



Q(h)ubeka Trust Annual Report for the Year Ended 28 February 2017

Background

The Q(h)ubeka Trust was established in March 2016 in a legal settlement between attorneys representing ex AngloGold Ashanti mineworkers, Leigh Day & Company and Mbuyisa Neale Attorneys, and Anglo American South Africa Limited (AASA) and AngloGold Ashanti Limited (AGA). It was the first trust of its kind established in South Africa to compensate mineworkers who have contracted silicosis as a result of gold mining activities.

The Trust was registered by the Master of the High Court on 22 April 2016.

As per clause 4 of the Trust Deed, the primary object of the Trust is to:

Provide compensation to Qualifying Claimants and Dependant Claimants in respect of Silica Related Diseases (SRD) on the basis set out in this Deed and in any event thoroughly, efficiently and reliably using personnel of expertise, skill and integrity.

In order to qualify for compensation the claimant must have worked at a Qualifying Operation (defined as those shafts/operations set out in Annexure A to the Trust Deed), for at least two years in aggregate (referred to as Qualifying Service), and have an SRD as defined in the Trust Deed.

It is a short term duration trust established to assess the claims of 4365 claimants, which include deceased claimants.

As per Clause 15 of the Trust Deed the Trust:

Shall endure for a period of 3 years following the expiry of the Qualifying Claims Period unless otherwise terminated by the Trustees earlier, or extended by the Trustees by written agreement with the Settlers.

The “Qualifying Claims Period” is the period within which Qualifying Claimants must have personally attended the medical testing facility for medical assessment and evaluation, and Qualifying Dependants must have lodged a claim with the Trust. The period is 3 years from the date of the Trust’s registration with the Master of the High Court.

Establishing the Claims Process

In order to give effect to the primary objective the Trustees set up a network of medical service providers around South Africa and neighbouring states, where claimants were resident, to conduct the requisite medical tests to assess whether they had a SRD. The objective of using local service providers was to be as close to the claimants as possible. Using local service providers has also contributed to capacity building and the further development of skills in the diagnosis of occupational lung diseases. Part of the capacity building initiative also included upskilling service providers in performing lung functions tests under the experienced guidance and supervision of the Trust’s Occupational Health Nurse.

Independent panels of occupational health specialists and radiologists, known as the Consultative Occupational Medical Panel (COMP), were set up in Cape Town, Johannesburg and Durban to assess the medical records and arrive at a medical outcome in accordance with the criteria and compensation categories contained in the Trust Deed. These panels are coordinated by the Trust’s Medical Consultant. The experience, expertise and skill of the COMP members, along with the Trust staff in the various offices, has greatly contributed to the claims assessment process.

Parallel to setting up the network of medical service providers and specialist panels, the Trustees set up a network of offices to assist claimants to lodge their applications with the Trust, thereby ensuring the accessibility of the claims process. This interaction with claimants has been a key focus of Trustees who continue to make efforts to improve communication with claimants. Part of improving communication and service has comprised training staff to understand the sometimes complex Trust Deed requirements.

A bespoke claims management system (referred to as CIMS) was developed to track and manage the progress of claims through the various stages in the claims process, and implemented.

An important step in setting up the Trust was the appointment of an actuary to draw up an award schedule within the parameters set out by the Trust Deed. Awards will be paid in two tranches, the rationale being that the Trustees do not know how many claimants will eventually qualify to receive compensation and their medical diagnosis. This will only become known after all claimants have been assessed. The first payment represents 50 to 60 percent of the final payment to the claimants. The second payment will be informed by an actuarial assessment that will be carried out after all claims have been processed and claimants medically assessed.

Setting up the necessary systems to process claims in compliance with the Trust Deed has not been without its challenges, some of which the Trustees continue to grapple with.

The medical process was more complex and more difficult than initially envisaged. It must be noted that this is the first trust to deal with the compensation of silicosis that is using an international standard in this manner. The amount of TB (in the Southern African context) that is found on the chest x-rays of ex mineworkers made it essential that there was a robust standardised process in place.

Other challenges have included reaching out to and servicing largely rural-based claimants (contact details for a significant number of claimants are no longer valid and we have had to embark upon extensive tracing programmes to find claimants); the confirmation of qualifying service remains a challenge that the Trustees are addressing; and the implementation of a biometric verification process where banks in rural areas themselves are not geared to perform biometric verification prior to payment of the claim.

Medical Assessment of Claimants

The compensable medical categories are set out in Clause 17.1 of the Trust Deed and defined as follows:

C1 : Silicotic, no impairment, with no pulmonary TB or massive fibrosis.

