



**5 October 2020**

## **A NOTE ON PROGRESS AT THE TSHIAMISO TRUST**

### **INTRODUCTION**

The silicosis and tuberculosis class action settlement agreement became effective on 10 December 2019, and the Trust was fully constituted in February 2020. The Trustees met last year even though the Trust was not formally constituted to begin the task of putting the organisation and structures of the Trust in place.

As we have explained, the setting up of the Trust infrastructure and organisation is a huge task. This note serves to outline the various critical items that need to be completed and the progress being made to get this done as quickly as possible.

Covid-19 has had a number of unanticipated consequences - the lodging, assessment, certification and payment of compensation benefits on a large scale will become possible only once the organisation and systems of the Trust have been established. The structures of the Trust, and the drafting of the policies, procedures and processes are close to finalisation, and the recruitment of senior staff has seen significant progress.

### **STAFF RECRUITMENT**

The process to recruit the Tshiamiso Trust executive team - Chief Executive Officer (CEO); Chief Operations Officer (COO); Medical Director/Advisor and Chief Financial Officer - began in May 2020. Adverts were placed in various newspapers, on the Tshiamiso Trust Linked In page and on the Trust's website. There was an overwhelming response with over 600 applications received. A shortlist of candidates for all positions has been identified.

And we are pleased to be able to inform you that the Trust has appointed a CEO and we are in the process of finalising contracts and other paperwork. We will soon issue a statement with further detail of his background and qualifications.

With the CEO in place, the process of appointing back-office and administration staff for various office functions to carry the day-to-day running of the Trust is imminent too.

### **SETTING OF THE TRUST OPERATIONS AND INFRASTRUCTURE**

The Tshiamiso Trust has seven trustees and the board of trustees meets every second month. Trustees are both committed and involved in assisting in the setting up of the Trust structures and

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are assigned according to their area of expertise to ensure that processes and procedures are in place as quickly as possible.

The Tshiamiso Trust has an interim management team which oversees the day-to-day work as the Trust establishes itself. The interim management team is assisted by various service providers in this task.

Over the past months the Trustees, the interim management team along with the support of service providers has been working to set up various critical **organisational structures** which include:

- The setting up of Banking arrangements and accounts
- Insurance and risk cover
- Appointment of auditors
- Appointment of actuarial services
- Appointment of legal service providers
- Setting up of electronic systems and processes
- Drawing up guidelines and the process of setting up of a back office and the appointment of support staff and Trust office space

Developing an organisation plan to enable the effective **recruiting of staff**

- An interim management team has been put into place to take the trust forward until the organisation is registered and the policies and structure is sufficiently designed to define staff roles. Only then can the recruitment of permanent staff beyond the senior executives begin

The Trust has also been developing **governance structure guidelines** which include:

- Formulate and implement a Code of Conduct for the Board of Trustees as part of the Board Charter
- Prepare Trustee Induction Workshop
- Prepare annual work plans for Board and Committees
- Prepare a guidance note: Composition of the Board of Trustees, term of office and rotation requirements
- Prepare Delegation of Authority document
- Prepare Committee Terms of Reference

Also underway is the preparation of various **policy documents** which include:

- Fraud management policies and programme
- Payment and remuneration policies
- Whistle Blowing policy and procedure
- Conflicts of interest policy and procedure
- Risk policy and procedure
- Compliance Policy and procedure
- Standard terms for support services

- Code of Ethics and conduct
- Procurement Policy
- Selection and Recruitment Policy
- A regulatory risk framework and universe based on both internal and external requirements

Establishing the terms of reference for and the appointment of Trust Deed mandated **committees and advisory panels** which include:

- Medical Advisory Panel (MAP) – obtain nominations for medical experts to service on the MAP. The members of the MAP have been appointed.
  - Dr Mpho Rabada as main member and Dr Spo Kgalamono as alternate
  - Prof Mohammed Jeebhay as the main member and Associate Prof Saloshni Naidoo as the alternate
  - Prof David Rees as the main member and Dr Vanessa Govender as the alternate
- Medical Certification Panel (MCP) – prepare a list of service providers including in SADC countries, draft a Code of Practice, checking alignment between the Trust and CCOD medical requirements, and structure and composition of the panel/panels
- Medical Reviewing Authority (MRA) - – obtain nominations for medical experts to service on the MAR. The members of the MRA have been appointed. The following individuals will serve on this panel as the main members:
  - Prof. Rodney Ehrlich (Occupational Health Specialist)
  - Prof. Laloo (Pulmonologist)
  - Dr. Nomhle Makaula-Chimusoro (Radiologist)

The following individuals will serve on this panel as the alternate members:

  - Dr. Rajen Naidoo (Occupational Health Specialist)
  - Prof. E M Irusen (Pulmonologist)
  - Dr Qonita Said-Hartley (Radiologist)
- Certification Reviewing Panel - draft Terms of Reference and structure for appointment
- Trust Advisory Committee (TAC) – stakeholder engagements are ongoing. The Trustees expect to convene the first meeting of the TAC towards the end of October/beginning November 2020.

