



## **Q(h)ubeka Trust Combined Report inclusive of Annual Report for the Year Ended 28 February 2023 and period 1 March 2023 to final AGM 5 July 2023.**

This is our report at the final AGM of the Q(h)ubeka Trust. It is just over seven years since the Trust was registered with the Master of the High Court and became operational. We are grateful to so many who have walked this journey with us. We are indeed fortunate to have had countless people in southern Africa working alongside us to arrive at that common ground that can be so elusive and yet essential in our collective quest for a better humanity. Today is therefore a celebration of the good that is harboured within our collective efforts towards a measure of redress and social justice for workers sick from preventable occupational diseases.

As will be detailed further on in this report, by the date of closing, the Trustees had paid R421,789,144 to 2,280 beneficiaries. This represents 99,2% of the total amount due to 2,301 beneficiaries.

The remaining 0,8% is due to the dependants of 37 claimants, 16 of whom have received their first tranche of payment. Families still need to supply legal proof that they are the heirs of the original mineworker claimants. This money, amounting to R3,503,660, has been set aside for the families to claim – as soon as they have all the necessary official documents from the Department of Home Affairs and the Courts.

Qhubeka means 'go forward' in isiXhosa.

Our name was chosen as a way of recognising, and honouring, the thousands of men and their families – our claimants – who have struggled for decades with the debilitating effects of silicosis and the ever-associated Tuberculosis from their work in South Africa's gold mines. The Trust is responsible for ensuring that all eligible claimants receive the compensation due to them in accordance with the Trust Deed.

### **Background**

The Q(h)ubeka Trust was established in March 2016 in a legal settlement between attorneys representing ex mineworkers, Richard Meeran of Leigh Day & Company in the United Kingdom and Zanele Mbuyisa of Mbuyisa Neale Attorneys, and Anglo American South Africa Limited (AASA) and AngloGold Ashanti Limited (AGA). The lawsuit centred on the premise that the mining companies were aware of the dangers of silica related diseases to their mineworkers, but took no effective action to protect those workers from the disease.

### **In order to qualify for compensation a Qualifying Claimant must have:**

1. Worked at a Qualifying Operation (defined as those shafts/operations set out in Annexure A to the Trust Deed);
2. For at least two years in aggregate (referred to as Qualifying Service); and,
3. Been diagnosed with a silica related disease as defined in the Trust Deed

In addition, a Qualifying Claimant must have established that he had Qualifying Service within the Qualifying Claims Period. The Trust Deed provided a limited period of 3 years from the date of registration of the Trust with the Master of the High Court (22 April 2016), 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 – referred to as the “Qualifying Claims Period”.

The Trust was established to process the claims of a closed list of 4,365 named claimants, primarily resident in the Eastern Cape, Free State, Lesotho and Eswatini.

### **Governance Structure**

The Board of Trustees comprise four trustees with specialist skills in occupational medicine, finance, law and trust administration. The trustees are responsible for ensuring that the work of the Trust fully complies with the objectives and obligations in the Trust Deed so that benefits to eligible claimants, are paid in the amounts and upon the terms set out.

The Trustees are supported by a management team comprising the Trust Manager, Medical Consultant, Medical Clinical Coordinator and Medical Field Coordinator.

The Board meets at least four times a year or as otherwise required, to deliberate on issues of policy, strategy, finance, compliance and other Trust and claims administration related matters.

### **Setting Up the Claims Process**

In order to give effect to the primary object a network of offices and service providers was established to assist claimants to lodge their claims with the Trust, and otherwise undertake the necessary steps to determine whether they were eligible for compensation as provided for in the Trust Deed. Trustees commenced setting up the claims process shortly after the establishment of the Trust in March 2016 by visiting some claimants in the Eastern Cape and subsequently in Lesotho and Welkom. The first medical assessments were conducted in Mthatha, Eastern Cape, on 10 July 2016. Trustees visited various medical facilities to ensure that they would be capable of servicing the needs of claimants.