C2 : Silicotic, mild impairment - able to meet physical demands of most jobs, or no impairment with pulmonary TB or no impairment with massive fibrosis.

C3 : Silicotic, moderate impairment - diminished ability to meet physical demands of many jobs.

C4 : Silicotic, severe impairment – unable to meet physical demands of most jobs.

Where claimants have no Silica Related Disease the Trustees have assigned the category C0 to these claims.

Medical screening of claimants commenced in the Eastern Cape in mid-2016, followed shortly thereafter by the start of screening in the Free State. The Trustees took the decision to move ahead with the medical assessments irrespective of whether a claimant had qualifying service as confirmation was being sought. Waiting to receive confirmation would have resulted in further delays which would have impacted on the ability of Trustees to process claims within the Claims Qualifying Period of 3 years.

As of 28 February 2017 1292 claimants had been referred to local medical service providers for the requisite medical examinations of which 739 were medically assessed by COMP as follows:

Category	C0	C1	C2	C3	C4	TOTAL
Number	268	96	243	88	44	739

COMP readings did not necessarily result in claims that were ready for payment as, in addition to confirmation of qualifying service, the medical standardisation and verification processes had still to be finalised.

Claims Paid and Pending Payment

As of 28 February 2017, 103 beneficiaries had been paid a total of R10.1million with a further 132 beneficiaries pending payment, awaiting confirmation of bank account details and biometric verification, totalling R14.6million.

A breakdown of the payments by category appears below.

Payments By Category as at 28 February 2017		
Category	Claimants	Amounts
C1	35	R 1,670,499.00
C2	42	R 4,540,636.00
C3	16	R 2,184,710.00
C4	10	R 1,715,457.00
Grand Total	103	R 10,111,302.00

Status of Claims Post Year End

As at 22 August 2017, 16 months since the registration of the Trust with the Master of the High Court, 2241 claimants had been referred for medical screening and, or, medically screened. These include claimants from Gauteng and the neighbouring states of Swaziland and Lesotho.

Of the claimants referred for medical screening 1708 had completed the medical and administrative assessment processes. Of these, 864 were not eligible for compensation (of which 822 were certified as C0s), 803 had been paid or were pending payment and 41 were awaiting confirmation of qualifying service before they could be processed for payment.

The remainder of claimants referred for medical screening were at various stages in the medical assessment pipeline. The medical assessment pipeline includes claimants that have been referred to a doctor but have yet to attend the appointment; claimants that have attended the appointment and the medical records are *en route* to the Trust; medical records that have been received by the Trust and are undergoing quality control assessments and, or, being referred to COMP for assessment; medical examinations that must be repeated due to quality-related issues and claimants who have been referred for further medical investigations and whose medical assessment cannot therefore be finalised.

As of 22 August 2017, 627 beneficiaries had been paid a total of R66.8 million as follows:

Payments as at 22 August 2017		
Months	Number	Sum of Award
April 2016 - February 2017	103	R 10,111,302.00
March - August 2017	524	R 56,725,859.00
Grand Total	627	R 66,837,161.00

Payments By Category as at 22 August 2017		
Category	Claimants	Amounts
C1	124	R 5,906,778.00
C2	322	R 34,702,556.00
C3	127	R 17,056,940.00
C4	54	R 9,170,887.00
Grand Total	627	R 66,837,161.00

The sum of R66.8million represents around R110million of the funds committed to beneficiaries as per current actuarial calculations.

A further 176 claims were pending payment, awaiting confirmation of bank account details and biometric verification, totalling R18.9 million.

The assessment of dependant claims (approximately 520) underwent a successful pilot process which is being finalised. The absence of a medical examination and medical records for a large number of deceased claimants has added a layer of complexity to and delayed the process. Field staff continue to work with the families of deceased claimants to obtain relevant medical records. Trustees have considered all possibilities to confirm silicosis, including verbal autopsy.

Conclusion

The Trustees are grateful for the very important and valuable contribution made by the COMP members, Medical Consultant, services providers and our staff for their hard work, diligence and dedication. The patience and understanding of our claimants, as we have grappled with the implementation of the Trust Deed and rolled out the claims process, has been humbling. We continue to strive to improve the efficiency of the claims assessment process and the experience of our claimants.

The Trustees appreciate the good working relationship with Richard Meeran, Zanele Mbuyisa, Cindy Chater of AGA and Michael Murray of AASA, and wish to thank them for their continued assistance and support.

Dr SK Kisting-Cairncross

Chairperson

22 August 2017