



Blueprint for Dust Disease Compensation and Common Law Damages

Contents

Blueprint for dust disease compensation and common law damages.....	3
Key points	3
Dust disease compensation claims process flowchart.....	4
Making a claim - process overview.....	5
WorkCover WA expectations	9
Transitional arrangements	10
Questions and answers.....	10

Blueprint for dust disease compensation and common law damages

This blueprint has been developed to provide information to assist scheme participants involved in the claims and assessment process for dust disease compensation and dust disease common law damages under the *Workers Compensation and Injury Management Act 2023* (the Act).

The blueprint sets out key requirements relating to:

- making a claim for dust disease
- pre-Dust Disease Medical Panel assessment considerations
- Dust Disease Medical Panel assessment and determination
- liability and compensation for dust disease
- common law damages for dust disease and request for whole person impairment determination
- WorkCover WA expectations
- transitional arrangements, and questions and answers.

Key points

The Act clarifies the presumption of work injury for dust disease and streamlines provisions for how dust disease claims are made and determined.

Pneumoconiosis, silicosis, mesothelioma, lung cancer and diffuse pleural fibrosis, each referred to as a dust disease in the Act are covered under a presumption of work injury.

The presumption will apply if a worker has been exposed to asbestos at work or in the case of pneumoconiosis or silicosis, exposed to mineral dust harmful to the lungs, and has suffered a dust disease.

To rebut the presumption an employer must prove the disease was not suffered in the course of employment or prove any relevant exposure of the worker in the course of employment was trivial or minimal.

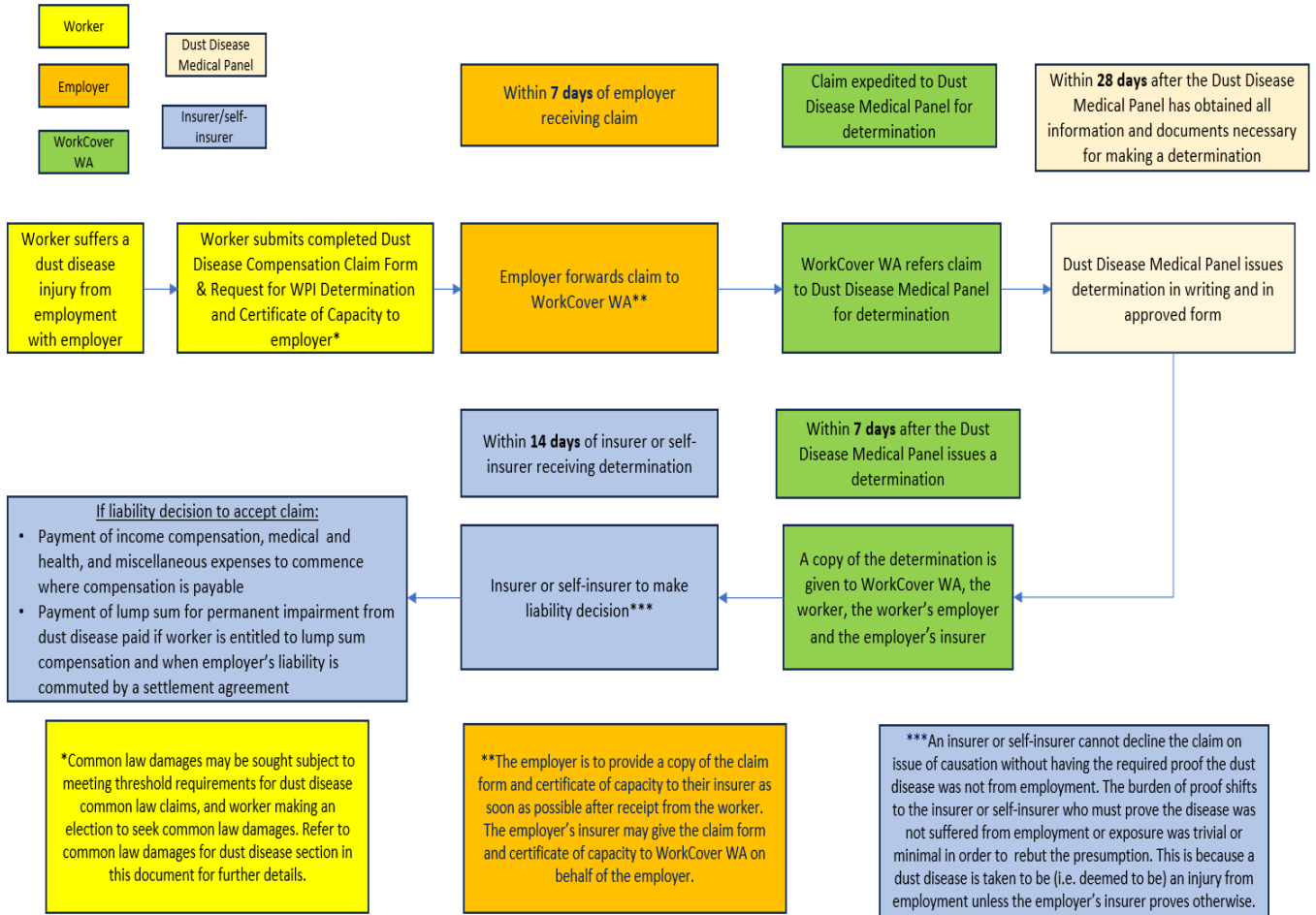
Claims will continue to be given to WorkCover WA for referral to a Dust Disease Medical Panel (DDMP - known as the Industrial Diseases Medical Panel under the 1981 Act) to make final and binding decisions on the diagnosis of the dust disease, extent of incapacity and degree of any impairment.