The entire claims process was free to the claimant, including transport to attend the medical examinations as well as sustenance in the form of meals provided by local service providers after the medicals, or should claimants have to sleep over for completion of medical tests and referrals.

Trustees established offices in Mthatha, Flagstaff, Welkom, Johannesburg, Cape Town and Maseru to service claimants, who were located within a wide radius of these locations. Staff, many of whom had previously worked with claimants during the legal case and settlement process, received ongoing training on the Trust Deed, protocols and standard operating procedures established by the Trustees.

The Johannesburg office, whilst servicing claimants resident in Gauteng, North West and Swaziland, also served as the Head Office where the trust administrative functions were located. The Cape Town office functioned primarily as the Central Medical Office, which managed the medical programme but also serviced claimants resident in and around the Western Cape. Through outreach programmes the Trust extended its reach beyond the immediate areas of the offices and were able to reach out to claimants

resident in distant rural and remote areas of South Africa and Lesotho. This increased the Trust's visible presence. This visible presence and communication with claimants were augmented by the establishment of a PLEASE CALL ME number serviced by Claims Administrators fluent in the various languages spoken by claimants.

Trustees set up a network of accredited 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 silica related disease as defined in the Trust Deed. This involved a detailed occupational history from the claimant and the tests, which consisted of a clinical examination, lung function test and chest x-rays. Additional medical examinations such as sputum tests and CT scans were carried out where required by the medical specialists to determine the presence of a silica related disease as defined.

Utilising medical services of local service providers both in the public and the private sector enabled medical assessments to be carried out as close to the claimants homes as possible. This contributed to the further development of skills in the diagnosis of occupational lung diseases in these areas.

The development of skills was strengthened by the deployment of a senior and experienced occupational health nurse, based in the Eastern Cape, to train and provide support to medical practitioners on lung function tests and other needs. The impact of this initiative also led to improved quality of tests which ultimately ensured a more efficient claims process. In addition to being an advocate for claimants, she was a critically important liaison person between the claimants, the service providers and the Trust.

The network of medical service providers not only carried out the necessary tests as required by the Trust Deed but at the request of the Trustees, was also instrumental in creating awareness amongst claimants and their families of the rights of mineworkers under the Occupational Diseases in Mines and Works Act (ODMWA), to undergo a postmortem on death. This was done in collaboration with the medical doctors doing the clinical examinations. Where a compensable occupational lung disease is not diagnosed in life this is often the very last opportunity for families to claim compensation.

Independent panels of occupational health specialists and radiologists, known as the Consultative Occupational Medical Panels (COMPs) 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 set out in the Trust Deed. COMP panels comprised a radiologist and an occupational health specialist who together considered all the medical and other relevant records of the claimant and arrived at a diagnosis. The experience, skill and expertise of the COMP members greatly contributed to the claims assessment process. A Review Committee comprising two occupational health specialists and a radiologist was also setup by the Trustees to review the COMP diagnoses on application or as otherwise required by the protocols and standard operating procedures in place.

### **Overview of the Claims Process**

The key steps in registering claims entailed:

1. Establishing contact with the claimant or his dependents in the case of deceased claimants.
2. Registering the claim, which included completing the requisite claim forms and

- obtaining supporting documents;
3. Establishing that claimants, including deceased claimants, had Qualifying Service;
  4. Arranging for the claimant to attend a medical examination at an accredited medical service provider.
  5. For deceased claimants, obtaining medical and other relevant records to determine whether the claimant had an SRD as defined, at date of death.
  6. Assessing the medical records to determine whether the claimant, including deceased claimants, had an SRD as defined and, if so, the category.
  7. Compensating claimants, or their dependants, who had met all the criteria to receive compensation in the manner set out in the Trust Deed.

### **Categories of Lung Disease as per the Trust Deed**

Clause 17.1 of the Trust Deed sets out four categories of compensable lung disease:

**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.

In addition, clause 17.2 sets out two categories for the compensation of dependant claimants, named C1(d) and C1(s) by the Trustees for ease of reference:

**C1(d)** : for Dependant Claimants where there is acceptable documentary evidence that the deceased contracted silicosis.

