of Europe does not compensate people for what we call general damages for pain and suffering. They compensate for financial loss. Therefore, this is not an issue in the rest of Europe.

**The Deputy Chairperson:**

Therefore, we are not comparing like for like.

**Dr Farry:**

Is there pain and suffering associated with having benign pleural plaques?

**Mr Paulin:**

We categorise it as general damages; and that, supposedly, is for pain and suffering. That is why the decision has been made.

**Dr Farry:**

What pain and suffering does the victim endure, apart from the notion of the invasion of his or her personal integrity?

**Mr Paulin:**

It has been argued that people who are X-rayed and become aware that they have pleural plaques, become worried that it will lead to something else. They are concerned about having pleural plaques.

**Dr Farry:**

Therefore, the impact is psychological.

**Mr Paulin:**

Yes.

**Dr Farry:**

That could be addressed through proper information, rather than legislation.

**Mr Paulin:**

That is true, but the reach is always a problem.

**Dr Farry:**

We will be setting a dangerous precedent, if, due to a misunderstanding about a suspected health issue, we legislate and almost confirm people's erroneous conceptions, rather than focus on public information.

**Ms Purvis:**

I am aware of a number of cases being pursued around employers' liability and negligence with regard to asbestos exposure. I want to pick up on Stephen's point.

Are you aware of any cases that are being pursued with the European Court of Human Rights regarding the breach of the right to bodily integrity? My question follows on from what Stephen said about there being a breach of bodily integrity and the harm being mental anguish. To use what is probably the wrong analogy: in cases of rape, bodily integrity has been breached and



there may not be any physical or physiological harm but there may be mental anguish for which people can receive compensation. Are you aware of any cases being pursued along those lines in the European Court in relation to pleural plaques?

**Mr Paulin:**

No.

**The Deputy Chairperson:**

Mitchel McLaughlin will be the final member to ask a question.

**Mr McLaughlin:**

As we have seen, the barristers have been feeding on this issue for quite a time. I am wondering whether we have been set up to consider the question of compensation. Clearly, there are anxiety-related issues that should be addressed. I also think that there is a significant impact on the employability of people who have been diagnosed with pleural plaques. To describe pleural plaques as symptomless is a bit of a misnomer, in so far as there is obviously anxiety that they may lead, as they do in some cases, to asbestos-related terminal disease. Employers will be very concerned about employing a person who has been diagnosed with pleural plaques because it may make them vulnerable to subsequent prosecution.

Rather than concentrating on the question of compensation at this stage, although I would like to come back to it, I would like us to examine the merits or demerits of having a register at the point of confirmed diagnosis of pleural plaques. That would be an opportunity to establish it for the record. In some instances, asbestosis or other diseases do not become manifest until some considerable time later; at which point it is difficult to produce evidence to sustain a damages claim. A register at the point of diagnosis would at least provide a reference point should there be subsequent health detriments that could be and, in my opinion, should be, actionable.

As regards damages, the system of tariffs that the Deputy Chairperson suggested could be considered either in the context of a physiological change that has occurred as a result of exposure, negligent or otherwise, to asbestos in employment. There will be degrees of anxiety; some people will be more susceptible, and others will find themselves virtually unemployable because of their medical record. That may not be the most significant compensation regime, but it may effectively be a passport for people and their families affected by the emergence of

asbestos-related diseases that has caused the death of a household's wage earner.

Is that informing our approach? Is employability being reflected? It is neither in the questions nor, as far as I can see, the responses. I wonder whether we are having a false fight — a bun fight — about damages. Compensation in relation to pleural plaques can be defined as being a consequence of exposure to asbestos that is not going to drive people out of business but provides some basis for those who have to pursue claims on the grounds of another person's death as a result of asbestos-related exposure.

**Mr Paulin:**

I will make two points in response to that. As I understand it, all employers are conscious of the dangers of asbestos, and any work with asbestos takes place under highly-controlled conditions. It should be the case that no one is sustaining injury as a result of exposure to asbestos. In addition, people who have developed pleural plaques will have that condition detailed on their medical record. Regarding your point that employers may refuse to employ people because of the risk; there should be no risk because there should be no further exposure to asbestos. Furthermore, it strikes me that if a person were told that by an employer, he would have good grounds for bringing proceedings against that employer. No employer should turn down anyone for employment because of a symptomless injury. A person who has pleural plaques is capable of doing whatever work is set him, all other things being equal. Therefore he should not be turned down for employment.

**Mr McLaughlin:**

Most councillors have stories about demolitions that were carried out in conditions that do not meet the strictly licensed and controlled circumstances that you have described. I know what the law says and the level of awareness of asbestosis, but we all know stories about buildings that were protected in one way or another and others that had asbestos content that were not dismantled or demolished in the licensed manner. In those circumstances, not just workers but people in the vicinity were clearly exposed.

**Mr McNarry:**

Are you saying that it is guaranteed that there is no exposure to asbestos?

**Mr Paulin:**

I am not saying that it is guaranteed, but my understanding of the health and safety legislation is that people should not be exposed to asbestos.

**Mr McNarry:**

Even those who remove asbestos for disposal?

**The Deputy Chairperson:**

There should be a proper level of protection.

**Mr Paulin**

There are huge protection masks.

**The Deputy Chairperson:**

If I understand you correctly, we should now have a closed list of sufferers of asbestosis and pleural plaques. There are no absolute guarantees and there may be some abuse of the system, but anyone who contracts those conditions now will be suffering at a very minimal level and will have contracted them as a result of complete disregard for the regulations in place. Is that correct?

**Mr McNarry:**

So, we are relying on the health and safety regulations?

**The Deputy Chairperson:**

There is now much greater knowledge and more action has been taken to prevent those conditions, but we can never be 100% sure that the regulations will be respected. It is always possible that someone will ignore them. However, the number of new cases arising should be very low, because there is better protection. We are therefore dealing with a wide range of people who have been damaged in the past.

**Mr McLaughlin:**

The issue is wider than that, and it is complex.

Let me cite the case of a well-known school that was demolished and has recently been

replaced. During preparation for the construction of the replacement building, it was discovered that a significant amount of asbestos had been used in the old building, which was built about 40 years ago. No one was aware of that at the time. Generations of schoolchildren, and people who are now in employment, were present during remedial works and alterations to the building which took place over the course of the school's history. They did not know that asbestos was there. Teachers and children were exposed. If any of the cohort of students from that school is diagnosed as having contracted pleural plaques, a historical connection with the school can be established. That has an effect, not just on the anxieties of the family and person involved, but also on the person's employability.

There may be no other employment-related circumstance of exposure to asbestos. However, there is a possibility that an individual will develop a terminal condition as a result of being exposed to asbestos during his or her school days. Therefore, the register is an inherent protection, and a good idea. I am not particularly concerned about the compensation issue, although I understand the argument. Compensation is a matter for judicial guidance and the tariff mechanism. If there is a progression to terminal disease, it might be very important to be able to make connections and references, because the time span involved can be 30 or 40 years or longer.

**The Deputy Chairperson:**

I will take that as a comment rather than a question.

**Mr McLaughlin:**

My point is that the register is a good idea.

**The Deputy Chairperson:**

I thank the officials for the evidence that they have given to the Committee today. It will inform our discussions and any action that we may take.