Claim and panel determination processes have been clarified in the Act along with timeframes for progression of a claim by the last employer where the worker was exposed to asbestos or silica dust, modification of the timeframes for insurers and self-insurers to make liability decisions on dust disease claims, and special provisions relating to dust disease common law damages.

Administrative improvements include:

- a single approved form for claiming compensation for dust disease and/or seeking an assessment for a worker's degree of permanent whole of person impairment from a DDMP for both statutory compensation and common law purposes
- consolidation of the DDMP's determination and assessment report of a worker's degree of permanent whole of person impairment for statutory compensation and common law purposes.

Dust disease compensation claims process flowchart



Making a claim – process overview

Streamlined legislative and administrative arrangements apply to:

- making a compensation claim for dust disease
- Dust Disease Medical Panel (DDMP) assessments and determinations
- liability and compensation for dust disease claims
- common law damages for dust disease.

1. Making a compensation claim for dust disease

1.1 To make a compensation claim for dust disease, the worker must complete [Attachment 1 – Dust Disease Compensation Claim Form & Request for WPI Determination Common Law](#) and attach a completed first certificate of capacity to the claim.

1.2 The completed claim form and first certificate of capacity are to be submitted to the employer. The claim form and first certificate of capacity must be given to WorkCover WA via records@workcover.wa.gov.au by the employer within 7 days after a claim is made by the worker. A penalty may apply to an employer who fails to give the claim to WorkCover WA within 7 days after it is made by the worker. An insurer may submit the claim to WorkCover WA on behalf of the employer, however the claim must be given to WorkCover WA within 7 days after the claim is made by the worker.

2. Pre-Dust Disease Medical Panel assessment considerations

2.1 Following receipt of a dust disease claim, WorkCover WA will provide the worker with the [Attachment 2 – Dust Disease Claims Fact Sheet](#). The fact sheet provides general information about the dust disease claims process and includes details about the prerequisite medical tests and respiratory specialist report required by the DDMP before a panel can be listed.

2.2 WorkCover WA will continue to expedite all dust disease claims to the DDMP to facilitate the panel making a binding determination relating to the diagnosis and extent of any incapacity and degree of any impairment.

2.3 The DDMP operates independently, with WorkCover WA providing administrative support to the DDMP. As part of its administrative support role, WorkCover WA will assess if there is sufficient documentation to list a DDMP assessment and may request additional medical tests, information or documents.

2.3 Once a date has been listed to determine the application, the worker may be required to attend WorkCover WA for an examination by the DDMP. If the worker is unable to attend, the worker may request to have a determination in their absence. This applies in limited circumstances only.