**C1(s)** : For Dependant Claimants where there is no acceptable documentary evidence that the deceased contracted silicosis but there is other evidence that in the opinion of the Trustees constitutes acceptable evidence of silicosis.

Trustees assigned the category **C0** to claimants who had no Silica Related Disease as defined in the Trust Deed.

### **Qualifying Claims Period**

The Trust Deed provided a limited period of 3 years from the date of registration of the Trust with the Master of the High Court (22 April 2016), 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 Qualifying Claims Period terminated on 22 April 2019. Notwithstanding the Trustees' best endeavours, approximately 11% of the list of 4,365 claimants could not be located and/or assisted to lodge a claim in the limited available time.

Trustees extensively explored the possibility of extending the Qualifying Claims Period to pursue further initiatives to find claimants who remained, at the termination of this period, and notwithstanding the extensive efforts to reach them. After wide consultation and deliberation, including with legal representatives and senior counsel, the Trustees concluded that they could not realistically pursue an amendment of the Trust Deed to extend the Claims Qualifying Period. The legal process of amending the Trust Deed appeared complex, lengthy and costly, without any guarantees of success and would have ultimately resulted in a long delay in payment of the second and final tranche of compensation to claimants already examined.

## Deceased Claims

Trustees worked with local and international specialists in pioneering work aimed at developing an instrument that could determine whether, in the absence of medical records, a claimant who died may have had silicosis. Enormous time and effort were directed to finding a scientific, credible and reliable instrument that would do justice to all claimants, in particular, the widows and children of deceased claimants who would otherwise not have been able to claim the compensation to which they were entitled. It was a long and iterative process, with various models developed by different teams of specialists, each building on the work of the other. The outcome of this extremely time-consuming exercise was a 'predictive model' that enabled the assessment and finalisation of claims, and ultimate payment of compensation to widows of deceased mineworkers. This process took the better part of a year.

## Impact of Covid-19

Covid-19 and the national lockdown had a significant impact on the operations of the Trust and led to delays in settling claims. In compliance with national regulations and for safety reasons, offices were closed and staff operated remotely during the initial hard lock down and subsequent spikes or waves. During this period staff worked remotely, but the work of the Trust was hampered by limited interaction with claimants and problems to obtain legal documents because of closure of offices.

## Claimants Medically Assessed as at 28 February 2023

As of 28 February 2023, 3,853 claimants had been diagnosed as follows:

Category	C0	C1	C1(d)	C1(s)	C2	C3	C4	TOTAL
Number	1,424	347	166	457	996	301	162	<b>3,853</b>
Percent	37%	9%	4,3%	11,8%	25,8%	7,8%	4,2%	<b>100%</b>

## Payment Award Schedule

- The award schedule was determined by actuaries in accordance with the formula set out in Clause 17.2 of the Q(h)ubeka Trust Deed.
- As per the Trust Deed, compensation is payable in two tranches, the first tranche when the claimant has met all the criteria to receive compensation, and the second and final tranche once the extent of the remaining funds is known, along with the final number of compensable claimants who would share these funds.

The distribution of payment awards is as follows:

C0	Not compensable			
C1(s)	R 62,404	to	R 81,596	
C1	R 87,367	to	R 114,235	
C2	R 196,575	to	R 250,111	
C3	R246,499	to	R 322,304	
C4	R 312,024	to	R 397,003	

