Cross Party Group on Asbestos
Date: 21st September 2016 - 17:30 to 19:30

Attendees:
Cenric Clement-Evans, NewLaw Solicitors (Secretary)
Cadan ap Tomos, British Lung Foundation
Tim Cox, NASUWT
Simon Ellis, Hugh James Solicitors
Philip Markam, UCU
Gareth Howells, Prospect
Elaine Edwards, UCAC
Jon Antoniazzi (on sabbatical from Tenovus)
Marie Hughes, Asbestos Victim Support Group Forum
Phillip Gower, Simpson Millar Solicitors
Kim Barrett Irwin Mitchell
Lowri Morgan NewLaw

CCE began the meeting by introducing himself and setting out the background to the Cross Party Group on Asbestos. The group has been reconstituted for the New Assembly but Nick Ramsay AM is no longer able to act as Chair. The purpose of the group is to provide a voice in Wales directed at politicians and the Government regarding asbestos issues in Wales.

1. Apologies for Absence:
Mike Payne GMB
Cerith Griffiths FBU
Simon Fleming FBU
Michael Imperato Watkins and Gunn
John Flanagan Merseyside Asbestos Victims Support Group
Joseph Carter BLF
Eamonn McDonough Thompsons Solicitors
Dominic MacAskill Unison
Glyn Conolly Unite
Joanne Barnes-Manning AASC
Julie Cook Wales TUC
Richard Attanoos Consultant Histopathologist
Rex Phillips NASUWT
Nick Blundle UCATT

2. Minutes of Meeting
The minutes from the previous meetings are available on the Welsh Assembly website. http://www.senedd.assembly.wales/mgOutsideBodyDetails.aspx?ID=396 CCE gave a brief overview of items covered in the previous meeting. Thanks were also offered for Nick Ramsay AM's work as Chair of the CPG

3. Jeff Parsons
CCE noted that Jeff Parsons had passed away in April 2016. Jeff was a solicitor from Llanelli and largely a one man band acting for asbestos victims. He was known as a thoroughly good man who dedicated his life to making a difference. CCE felt it important to recognise Jeff and all that he had done. CCE proceeded to read a tribute he had written for the Association of Personal Injury Lawyers newsletter.

"It is with great sadness that we learnt of the death of APIL member Jeffrey Parsons in April. For many of us in South Wales Jeff Parsons was synonymous with justice for those affected by asbestos. Jeff the quietly spoken man from Llanelli with a steely resolve (perhaps tinplated) was loved by clients and colleagues alike. He worked tirelessly on behalf of those clients, always with a keen sense of justice. He helped set up a victim support group in Wales and helped 100s of claimants and their families over a 35 year career. He was always available to chat through an issue and offer helpful advice. Jeff was a wonderful lawyer and a great campaigner, but most of all he was a friend to so many of us."

SE noted that Jeff was synonymous with asbestos work and was the leading authority in the area with a comprehensive knowledge of his subject. He was the best asbestos lawyer by far.

PG noted he was always someone you could depend on and make you look at things from a new angle, he will be sorely missed.

4. Appointment of Chair

The group was reminded that there must be Assembly Members from 3 different political parties as members.
The registered AMs were
Huw Irranca-Davies (Labour)
Dai Lloyd (Plaid Cymru)
Neil Hamilton (UKIP)
No AM's were in attendance. CCE indicated that Dawn Bowden (Labour) was prepared to stand for the position of Chair. CCE nominated DB and TC formally seconded the appointment. There were no further nominations from the room and DB was agreed as the new chair. CCE will notify DB of the appointment. GH noted she was recovering from surgery which is why she had not been able to attend this evening.

5. Asbestos in Schools Update

CCE gave an update on the AIS campaign. Eluned Parrott AM had made a freedom of information request revealing that a Working Group on Asbestos had been set up on behalf of the Minister for Education and Skills and had met in June 2015 and on 25th January 2016. Members of the Group included representatives from Welsh Government, NHS Wales, Public Health Wales and the HSE.

CCE advised that he had been calling via inter alia the Petitions Committee for a steering group on asbestos in Wales similar to the Department for Education (DfE) Asbestos in Schools Steering Group with representation from trade unions, asbestos consultants and other bodies. Reference was made to the minutes which are attached and which it was agreed should be circulated to the Cross Party Group..