2.4 A person is not entitled to be represented in proceedings before a DDMP.

3. Dust Disease Medical Panel assessment and determination

3.1 As part of the determination process the DDMP will determine the following questions:

- a. Is or was the worker suffering from diffuse pleural fibrosis, lung cancer, mesothelioma, pneumoconiosis or silicosis?
- b. Is or was the worker incapacitated for work as a result of the injury by dust disease and, if so, what is or was the extent of the worker's incapacity for work?
- c. What is assessed to be the degree of permanent whole of person impairment resulting from the injury by dust disease?

3.2 To assist the DDMP to determine the questions before it, the DDMP may require the worker to:

- attend before the DDMP and answer any questions
- produce documents or provide information to the DDMP or consent to another person producing documents or providing information to the DDMP
- undergo medical examination by, or as directed by, the DDMP
- undergo specific medical tests and assessments and provide the DDMP with results and reports of those assessments.

3.3 The DDMP may give the employer concerned the opportunity to produce documents or provide information for consideration by the DDMP.

3.4 The DDMP is to make a determination within 28 days after the DDMP has obtained all the information and documents necessary for the making of the determination.

3.5 A DDMP determination will be in writing in the approved form [Attachment 3 - Dust Disease Medical Panel Determination](#) and will include reasons for the determination.

3.6 In relation to the assessment of a worker's degree of whole person impairment, a DDMP is required to provide a report on the results of the assessment in the approved form [Attachment 3 - Dust Disease Medical Panel Determination](#), including the determination as to the worker's degree of permanent impairment and a statement of the reasons to justify the assessment.

3.7 Within 7 days of a DDMP determination, a copy of the determination will be given to WorkCover WA, the worker concerned, the worker's employer and the employer's insurer.

3.8 A determination by a DDMP is final and binding on the worker concerned and the worker's employer and, on any court or tribunal hearing matter in which the determination is relevant.

4. Liability and compensation for dust disease claims

4.1 The Act and regulations relating to liability decision making on claims apply to dust disease compensation claims with the following modifications:

- The time within which a liability decision notice must be given is 14 days after the employer's insurer is notified of the DDMP determination (instead of 14 days after the claim is given to the employer's insurer)

- The employer’s insurer cannot decline the claim on the issue of causation without having the required proof the dust disease was not from employment or exposure was trivial or minimal. The burden of proof shifts to the employer’s insurer who must prove the disease was not from employment in order to rebut the presumption. This is because a dust disease is taken to be (i.e. deemed to be) an injury from employment unless the employer’s insurer proves otherwise.

4.2 The Act retains the mechanism for liability and apportionment issues to be resolved where there may have been exposure to asbestos or mineral dust in employment with more than one employer, without prejudice to the worker.

4.3 If a worker is entitled to income compensation for incapacity for work, or medical and health expenses or miscellaneous expenses compensation resulting from an injury by dust disease the compensation is payable in accordance with the Act as it is for any other injury (this includes provisional payments for income compensation and medical and health expenses).

4.4 If a worker is entitled to lump sum compensation for permanent impairment resulting from a dust disease, the lump sum is only payable when the employer’s liability is commuted by a settlement agreement (Refer to Blueprint for Settlement Agreements for further details).

5. Common law damages for dust disease

5.1 In order to receive common law damages a worker suffering a dust disease must comply with the following threshold requirements:

- the worker’s degree of permanent whole of person impairment resulting from the injury by dust disease must be at least 15% as assessed by the DDMP; or
- as an alternative to an assessment by the DDMP the worker and employer may reach agreement that the worker’s degree of permanent whole of person impairment is at least 15% and as to whether or not the worker’s degree of permanent whole of person impairment is at least 25%.
- the assessment by the DDMP, or the agreement between the worker and employer, is recorded by the WorkCover WA Director (the Director) as the supporting assessment for the worker’s election.
- the worker has elected in accordance with the regulations to retain the right to seek damages and the Director has:
 - i. registered the election in accordance with the regulations
 - ii. notified the worker that the election has been registered.

5.2 The Act provides that an agreement between a worker and employer as to the worker’s degree of permanent whole of person impairment must be accepted by the Director as if it were an assessment by the DDMP as to the worker’s degree of permanent whole of person impairment resulting from dust disease.

5.3 Whole person impairment determination (common law)

5.3.1 If a worker has made a claim for compensation for dust disease, the DDMP to which

the worker's claim was referred is the panel that assesses the worker's degree of permanent whole of person impairment for common law purposes.