## Overall Claims Statistics as at 21 April 2023

- 4,365 claimants as per the Trust Deed
- 3,853 claimants lodged their claims and underwent the medical assessment process and eventual diagnosis by the specialist medical panel.
- 2,301 (60%) of these were diagnosed with silicosis as per the Trust Deed criteria and qualified for compensation from the Trust.
- 1,424 (37%) were found not to have silicosis in terms of the Trust Deed and classified as C(0). This group will require dedicated follow-up in a meaningful manner. They have been referred to the MBOD for assessment and possible payment.
- 128 (3%) did not have qualifying service in terms of the Trust Deed and thus did not qualify for compensation under the terms of the Trust Deed. However, those diagnosed with a Silica Related Disease were submitted for statutory compensation under the MBOD/CCOD.
- Nationally, 2,280 eligible claimants (or their dependents) have to date been paid benefit payments totaling R421.8 million. R3.5m remains unclaimed and has been transferred to Fairheads Umbrella Trust, for payment to the rightful beneficiaries. Family members have been identified and payment has been delayed pending receipt of appropriate documentation.
- Award payments have been made for 99.1% of claimants who had a silica related disease and qualifying service and who met all the terms of the Trust Deed. Payments handed over amount to 99.2% of the allocated award payments (in rand) terms
- The majority of the outstanding claims are for deceased claimants who require mostly legal support in order to have a chance at a successful claims' outcome. A few of the outstanding claims require only bank account details to be finalised (please see below on challenges related to bank accounts).
- All outstanding claims require Letters of Authority or Letters of Executorship, issued by the Masters' offices. These offices have also been subject to significant challenges related to loadshedding and network problems. Through the agreements in the Office of the Premier and the Ex- Mineworkers Council in the Eastern Cape we have had exceptional support and collaboration from the Master's Office in Mthatha in this very complex area of dependant claims.
- As most deceased claimants did not leave a will, related challenges are of a legal nature to determine who is the rightful claimant before letters of authority can be issued by the Master's Office.

## Q(h)ubeka Trust—Claims data at 21 April 2023 (99.2% of total paid out)

Area	Compensable claimants	Total Award	Number where SOME payment is still due	Amount still owed	Amount paid to date to 2,264+16= 2,280 claimants	% of total amount paid	Number FULLY paid
Eastern Cape	1,629	R 306,355,893	32	R 3,092,508	R 303,263,385	99.0%	1,597
Free State	169	R 33,651,383	3	R 225,160	R 33,426,223	99.3%	166
Gauteng	24	R 3,522,585	0	R -	R 3,522,585	100.0%	24
KZN	13	R 2,692,343	0	R -	R 2,692,343	100.0%	13
Northwest	4	R 858,571	0	R -	R 858,571	100.0%	4
Western Cape	3	R 525,148	0	R -	R 525,148	100.0%	3
Lesotho	456	R 77,254,610	2	R 185,992	R 77,068,618	99.8%	454
Eswatini	3	R 432,271	0	R -	R 432,271	100.0%	3
<b>TOTAL</b>	<b>2,301</b>	<b>R 425,292,804</b>	<b>37</b>	<b>R 3,503,660</b>	<b>R 421,789,144</b>	<b>99.2%</b>	<b>2,264</b>

The table is complex because claims were paid in two tranches (roughly half and half). 2,264 claimants have been paid BOTH tranches and are fully paid. 16 claims have been partly paid (first tranche only) and 21 claims – all now for deceased claimants – have not been paid anything.

## **Most common challenges beneficiaries face with the bank account process**

Beneficiaries experienced a range of problems in relation to banks. In spite of the enormous challenges at some branches, overall we had good cooperation with all the banks. Some of the most common problems encountered are listed below:

- **Access, age and health status:** beneficiaries are often elderly and frail, with mobility problems. Many live in remote villages, with poor transport connections to towns, and may lack the means to pay for taxis.
  - The Trust assisted by either providing transport to town or paying for their transport, and often accompanied them to the bank.
- **Closure of accounts:** some banks automatically close accounts which drop below a certain minimum amount. Alternatively, account holders close them, because they can't afford to keep the minimum credit in the account.
- **Change of status of accounts:** Banks may impose limits on the kinds of transactions allowed: e.g. they will not accept deposits (despite being forewarned of upcoming payments) and require the account holder to come into the bank to change the status of the account and open it up to accepting deposits.
- **Invalid accounts:** payments to some claimants are returned to the Trust for accounts which are not in compliance with FICA. These require further support.
- **Problems with fingerprints:** when opening a new account, fingerprints must be provided as per the Trust Deed. These are then validated against the Dept of Home Affairs (DHA) central database. As people age, their fingerprints are often less distinct. Some of our beneficiaries are very elderly and consequently no longer have fingerprints clear enough to validate with DHA.
- **Loss of documents:** some beneficiaries have lost documents required to open a new account, for example in fires or floods. In certain cases, they have changed their names and/or ID numbers and struggle to get documentary proof of identify from the Dept of Home Affairs database.
- **Issues with 'Estate late' accounts:** in cases where the claimant is deceased, unless there is a widow with a DHA marriage certificate, the beneficiary/beneficiaries have to go through the process with the Master's office to get a Letter of Authority (LOA), and then open an Estate Late Account into which the claim will be paid. This double process can seldom be completed in a single day, thus requiring beneficiaries to make another trip to town, with all the attendant issues listed above and additional cost.
- **Issues with loadshedding:** many rural banks do not have any form of backup power, so are not operational during loadshedding. Consequently, claimants make several wasted journeys, often long distances.

## **Occupational Diseases in Mines and Works Act (ODMWA): Collaboration with MBOD/CCOD**

Clause 16.4 of the Trust Deed directs Trustees to assist Qualifying Claimants to lodge applications for ODMWA compensation with the Medical Bureau for Occupational Diseases (MBOD) and, or, the Compensation Commissioner for Occupational Diseases (CCOD), where they qualified for compensation in terms of ODMWA. The Trustees took a decision to render assistance to all Q(h)ubeka claimants, and/or their dependants, regardless of whether they were deemed to be Qualifying Claimants as defined in the Trust Deed, in respect of ODMWA compensation where appropriate. This included assisting all claimants who had historical unpaid claims, to access their compensation.

The Trustees, with the assistance of the Director of the MBOD and the Compensation Commissioner and their respective staff members, commenced submitting claims on behalf of claimants in December 2017. The Trustees then made available a dedicated staff person who was placed at the MBOD/CCOD offices in Braamfontein from March 2018, to collaborate with MBOD staff and help process claims submitted by the Trustees. This process worked well.

On 1 November 2022, the Trustees wrote to the CCOD to ask for a report on the outcomes of the applications QT had made on behalf of its claimants for statutory compensation. We are awaiting a full report. According to the data available to the Trustees in June 2023, there are 193 claimants that the MBOD certified with a compensable disease but where payment has not yet been made by the CCOD. The Trustees are hopeful that the great majority of the remainder of the 1,370 workers, on behalf of whom they submitted specific compensation application data-sets, have received the compensation due to them. However, in some cases where a Q(h)ubeka claimant was diagnosed by the Trust certification panel as suffering from a silica related disease, the MBOD did not find signs of compensable disease. These claimants were paid by the Trustees but have not been passed for payment by the MBOD. The Trustees discussed this with the MBOD staff who readily agreed that the MBOD certification panel will review these cases. The MBOD colleagues also indicated that they will review all the claims submitted. This very good process has started some while back and is still ongoing. This initiative is of great importance as we are mutually enriching each other's clinical work and compensation processes through our varied experiences. This can only be to the benefit of all affected mineworkers and ex-mineworkers. We are awaiting the report on the findings of the MBOD Certification Panel reviews. The findings in this report could potentially become a scientific paper for publication in the public domain. We continue to collaborate with the MBOD and the CCOD in order to assist more mineworkers to obtain compensation. In addition, Q(h)ubeka Trust and the CCOD collaborated and signed an agreement whereby the Q(h)ubeka Trust made available details including biometric data which enable the CCOD to pay Q(h)ubeka claimants with compensable diseases under the ODMWA. This worked very well and about 190 claimants were paid in this manner.