TC took the view that the group should mirror the DfE group in terms of composition and that it should not be confined to government bodies. The present composition should be challenged. Victim support groups and parent organisations should also be represented. There is currently a lack of transparency and openness. CCE suggested that a letter be sent on behalf of the group setting out our position.

(At this point Jon Antoniazzi (on sabbatical from Tenovus) stepped into the room to explain that he was now a Committee Clerk for the National Assembly for Wales. He wished remain in contact and offered his assistance if needed).

PM asked whether the asbestos in schools group were a pressure group. CCE advised it wasn't a pressure group. He explained the DfE had set up a steering group as a result of the lobbying of pressure groups. Trade union representatives would rotate in their attendance at the group. JCCE outlined the constituent members of the Joint Union Asbestos Committee

EE asked whether this applied to schools in England only. CCE advised that JUAC campaigns with regards to schools and colleges throughout the UK but with an inevitable focus on schools and colleges in England. CCE has highlighted the issue in Wales.

CCE noted the Welsh Government Group is wholly unlike the DofE steering group, and suggested that merely keeping a watch on the steps being taken in England was insufficient. The existence of the group was positive but it needed to be open, transparent and have more diverse representation. The argument given by Welsh Government was that health and safety was not a devolved matter and therefore not its responsibility.

TC asked CCE to circulate copies of the documents to the group. He agreed that the group should voice its concerns and ask that the Welsh Government expands the group to include other stakeholders.

EE noted that whilst health and safety is not devolved, employment is an immediate issue. No employer should be able to wash their hands of the responsibility they owe their employees. ??

CCE agreed indicating that if the trade unions can come together with one voice Welsh government may listen.

TC noted it was nonsense for the Welsh Government to say it was not responsible for the condition of schools in Wales. The Welsh Assembly published its programme for government yesterday and noted it would invest £2m in schools and education by 2024 with capital funding for refurbishment. They must prioritise school which contain the highest exposure to asbestos. The Welsh Government and local authority own the buildings. It is nonsensical to say they can wash their hands of the problem.

CAM noted the legal responsibility here lies with the local authorities. The Welsh Government doesn't have legal responsibility and as such can't fund it. That's not to say they shouldn't be helping the entity that bears the legal duty - they have a moral obligation to act.

TC said the Welsh Government fund local government and local government are answerable to the Welsh Assembly.

GH stated first we need to look for wider representation on the asbestos working group and then look at the rest. If there is an England/Wales dimension the first step is to get a level playing field, then work from there to get the argument across.

CCE updated on the extent to which the Petitions Committee had considered the asbestos in schools petition.

PM asked whether the campaign represented those who work in colleges and universities as all talk had been around schools. CCE explained JUAC does campaign in respect of both schools and colleges.

TC noted that it comes back to the issue of responsibility. Most of these organisations are self running entities but they still have to go back to the Welsh Government for the final sign off on rebuilding and refurbishments bids in schools and colleges. He cannot see how they can say it's not their responsibility. In England the asbestos in schools group were dealt with under the DfE and Education Funding Agency but colleges came under the Department of Business, Innovations and Skills and SFA. They were under a different government department, although he thinks they may now be back under one house again.

EE referred to the published programme of funding and the 21st century schools fund. She noted any proposals should look at asbestos removal and prioritise schools most at risk. This should be something that the Welsh Government takes into consideration as part of the biding process.

TC said that property data surveys in England's are carried out by DfE. At the start they didn't include asbestos even though the surveys are used as a base for funding, asbestos isn't included in the calculations. Condition surveys are the responsibility of the local authority but it does fit in to the bidding process. The local authority decides their priorities.

EE noted that surveys are carried out in England. Health and safety is not a devolved area, these are UK wide rules. If the DfE does have a document for England why can't we have one in Wales? This is something that could be done. EE noted there is a duty of care for health issues.

CCE said that at the evidence session to the Petitions Committee in October 2015 he had referred to the email of Mike Green Df EChair of the Asbestos in Schools Steering Group which might be summarise as their being happy to help Wales but their remit was schools in England only. PM noted the H&S Act and Regulations are strong pieces of legislation.

TC noted that all agree this is a problem but what's the first step. Removing all asbestos is not feasible, we need a plan on how to go about it e.g. you prioritise around asbestos in the programme

of new building. That becomes the first priority. Getting into the group to help set the agenda is key. We need a step by step approach.