5.3.2 If a worker has not made a claim for compensation and the parties do not agree on the worker's degree of permanent whole of person impairment for common law purposes, WorkCover WA must constitute a DDMP to determine the following:

- a. Is or was the worker suffering from pneumoconiosis, silicosis, mesothelioma, lung cancer or diffuse pleural fibrosis?
- b. What is assessed to be the degree of permanent whole of person impairment resulting from the injury by dust disease?

5.3.3 [Attachment 1 – Dust Disease Compensation Claim Form & Request for WPI Determination Common Law](#) also serves the purpose of an application or request for the DDMP to assess a worker's degree of permanent whole of person impairment where a worker may not wish to make a claim but is seeking common law damages only. A check box on the form is to identify whether the type of panel determination required is for the purposes of both dust disease compensation and common law, or is for common law purposes only.

5.3.4 A worker is taken to have a degree of permanent whole of person impairment resulting from the disease of at least 25% if the DDMP determines the worker is:

- suffering from mesothelioma; or
- suffering from diffuse pleural fibrosis, lung cancer, pneumoconiosis or silicosis and that the disease or condition is likely to cause the death of the worker within 2 years.

5.3.5 A DDMP determining a question for the purposes of common law damages for dust disease is not bound by a previous assessment of a DDMP if the previous assessment has not been recorded by the Director as the supporting assessment for the worker's election to retain the right to seek damages.

5.3.6 A worker suffering from a terminal dust disease may commence common law proceedings before the requirements mentioned above have been complied with. This preserves a worker's common law rights and enables proceedings to begin with respect to the terminal dust disease action whilst awaiting an assessment/determination of the worker's degree of permanent whole of person impairment by a DDMP and lodging the application.

5.4 Process for election to proceed with common law damages for dust disease

5.4.1 [Attachment 4 – Common Law Election form](#) is given to the Director by a worker or their representative, for the purpose of recording the election and supporting assessment of the degree of whole of person impairment of a worker as determined by the DDMP.

5.4.2 [Attachment 5 – Common Law Dust Disease – Permanent Impairment Agreement form](#) is used if the worker and employer have reached agreement that the worker's degree of permanent whole of person impairment is at least 15% and as to whether or not the worker's degree of permanent whole of person impairment is at least 25%. [Attachment 5 – Common Law Dust Disease – Permanent Impairment Agreement form](#) must be attached to [Attachment 4 – Common Law Election form](#).

Requirements:

- specify whether or not the worker and employer agree the whole of person impairment is at least 15%; or
- specify whether or not the worker and employer agree the whole of person impairment is at least 25%.

5.4.3 [Attachment 6 – Common Law Settlement Agreement – Memorandum](#)

If an action for common law damages is settled by agreement otherwise than by acceptance of an offer to consent to judgement or an offer of compromise, the employer or third party with whom the agreement is made must file an [Attachment 6 – Common Law Settlement Agreement – Memorandum](#) with the terms of the settlement with the Director within 3 months after the date of execution of the agreement by the worker.

5.4.4 The Common Law Settlement Agreement – Memorandum is not required if the parties prefer to file the complete settlement agreement instead.

6 Silicosis accrual period extended

6.1 Amendments to the *Limitations Act 2005* provide that the accrual of any common law action for a worker suffering silicosis is the same as for any worker who suffers asbestosis (accrues when the level of whole of person impairment is at least 25%).

6.2 This amendment ensures workers suffering silicosis with a low initial impairment are not time barred, which would have otherwise occurred if the worker's degree of impairment had not reached 15% or more within the 3-year limitation period (from date of diagnosis).

WorkCover WA expectations

WorkCover WA expects scheme participants to use the new:

- [Dust Disease Compensation Claim Form & Request for WPI Determination Common Law – Attachment 1](#)
- [Dust Disease Medical Panel Determination report – Attachment 3](#)
- [Common Law Election form – Attachment 4](#)
- [Common Law Dust Disease – Permanent Impairment Agreement form – Attachment 5](#)
- [Common Law Settlement Agreement – Memorandum – Attachment 6](#)

WorkCover WA expects insurers and self-insurers to accept the various types of administrative claim forms used for dust disease under the 1981 Act for an extended period of transition. From 1 July 2024, claims should not be declined or delayed due to the use of a previously utilised claim form for dust disease.