Agreements and MOUs are being put into place with various **critical service providers** which include:

- Appointment of board secretarial service provider and governance advisor
- Appointment of communications service provider
- Appointment of call centre service provider
- Agreements and discussions in place with other key partners such as TEBA, MBOD/CCOD and the NIOH

## **PROGRESS – CLAIM LODGEMENT PROCESS**

### *The Tshiamiso Trust Database*

The Trust Settlement Database consists of records of almost 1.5 million mineworkers. This includes data provided by the six mining companies which were part of the settlement agreement, records from the claimants attorneys and from potential claimants who registered an interest via the website or call centre. Our current work shows that there are gaps in the data especially considering that mining companies and TEBA only started capturing their employee records electronically from the 1980s onwards. The Trust is exploring various ideas on how to track and trace individuals and/or their missing information. It will also soon be launching a self-check system where claimants can interrogate the database and see for themselves if they have enough information to support a claim with the Tshiamiso Trust. A targeted test of this system will be launched soon and if successful will be rolled out onto the website.

### *Electronic claims system development*

A crucial avenue of work is the development of a claims management information technology (IT) system that provides a paperless claims processing solution with the primary objective of achieving efficiencies using available technology and building on existing initiatives at least to begin with in order to save time. Various solutions have been proposed and one of these is the Compensation Claims Management System (CCMS) which was primarily developed for the statutory benefit programme and, due to the similarities and synergies between the Trust and the MBOD/CCOD, has been proposed to meet the specific requirements of the claims lodgement process as set out in the Trust Deed. An independent audit is being carried out to test the capabilities and functionality of the system and the Trust is in the process of establishing the costs and usage agreements with the development team.

### *Impact of Covid-19*

The Covid-19 pandemic has had a significant impact on the way in which it was originally envisaged that claims could be lodged.

- Large numbers of individuals cannot gather at lodgement offices and the claims process as set out in the Trust Deed states that claimants must present themselves in person to lodge their claims so their identities can be properly confirmed.
- Lung function tests (a critical part of the Benefit Medical Examinations (BMEs)) could not be carried out for several months. A lung function test is necessary to assess the level of damage to the lungs and this level is a determining factor in confirming whether a claimant would be entitled to compensation and, if so, at what level.
- The Trust has worked closely with medical advisors on how and when medical examinations might be able to resume. On 23 September 2020 the South African Thoracic Society (SATS)

announced that these tests may be resumed, though under strictly controlled and defined conditions. The Trust's medical advisors are now analysing the SATS instructions in order to determine how they may be implemented by the Trust.

#### *The identification and processing of priority claimants*

Because of the Covid-19 restrictions on lung function tests an interim solution that is being explored is the identification of priority claimants that can be processed without these tests. The Trust is in the process of interrogating the Trust database to identify potential claimants with 2nd degree silicosis, dependants of mineworkers who have passed away and who had 1st and 2nd degree silicosis. This work done with the cooperation of the MBOD and NIOH.

#### *A self-check system for potential claimants*

A key issue is for potential claimants to have the necessary information to support a claim. For deceased claims this will include medical information that indicates that the mineworker had a compensable disease as defined in the Trust Deed.

The Trust will also shortly launch a "Check Your Eligibility" application on its website to allow potential claimants to "self-check" their eligibility to lodge a claim. This application will be rolled out to cellphones using sms functionality.

### **IMPORTANT TRUST MILESTONES:**

#### **Website, social media and direct communications channels**

The importance of communicating with claimants and providing them with access to information either indirectly or directly is recognised and various communication channels have been set up to facilitate this function.

The Tshiamiso Trust website was launched at the end of May 2020 and is available on [www.tshiamisotrust.com](http://www.tshiamisotrust.com). The website aims to provide information about eligibility, inform potentially eligible claimants about the progress and processes in place to lodge a claims, the criteria as well as it has information about the Trust, the Trustees and the origins of the Trust. It will continuously have additional information added.

Social media platforms have been established - a Facebook and Linked In page – where potential claimants and other stakeholders can access information and where direct communication is facilitated.

The Trust also ensures the fielding and dealing with direct queries via email, WhatsApp, a dedicated PLEASE CALL ME number, and phone calls to the Trust's call centre. Communications agency R&A Strategic Communications is carrying out scores of these engagements every week. R&A also deals with media and other stakeholder queries on behalf of the Trust.

#### **Medical Workshop**

On 2 June 2020, the Trustees of the Tshiamiso Trust hosted a one-day workshop to harness the skills, systems and thought processes of individuals experienced in occupational and public health in southern Africa. The theme of the workshop was “Sustainable models of medical service delivery for mineworkers in Southern Africa” and can be view on the website [here](#) The scale of the medical services required for the Tshiamiso Trust to deliver on its mandate makes it necessary to explore different models of medical service delivery and the Trustees recognise that an inclusive and collaborative approach will assist it in developing models that will best serve the needs of the Tshiamiso Trust and its claimants. The workshop was chaired by Professor Rodney Ehrlich and presentations were made by experts in this field from South Africa and neighbouring countries.

### **Stakeholder engagements**

The Trustees understand the process of reaching the settlement agreement and establishment of the Trust was not merely a legal exercise but involved many different interest groups ensuring that a fair and reasonable outcome was achieved for the ultimate beneficiaries of the Trust. The Trustees understand the importance of regular engagement with all stakeholder groups and have held various stakeholder meeting to inform and communicate. To date stakeholder meetings have included the Justice for Miners collective, ex-mineworker associations, Minerals Council South Africa, the five trade unions active in the industry various national and regional government departments.

### **CONCLUSION**

It is difficult to provide a detailed timeframe of expected progress, as new challenges are arising regularly. But please be assured that the Trust continues to work with as much urgency as possible to address these challenges and is anxious to get the claims system operating effectively as soon as possible.