CCE summarised that there appeared to be a mandate from the group to seek trade union representation at the Welsh Government asbestos in schools working party.

GH noted that there is a TUC council next month and Julia can feed this back to the TUC general secretary calling for representation for the trade union.

6. Update from the Forum

CCE introduced MH from the Asbestos Victim Support Group Forum. (A copy of her briefing note has been attached)

MH explained they deal with a collection of victim support groups who work together. They approach it from a national perspective. She lost her husband to mesothelioma in 2005. He was a head teacher and had worked in steel works in the mid 60s. He was fit and healthy for 30 years but then found he had been exposed to asbestos fibres. There was no support group in Wales at that time. MH works with the Manchester group.
She referred to the meeting of the Forum on the 20th September. The Forum and the Manchester Group are headed by Graham Dring.

In the GMAVSG (Greater Manchester Asbestos Victims Support Group) there are 3 members of staff employed to help victims, 1 support group is run for people who have lost someone to mesothelioma and 1 group is for sufferers of asbestos related diseases (ARDs). This group is very keen to push forward the concerns of asbestos in schools. Schools build prior to the 1990s were expected to carry out an asbestos survey and a management plan. Anyone coming to school should have access to that information. The responsibility is on the local authority or the head teacher, the local authority is responsible but the duty holder is the head teacher. Head teachers are educators not building experts.

She highlighted from their meeting Companies House proposals to destroy company records that are older than 6 years, and to review destroying them after just 2 years. She stressed that it can already be difficult to track an employer due to company name changes and the existence of numerous insurers. The Forum are taking issue with the proposals and considering calling for a judicial review and press attention.

Another issue is obtaining HMRC employment histories. Mesothelioma victims should be provided with their employment schedule within 3-4 weeks but for other cases it is taking 13-14 months. These delays are a real risk to securing justice. There's a 3 year time limit for bringing a claim but people don't always seek assistance immediately as their priority is dealing with their condition. The Forum has asked Ian Lavery MP (Chair of the All Party Parliamentary Group) to write to HMRC

MH noted another issue related to the construction conglomerates Yuanda in China. This has been an issue in Australia, one company was responsible for the construction of a children's hospital and installed asbestos in the ceiling. The company was importing asbestos despite it being a banned product in Australia. The same company has 15 building projects lined up in the UK, although none in Wales. The company is saying they will ensure no asbestos is imported.

MH noted that there was no support group available to her when her husband was diagnosed but the support the charitable institutions now give victims and their families is marvellous. She noted that mesothelioma patients in Wales don't get the option of a referral to support groups but they do in England.(This is an issue she advised that is being raised by Joanne Barnes-Mannings (Asbestos Awareness and Support Cymru) This means they are missing out on important advice and support. In England support groups have developed close relations with hospitals. They can either pass on the details of support groups to patients or obtain the patient's permission for the support group to contact them directly. It is important to act early. Her husband was told he had 3 months to live, he survived for 18 but others do die quickly after diagnosis. They need help. The support groups offer a benefit advice service giving help with IIDB forms, representation at

appeals and continuing advice. They also offer home visits, although that would be difficult in Wales due to the geography. Manchester, Liverpool and Cheshire groups have said they would help Wales. The groups don't refer people to solicitors but they do give out a list of suggested solicitors. She would like to see a similar system in Wales. The service level varies in different parts of England as you need the hospitals on board. Perhaps the group could help with an initiative to get hospitals in Wales involved in a similar scheme. The first step would be giving leaflets out to patients. Asbestos in schools is about avoidance but this is a service for those who've already been exposed.

PG noted he was aware that patients in England are better informed than those in Wales. The same assistance should be given to patients in Wales at source.

MH noted that some Trusts in Wales have general support workers so maybe hospitals would be worried about treading on toes but this is a very specialist area where they could complement each other.

CCE referred to his discussion with Graham Dring about the great work that AASC was doing but that their resources were limited and that more of these groups are needed including in North Wales. CCE also noted the need for services through the medium of Welsh as many Welsh speakers would feel much more comfortable speaking in their first language. MH is herself a Welsh speaker

The issue of greater support and parity of services across Wales was one that could be raised with the politicians. CCE referred to a recent client in a rural area of Wales who had been very critical of the local services, this led him to register with a London GP as he was so angry. This is far from ideal.