Transitional arrangements

Dust disease claims

The [Dust Disease Compensation Claim Form & Request for WPI Determination Common Law – Attachment 1](#) should be used for claims made from 1 July 2024.

A claim made under the 1981 Act will be taken to have been made and continue under the corresponding sections of the 2023 Act.

If a worker has made a claim on an employer before 1 July 2024, a new claim form does not have to be made. The claim is taken to have been made under the 2023 Act and the employer and employer's insurer must respond to the claim as required under the 2023 Act.

Medical panel determinations

A determination of a question by an industrial diseases medical panel under the 1981 Act is taken to be a determination of that question by a DDMP under the 2023 Act.

Common law action

The common law provisions of the 2023 Act extend to a cause of action that accrued before 1 July 2024, but do not apply to proceedings for damages what were validly commenced before 1 July 2024, subject to some exceptions.

Transitional provisions of the 2023 Act address various scenarios relating to a cause of action for dust disease that accrued before the commencement of the 2023 Act and the status of elections, panel assessments or agreements as to the worker's degree of permanent whole of person impairment if proceedings on the cause of action have not been validly commenced (they are taken to be validly made under the 2023 Act).

Compliant settlement deeds under the 1981 Act where the worker has not elected to retain their right to proceed to common law which are received by the Director prior to implementation date will be recorded in accordance with the 1981 Act. Common law deeds cannot be lodged after implementation date unless the worker has elected to retain their right to proceed to common law.

Questions and answers

Q. How does the 2023 Act impact on dust disease common law claims?

A. The 2023 Act maintains the provisions for the worker and employer to register an agreement as to whether the worker's degree of whole person impairment is at least 15% (the impairment threshold to pursue common law) or have the impairment assessed by the Dust Disease Medical Panel. The assessment or agreement is registered to support an election to pursue common law damages.

Q. Will the Dust Disease Medical Panel practices and procedures change?

A. Minor changes only. The 2023 Act facilitates determinations without the worker's attendance or physical examination if it is appropriate to do so, and clarifies timeframes for the determination with reference to the receipt of all necessary information required to make the determination (e.g. respiratory specialist report, high resolution CT scan which are current panel requirements).

ATTACHMENT 1

Workers Compensation and Injury Management Act 2023

**DUST DISEASE COMPENSATION CLAIM FORM &
REQUEST FOR WPI DETERMINATION – COMMON LAW**

Purpose of claim or request

- Compensation for dust disease & common law:
- Assessment of WPI for common law only:

Diagnosed or suspected dust disease

- Pneumoconiosis or silicosis:
- Mesothelioma:
- Lung cancer:
- Diffuse pleural fibrosis:

Worker

Name: _____

Address: _____

Date of birth: _____

Phone number: _____

Email address: _____

Preferred language _____

Male Female Unspecified

Worker's representative (if represented)

Name: _____

Address: _____

Contact person: _____

Phone number: _____

Email address: _____

Details of last employer where worker was exposed to asbestos or mineral dust

Name: _____
Address: _____
ABN: _____
Contact person: _____
Phone number: _____
Email address: _____

N.B - Employment history table must be completed

Details of current employer

Name: _____
Address: _____
ABN: _____
Contact person: _____
Phone number: _____
Email address: _____

N.B - Employment history table must be completed

Injury occurrence

When and where did the worker first become aware they were suffering from a dust disease?

Date: _____
Place: _____

Other conditions

Is the worker suffering from any other diseases or injuries? Yes No

If yes, specify other diseases or injuries: _____

Is the worker under the care of any other specialist(s)? Yes No

If yes, specialist(s) name and address: _____

Concurrent claims

Has the worker claimed or received compensation or damages for the dust disease, or does the worker intend to claim compensation or damages from any other source (e.g. another State or Territory, the Commonwealth Government, overseas, common law) for the dust disease, other than by this claim or request?

Yes No

If yes, details of other claim(s) or payments received for the dust disease:

Worker's declaration

I declare that each and every answer above and the particulars contained herein or annexed hereto relating to myself and the occurrence are true both in substance and in fact to the best of my knowledge and belief. I take notice that, under the provisions of section 32(1) of the *Workers Compensation and Injury Management Act 2023*, I am required to give notice to my employer within 7 days if I commence work with another employer after making a claim, or while receiving income compensation.