### **Research on Q(h)ubeka Trust Data**

When QT data were as complete as possible, Trustees posted a research policy on the website indicating anonymised data could be made available for research purposes as per the Trust Deed. Any researcher especially locally, nationally and regionally, but globally as well, can utilize the data provided they meet the research policy criteria. The primary requirement is that the research must further public health and the health of mineworkers in particular and contribute to the prevention of silicosis and TB and other occupational lung diseases in Africa and beyond. Thus far three studies have been completed. Two have been published. The Trustees will make anonymised data available for research to the MBOD/CCOD and to several tertiary institutions where we hope the data will be utilised for further research. The ethical and other research requirements of the specific entities will apply as well.

The published studies are:

1. Statistical modelling to predict silicosis risk in deceased Southern African gold miners without medical evaluation. *South African Journal of Science* <https://sajs.co.za/article/view/12502>.
2. The Utility of Length of Mining Service and Latency in Predicting Silicosis among Claimants to a Compensation Trust. <https://pubmed.ncbi.nlm.nih.gov/35329249/>



Information on the Research Policy and utilisation of the anonymised data is fully available in the public domain and on the website.

### **Winding Down towards Closure**

Outreach teams worked in the Eastern Cape, Lesotho and the Free State to assist claimants. Other areas were covered from head office in Johannesburg. The teams visited homes in remote areas, to support finalisation of the necessary paperwork for submission of claims or support claimants with transport to Department of Justice offices (DOJ) or to banks to open new accounts.

Claimants were supported with transport to different venues to complete claims paperwork, apply for letters of authority/executorship and open bank accounts. This was especially necessary for deceased claims, given their greater complexity. The extended period of closure of judicial offices during Covid-19 and other challenges exacerbated problems in obtaining statutory documents. This improved considerably because of the collaboration with the judicial services especially through the Office of the Premier in the Eastern Cape and the Eastern Cape Ex-Mineworkers Council. The courts however continue to be markedly impacted by loadshedding and network problems. Through collaboration with the Office of the Premier in the Eastern Cape, QT has had very helpful and collaborative engagements with the Eastern Cape Ex-Mineworkers Council, including a meeting in East London in June 2022. The Trust also submitted updates on its work to the Office of the Premier in the Eastern Cape and participated in some of the Outreach Programmes.

### **Challenges Faced and potential solutions**

Setting up the necessary systems to process claims in compliance with the Trust Deed was not without its challenges. These challenges presented opportunities for the Trustees to collaborate with many different people and organisations, and for their willingness to assist us, we are grateful. It is our hope that some of the lessons we learnt will smooth the path for other organisations.

As previously reported, the medical process was more complex and more difficult than initially envisaged. Trustees and medical specialists grappled with the issue of TB and its significant impact on the diagnosis of silicosis. More so since TB was so prevalent on X-rays amongst the Q(h)ubeka cohort. Previously published research indicated that extensive TB scarring often hides the presence of silicosis, making diagnosis difficult, time-consuming and costly (where CT scans had to be requested). The skilful use of the ILO International Classification of Radiographs of Pneumoconiosis remains a most powerful tool in the diagnosis of silicosis and beyond.

Annual workshops were held with COMP members and medical advisors to discuss pertinent medical issues and challenges facing the work of these panels with a view to developing a standardised approach for the assessment of claims. These workshops were important forums which brought together all our medical experts and beyond and provided a platform for them to engage on these crucial issues. Ultimately the claimants benefitted from shared experiences, collective solutions and standardised approaches to the medical challenges.

The contact and address details of a significant number of claimants were no longer valid - claimants were not found at the addresses on file and therefore the Trustees had to embark upon extensive and costly tracking and tracing programmes to find claimants, also using local radio and other local media. The help provided by institutions like TEBA, the South African Social Security Agency, Department of Home Affairs, Electoral Commission, Rand Mutual Association and Ex-Mineworkers Associations was also invaluable for tracing our

claimants .

The confirmation of qualifying service was a significant challenge. The Trustees decided to move ahead with the medical assessments irrespective of whether a claimant had qualifying service, as the confirmation was often time consuming. Waiting to receive confirmation would have resulted in major further delays which would have impacted on the ability of Trustees to process claims within the Qualifying Claims Period.