CCE referred to a Scottish initiative from the Clydemore Group which was noted in the Scottish Evening Times and had the involvement of the First Minister. He read a quote from the article. http://www.eveningtimes.co.uk/news/14746203.Doctors_to_be_given_more_training_to_spot_the_signs_of_asbestos_related_conditions_faster/Is there something similar in Wales? It would be easy to do.

MH noted that sometimes the GP has never seen asbestos exposure before. Nobody asked her husband about exposure to asbestos until much later and it wasn't until that question was asked that his diagnosis became apparent. By now there is good knowledge regarding heavy industry workers but what about workplaces?

CCE noted having sign posting is really important. This is something that can be referred to when writing to the Minister.

MH said people out there known about mesothelioma in industrial workers but others have contracted the condition simply by washing clothes, or by children sitting on the knee of a parent. She referred to "mesowarrior" Mavis Nye on Twitter as @grandmamavis who is 7 years on from a diagnosis of mesothelioma and has taken part in a trial which has shrunk her tumour. This is remission of the condition not a cure but it is very positive.

7. Future Programme for the Group

- **a. Asbestos Awareness in Wales**
- **b. Prevention**
- **c. Treatment**
- **d. Research**

CCE noted a lot can be covered by the group; but it must not be just a talking shop. We need to engage with politicians. He noted Joseph Carter had recommended a research project in Cardiff involving Dr Tabby and Dr Attanoos who are keen to promote fast track mesothelioma claims in Wales in order to speed up the process. CCE referred to an APIL talk in London dealing with lessons learnt from immunotherapy treatment which was all London centric. £5m had been given

to the Imperial College of London to carry out the research and he is anxious that people in Wales would also benefit from these research projects.

MH noted the investment, announced in the last Budget had been financed from the fund created by the fines paid in light of the Libor scandal. Re the various medical trials, the research is heavily weighted to the South while many victims of heavy industry were exposed in the North of the UK. Access should be made equal to all.

CCE noted we need access for Wales to these programmes; it should be on the Welsh Government agenda. He noted that Joseph had asked for a future generation's project to raise awareness and help promote raising money. There is an opportunity to become an important group and to do better than the all party group. We need to be ambitious and make politicians ambitious. He suggested putting together an Asbestos in Schools booklet, based on the APPG publication but adapted to Wales. He noted that Hugh Robertson of the TUC approved of this initiative.

TC noted there should be terms of reference for the group. What are the rules of the CPG? CCE noted minutes should be submitted within 4 weeks and there are finance rules but we don't have any finances. We can now seek guidance from DM's office.

CCE asked about the amount of meetings that should be held. We need enough meetings to maintain momentum but not so much that people find them hard to commit to. He suggested 3-4 meetings per year. He noted this is an all Wales group but it is more practical to conduct meetings in South Wales.

PG noted more meeting rather than less would be preferable in order to keep up momentum.

CAM noted fewer meetings would mean AMs would be more likely to get involved as something they can commit to without too much difficulty.

This led to a discussion as to AM attendance and the other commitments that they had. The discussion also included the importance or otherwise of their presence and how this affected how the group functioned and potential outcomes. It was agreed that we wanted to maintain momentum and meet regularly but want the chair and the other AM's. This is matter to be raised with DB.

MH suggested producing a briefing note so AM's know whether the meeting is relevant to their constituency.

EE noted it's about getting the message across and making sure the meeting is in the AM's diaries with details of what will be discussed.

CCE noted perhaps all members of the group could contact their own AM to generate interest. He noted an email remainder is sent to all AM's.

CAM advised it depends on how organised the AM staff are.

8. Any other business

MH thanked the group for inviting her to the meeting. CCE thanked her for attending and noted the group's gratitude for the Forum's interest in the CPG.

9. Dates of Next Meeting(s)

No dates set for the next meeting as this will need to be discussed with the Chair.