Worker signature:

Print name:

Date:

Consent authority (to be signed at the option of the worker)

I authorise any doctor who treats me to discuss my medical condition in relation to my claim for workers compensation and return to work options, with my employer and with their insurer.

I consent to my employer's insurer and its appointed service providers collecting personal information, inclusive of sensitive information such as medical information about me and using it for the purpose of assessing and managing my workers compensation claim, including determining liability and whether my claim is true. This consent extends to my employer's insurer disclosing my personal information, inclusive of sensitive information, to other insurers, medical practitioners, investigators, and legal practitioners and other experts or consultants for the purpose of assessing and managing my claim. My personal information, inclusive of sensitive information, may also be disclosed as required or permitted by law. I also consent to my employer's insurer disclosing my personal details to WorkCover WA which is authorised to use this information to fulfil its functions and obligations under the *Workers Compensation and Injury Management Act 2023*. I have read all the information on this form regarding the consent authority, and I consent to the Insurer dealing with my personal information in the manner described.

Worker signature:

Print name:

Date:

Employment History

Employer name, address & location	Occupation and tasks performed	Period of employment		Asbestos exposure	Specific mineral dust exposure (including silica) If yes, specify type of dust exposure
		Year start	Year end		
				<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No Mineral dust:
				<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No Mineral dust:
				<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No Mineral dust:
				<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No Mineral dust:
				<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No Mineral dust:
				<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No Mineral dust:
				<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No Mineral dust:

Dust disease claims

Fact sheet

Work-related dust diseases are lung illnesses, typically affecting workers who have had exposure to mineral dust such as silica or asbestos.

A worker who has been diagnosed with a dust disease due to exposure to harmful dust at work may make a claim for compensation under the *Workers Compensation and Injury Management Act 2023* (the Act).

This fact sheet provides the essential information to assist eligible workers to apply for a dust disease claim.

Dust Disease Medical Panel

The Dust Disease Medical Panel is established under the Act and consists of at least one member who is a specialist in respiratory medicine and other member who is a specialist in either respiratory medicine or occupational medicine.

The Dust Disease Medical Panel operates independently, with WorkCover WA providing administrative support.

Compensation for a dust disease

A worker is only entitled to compensation for a specified dust disease if a Dust Disease Medical Panel determines they suffer from one of the four dust diseases listed.

Compensation may include income compensation, medical and health expenses compensation and permanent impairment compensation.

How to make a dust disease claim

A worker who has been diagnosed, or has a provisional diagnosis of one of the four specified dust diseases should follow these steps to make a workers compensation claim:

1. Obtain a First Certificate of Capacity from your treating doctor with a diagnosis (or provisional diagnosis) of the specific dust disease.
2. Complete a Dust Disease Compensation Claim Form & Request for WPI Determination – Common Law.
3. Give the following documents to your employer:
 - First certificate of capacity
 - A completed Dust Disease Compensation Claim Form and Request for WPI Determination – Common Law

The employer or the employer's insurer must forward the documents to WorkCover WA via records@workcover.wa.gov.au within 7 days after a dust disease compensation claim is made on the employer.

Which dust diseases are covered?

The following four dust diseases with the relevant exposure to silica or asbestos are covered under the Act.

Disease	Exposure
Pneumoconiosis or silicosis	Exposure to mineral dust harmful to the lungs, including silica and asbestos
Mesothelioma	Exposure to asbestos
Lung cancer	Exposure to asbestos
Diffuse pleural fibrosis contracted on or after 19 September 2009	Exposure to asbestos

Required Medical Test Results

For a Dust Disease Medical Panel to be listed, you or your representative will need to submit the following medical test results to assist the Dust Disease Medical Panel in [making a determination](#).

A respiratory specialist's report that includes:
Worker's current symptoms
History and context of exposure to asbestos or silica dust (work-related and non-work related)
Medical history, including current active medical problems, past and current medications, and history of medical investigations.
Smoking history
Diagnosis
Capacity for work

Scan and test required:
High resolution CT scan of the chest (prone and supine positions), no more than 6 months old. A copy of the radiologist's report and corresponding digital access to the radiological images.
Pulmonary lung function test no more than 6 months old, including lung volumes, diffusion, oxygen saturation and flow volume curves.