Records of Service were primarily sourced from previous employers including AngloGold Ashanti (AGA) and Harmony Gold Mines (which took over AGA's Free State Operations and consequently some claimants were subsequently employed by Harmony), and TEBA. Qualifying Service was also confirmed using medical records obtained from previous employers where the employment record was not forthcoming and/or incomplete. Processing the claims of deceased claimants was a huge challenge, primarily due to the lack of medical records. A further complexity of dealing with deceased claims is the lack of registration of the deaths of deceased claimants. The lack of death certificates or other formal documents confirming the death of a claimant made it difficult to process their claims, resulting in unforeseen and unavoidable delays. Trustees could not process a deceased claim without a death certificate as this might have opened up the Trust to potential fraud.

It was our experience that very few claimants invoked their right to a postmortem on death. The Trustees therefore embarked on a programme where accredited medical service providers were actively engaged to consult with and advise claimants and their families about mineworkers' rights to undergo a post-mortem on death, which is often the last chance to receive compensation. We were pleased by how our doctors in the field took on this role and dealt with it in an enabling and sensitive manner. The discussion with families on the right to post-mortems of deceased mineworkers remains an important task of all of us.

The Trustees ensured that claimants and, or, dependants of claimants had access to a medical professional to discuss their medical assessment and the results of the COMP readings. The importance of giving claimants and/or the dependants of deceased claimants the opportunity to consult with a medical professional about their diagnosis cannot be underestimated and greatly contributed to a better understanding of Silica Related Disease as defined and its impact on their lives.

A difficulty that was often experienced was explaining to a claimant and/or the dependants of a deceased claimant how the compensation amount was arrived at in light of the impact of and suffering brought on by the Silica Related Disease. No amount of money can ever compensate a claimant or his family for suffering debilitating silicosis and the almost inevitable lung-scarring Tuberculosis that accompanies the silica, but the work of the Trust hopefully went some way to provide a measure of redress.

### **Some important lessons learnt**

1. It is important to enquire about a will at the first medical examination. Encourage and support mineworkers and ex-mineworkers to make a will. The Department of Justice run excellent and informative workshops on how to make a will. The Deputy Master, in the Mthatha office amongst others, have run such workshops in the past year.
2. Doctors and nurses should take the time to obtain a good occupational history from the mineworker or ex-mineworker at the medical examination for occupational lung diseases. Let the workers have their own work history recorded as they know best what work they have done. We owe them that. Research on the Q(h)ubeka Trust data has shown it is amongst the most trustworthy information we can obtain and will add to information we already have from other sources.
3. Banks can be approached collectively by different compensation systems and Trusts

to improve services to mineworkers and ex-mineworkers in both urban and rural areas. Many of the banks have been extremely helpful and empathetic to the mineworkers and many will cooperate.

4. Discuss with claimants their right to post-mortem services under the ODMWA during the first (sometimes the only) medical examination (and beyond where possible).
5. The high prevalence and severity of silicosis amongst the older group of the Q(h)ubeka Trust cohort is of great concern. This may suggest that we are under-diagnosing silicosis. It is not an issue for an individual doctor or nurse but requires a collective effort to have ongoing and standardised medical education and quality assurance approaches on the diagnosis of silicosis. We certainly can do this in Southern Africa.
6. Given the interconnectedness of families and the number of claimants who have passed on, it is imperative that gender equality, equity and gender inclusive aspects of our compensation processes must be fully integrated in our systems from inception.
7. Research and where possible participatory research are of great importance to share knowledge gained towards greater prevention of occupational lung diseases, tuberculosis and other occupational diseases.
8. Mineworkers and ex-mineworkers should be an integral part of the writing of any future settlement trust deeds and consulted on the appointment of the Board of Trustees.

## **Conclusion**

As we come to the closure of the Trust it is with humility, appreciation and pride that we reflect on the networks and the interdependence of so many people and organisations which made it possible for us to carry out the tasks entrusted to us. It has been a privilege to undertake the paying of compensation to qualifying claimants in a compassionate and caring manner within the parameters of a prescriptive Trust Deed.