Companies House proposals to destroy records of dissolved companies

- Proposals are to destroy records older than 6 years. Currently these are retained for at least 20 years, and older in some cases (these are often saved in the archives).
- These records are important for asbestos victims, whose employers have often ceased trading, seeking to identify the correct name of their employers, and from this information, the insurers on cover at the time. For example, these records will contain information about any company name changes, subsidiaries and parent companies, as well as identifying the correct name of any employer (victim may remember the company as being called something different than its official name).
- The Forum has written to Companies House, Secretary of State for Business, Energy and Industrial Strategy opposing the proposals because of the impact this would have on asbestos victims seeking compensation. We have also written to the Secretary of State for Work & Pensions because of the possible impact of extra claims being made on the Diffuse Mesothelioma Payments Scheme (DMPS) if more people are unable to trace former employers/insurers.
- We will be asking the Chair of the All Party Parliamentary Group on Occupational Safety & Health Asbestos Sub-Committee, Ian Lavery to raise this matter in Parliament, either by a Parliamentary Question or other suitable vehicle. It will be on the agenda for discussion at the next APPG meeting on 1 November.
- Companies House and the Department for Business, Energy and Industrial Strategy have replied stating no decisions will be made until there is proper consideration and indicated there will be some form of consultation.
- The Forum will not be waiting for the decision. We will be looking into all options for opposing these proposals, including Judicial Review, lobbying of MPs, contacting the Information Commissioner and publicity in the press.

HMRC delays in providing work histories

- Solicitors need accurate work histories provided by HMRC as proof of employment. This information is necessary for the same reasons as above. Asbestos diseases develop many years after exposure and victims cannot always remember all their employers, or the correct names of their employers, or the correct dates when they worked for them. Solicitors need this proof to identify which employer and/or insurer may be liable to pay compensation for asbestos exposure.
- Employment history records, based on records of National Insurance contributions, are held by HMRC. However, any records before 1997 (which would apply to virtually all records needed in asbestos cases because of the long disease latency period) are stored on old technology (microfiche). It is very labour intensive retrieving this information, HMRC do not have enough staff, microfiche machines are often breaking down and it is virtually impossible to get replacement parts.
- The above situation has led to unacceptable delays in HMRC providing victims' representatives with their employment records. Whereas living mesothelioma cases are fast-tracked and usually sent within 3-4 weeks, other cases (posthumous mesothelioma cases, lung cancer, asbestosis and diffuse mesothelioma cases) are typically taking 13-14 months to arrive.
- These delays are a real risk to asbestos victims securing justice. They have 3 years from being informed of their diagnosis in which to lodge a claim in court. Not all victims seek legal advice straight away, which reduces the time left. After the victim/solicitor receives the work history they then have to start further investigations (e.g. clarifying with the victim employers they had forgotten, dates they had misremembered, obtaining evidence of exposure and witnesses, tracing the insurer if the employer has ceased trading etc). The worst case scenario is a claim being timed out. But even if in time, it is unacceptable for seriously ill victims of asbestos diseases to have to wait an additional 13-14 months because HMRC have not dedicated enough resources to sorting this problem out.
- The Forum has written to the HMRC to complain about these delays, as have other organisations. We have also asked Ian Lavery MP (Chair of the APPG) to write to the HMRC to complain. The Chair of the Treasury Select Committee has also written to the Chair of the HMRC criticising their performance on this issue and instructing them to sort matters out.

- We need to keep the pressure up – any influence AMs from the Welsh Assembly can bring to bear on the HMRC on this issue would be greatly appreciated.

Yuanda

- Yuanda are a giant construction conglomerate based in China. They have won contracts for many major construction projects in other countries.
- Yuanda (Australia) have been caught and prosecuted for importing asbestos cement products into Australia for building projects, including a project to build a childrens' hospital in Perth. Asbestos has been banned in Australia since 2004. All this company's imports are now being impounded and checked by Australian customs authorities. A further batch of asbestos cement materials has been impounded since the first transgression after checks were made.
- Yuanda (Europe) are working on about 15 building projects in the UK, we think all in England (I will check for Wales Marie).
- The Forum, along with the International Ban Asbestos Network, Hazards Campaign and others have written to Yuanda asking for assurances they are not importing asbestos-containing materials (ACMs) into this country. They have assured us they are not but we are not just accepting their word for it.
- We have made a formal complaint to the HSE and sent them all the relevant information about this company. HSE has recently announced that they have agreed to set up a formal investigation into this company's building projects to ensure no asbestos-containing materials are being used or imported.
- This issue highlights the fact that just banning asbestos legally is not enough. The ban needs to be policed and enforced to ensure that ACMs are not slipping in through the back door (unchecked at ports, sold on the internet etc). This requires the matter to be taken seriously and resources allocated so the necessary checks can be made).