Only required for lung cancer & mesothelioma applications.

Scan and test required:
Cytology/Histopathology report with results confirming a 100% malignant diagnosis.

Pre-Dust Disease Medical Panel considerations

As part of its administrative support role to the Dust Disease Medical Panel, WorkCover WA will assess if there is sufficient documentation to list a Dust Disease Medical Panel and may request additional medical tests, information or documents.

Once a date has been listed to determine the application, the worker may be required to attend WorkCover WA for an examination by the Dust Disease Medical Panel. If the worker is unable to attend, the worker may request to have a determination in their absence. This applies in limited circumstances only.

What decisions does the panel make?

The Dust Disease Medical Panel reviews medical evidence and examines the worker claiming dust disease compensation. The Dust Disease Medical Panel makes a binding determination on the following questions:

- Is or was the worker suffering from diffuse pleural fibrosis, lung cancer, mesothelioma, pneumoconiosis or silicosis?
- Is or was the worker incapacitated for work because of the injury by dust disease and, if so, what is or was the extent of the worker's incapacity for work?
- What is assessed to be the degree of permanent whole of person impairment resulting from the injury by dust disease.

The Dust Disease Medical Panel may request additional medical tests, information or documents before it [makes a determination](#).

The Dust Disease Medical Panel must [make a determination](#) within 28 days after it has obtained all the information and documents necessary to make a determination.

ATTACHMENT 3

Workers Compensation and Injury Management Act 2023

DUST DISEASE MEDICAL PANEL DETERMINATION

Purpose of determination

Compensation for dust disease & common law:

Assessment of WPI for common law only:

Panel members

Chairperson:

Member:

Member:

Worker

Name:

Address:

Date of birth:

Phone number:

Email address:

Employer

Name:

Address:

ABN:

Contact person:

Phone number:

Email address:

Claim (if applicable)

Insurer:

Insurer claim number:

Date claim made:

Determination of questions

Diagnosis

Is or was the worker suffering from pneumoconiosis or silicosis, mesothelioma, lung cancer or diffuse pleural fibrosis? Yes No

If yes, specify which disease(s). Provide reasons:

Incapacity for work

Is or was the worker incapacitated for work as a result of the injury by dust disease and, if so, what is or was the extent of the worker's incapacity for work? Yes No N/A

If yes, specify whether total or partial incapacity for work. Provide reasons:

N/A applies if the DDMP was constituted to only determine the questions referred to in section 426(3) of the Act (common law purposes only).

Permanent whole of person impairment

What is assessed to be the degree of permanent whole of person impairment resulting from the injury by dust disease?

The degree of permanent whole of person impairment is: _____ %

Signed: _____

Signed by Chairperson DDMP

Date of determination: _____

Examination/ assessment

Date:

.....

Location:

.....

Reports and documents provided:

(List of documents and information provided)

.....

Narrative history

(As provided by the worker on history of injury, occupational history and exposure, past medical history, smoking history)

.....

Physical examination:

(State whether worker submitted for physical examination by panel or was examined/ assessed in absentia)

.....

Diagnostic studies/ scans:

.....

Diagnosis and impairments:

.....

Other conditions contributing to worker's incapacity, impairment or death (if any):

.....

The material findings on diagnosis and incapacity for work are:

.....

Assessment of the worker's permanent whole of person impairment

Functional impairment

Lung function test:

Lung function test dated (reference values in AMA Guides 5 th ed):			
FEV1:		% predicted normal	<input type="checkbox"/>
FVC:		% predicted normal	<input type="checkbox"/>
DLCO uncorrected:		% predicted normal	<input type="checkbox"/>
VO2max:		% predicted normal	<input type="checkbox"/>

Note: DLCO = lung diffusion (CO) = transfer factor; DLCO/VA = KCO (VA= effective alveolar volume)

Select which parameter used for calculation of impairment - tick (X)

Additional lung function values dated:		
Total lung capacity (TLC):		% predicted normal
DLCO/VA:		% predicted normal

Impairment rating and rationale

The American Medical Association Guides to the Evaluation of Permanent Impairment 5th Edition (AMA 5th ed) apply to the assessment of permanent impairment of the respiratory system, subject to the modifications set out by the WorkCover WA Guidelines for the Evaluation of Permanent Impairment.