The Trustees are grateful and proud of the skills, commitment and dedication of every staff member who have worked tirelessly to ensure that every qualifying claimant was given the opportunity to lodge a claim with the Trust and may become eligible for compensation. Their understanding, goodwill and commitment to ensure every claimant had a fair and equal opportunity to qualify for compensation, has been both overwhelming and inspiring.

The Trustees are grateful for the valuable contribution made by the different managers of the Trust, COMP members, medical consultants, medical practitioners, radiologists, radiographers, occupational health nurses, lawyers and advocates, researchers, epidemiologists, biostatisticians, actuaries, IT teams, taxi-drivers, food providers and auditors. Some operated centrally in cities and others in the field. A special "Thank You" to the Outreach Teams who were with us to the very end. Your interaction with our claimants and your dedication and diligence have enriched our work and given much needed direct support to claimants at the local level.

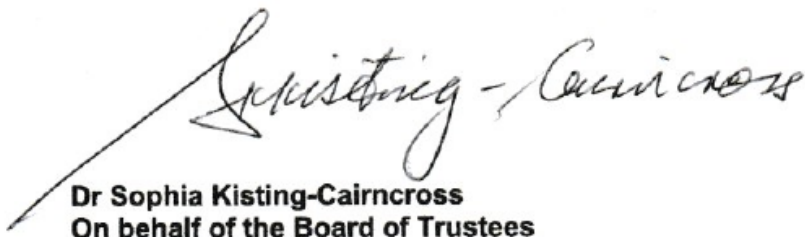
It is with sadness that we remember Sister Faiza Desai who was the first Medical Coordinator of our work in the medical head-office. She passed away in the prime of her working life and has made an enormous contribution to the work of the Trust and the outcomes for mineworkers. We also lost the much respected and caring services of Dr Nobuntu Sonca to mineworkers. She sadly passed away in the Eastern Cape during the Covid pandemic.

The Trustees highly appreciate the good working relationship with the following colleagues: Richard Meeran and Zanele Mbuyisa and their teams; Michael Murray of AASA (now Bowmans); Jaasi Munanka, Aviona Mabaso, Cindy Chater and Ryan Webb

of AGA. We thank Dr Barry Kistnasamy, Dr Nhlanhla Mtshali, Dr Mpho Rabada, Dr Weitz Botes and their staff at the MBOD/CCOD for the ongoing collaboration and support.. We are grateful for the supportive collaboration with the Office of the Premier in the Eastern Cape, the Ex-Mineworkers Councils in the Eastern Cape, Lesotho and Eswatini and the Department of Justice in the Eastern Cape and the Department of Home Affairs. Our acknowledgement and appreciation to The Asbestos Relief Trust, The Kgalagadi Trust and the Tshiamiso Trust, as sister settlement Trusts, They have been both a support and inspiration for our work

The Trustees are deeply humbled by the dignity, graciousness and patience of claimants and their families who dealt with the many challenges which impacted on the speed with which compensation could be paid. They have been disadvantaged through historic processes and more as well as through contracting silicosis and associated TB while earning a living. In addition, the majority do not have ready access to much-needed health services or to compensation. It has been an honour for us to have this opportunity to interact with claimants and to be able to provide some measure of relief. It remains our fervent hope that measures for the greater prevention of silica related diseases and Tuberculosis will be implemented on an ongoing basis.

Compensation trusts born out of settlement agreements (Asbestos Relief Trust, Kgalagadi Trust, Q(h)ubeka Trust, Tshiamiso Trust and the Cape Plc settlement) have made a positive impact on the burden and payments of occupational lung diseases. The payments to sick former mineworkers and their families is edging towards R2 billion over a 20 year period. These trusts however can never replace the importance of an adequately financed and well-resourced compensation system for occupational diseases and injuries in the public domain. We hope to continue to contribute to such an important process, which can be a catalyst for greater prevention and help to reduce the burden of disease in our public sectors.



**Dr Sophia Kisting-Cairncross**  
**On behalf of the Board of Trustees**

**5 July 2023.**