The relevant references used in assessing the worker's percentage of permanent whole of person impairment resulting from the injury by dust disease are:

Disease	AMA 5 th ed & WorkCover WA Permanent Impairment Guidelines Source <i>Specify Chapter#/Table#/Figure #</i>	Assessed degree of WPI (%)
Pneumoconiosis or silicosis:		
Mesothelioma:		
Lung cancer:		
Diffuse pleural fibrosis:		

Show how the degree of permanent whole of person impairment was calculated, detail if any combination of disease:

Proportion of permanent impairment due to any previous disease that was not asymptomatic:

Disease	% of permanent impairment
Disease:	%

Statement as to the reasons for arriving at the calculation of the worker's degree of permanent whole of person impairment:

ATTACHMENT 4

Workers Compensation and Injury Management Act 2023

COMMON LAW ELECTION

Worker

Name:

Address:

Date of birth:

Phone number:

Email address:

Employer

Name:

Address:

ABN:

Contact person:

Phone number:

Email address:

Claim

Insurer:

Insurer claim number:

Date claim made:

Injury

Date of injury:

Description of injury:

WHOLE OF PERSON IMPAIRMENT ASSESSMENT

Note: the assessment **must** be lodged with the election.

Degree of permanent whole person impairment as assessed by Approved Permanent Impairment Assessor: %

Dust disease

(Complete either 1 or 2 in this section only if worker has a dust disease)

- | | | |
|---|--------------|--|
| 1. Degree of permanent whole person impairment as assessed by Dust Disease Medical Panel: | _____ | % |
| 2. Degree of permanent whole person impairment for a dust disease agreed by the worker and employer | _____ | % |
| | at least 15% | <input type="checkbox"/> Yes <input type="checkbox"/> No |
| | at least 25% | <input type="checkbox"/> Yes <input type="checkbox"/> No |

Notice

An election cannot be withdrawn after the Director registers it and a subsequent election cannot be made in respect of the same injury or injuries.

Registration of an election may affect your entitlement to statutory compensation under the *Workers Compensation and Injury Management Act 2023*.

You should seek appropriate independent advice before lodging this form.

Worker statement

(If the election is signed personally by worker)

I have been advised of the consequences of registering an election and understand that registration of an election may affect my entitlement to statutory compensation. I request that the Director register this election.

Signed by worker: _____
Worker name _____
Date: _____

Legal representative statement

(If the election is signed by worker's legal representative on behalf of the worker)

I have advised the worker of the consequences of registering an election and have been instructed by the worker to sign the election and request, on the worker's behalf, that the Director register this election.

Signed by representative: _____
Representative name: _____
Law firm: _____
Date: _____

ATTACHMENT 5

Workers Compensation and Injury Management Act 2023

COMMON LAW DUST DISEASE — PERMANENT IMPAIRMENT AGREEMENT

Worker

Name:

Address:

Date of birth:

Phone number:

Email address:

Employer

Name:

Address:

ABN:

Contact person:

Phone number:

Email address:

Claim

Insurer:

Insurer claim number:

Date claim made:

Contact person:

Phone number:

Email address:

Injury

Date of injury:

Description of injury:

Pneumoconiosis

Silicosis

Mesothelioma

Lung cancer

Diffuse pleural fibrosis

Agreement

It has been agreed between the worker and the employer that the worker's degree of permanent whole of person impairment resulting from the dust disease is:

At least 15% Yes No

At least 25% Yes No

Note

This agreement must be lodged with the Director to support an election to pursue common law damages. See approved form: Common Law Election.

Signed by worker:

Worker name:

Date:

Signed by employer:

Employer representative
name:

Date:

ATTACHMENT 6

Workers Compensation and Injury Management Act 2023

COMMON LAW SETTLEMENT AGREEMENT — MEMORANDUM

Parties

Date of agreement:

Worker:

Employer(s):

Third party(s):

Election Registration Number:

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Settlement

Date of settlement:

Amount of settlement:

Terms of settlement:

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Signatures

Worker (or representative) signature:

Name:

Date:

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Employer (or representative)

signature:

Name:

Date:

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Note

Memorandum only required if copy of settlement is not given to the Director.