

**CODE OF PRACTICE FOR TRACING EMPLOYERS' LIABILITY COMPULSORY  
INSURANCE POLICIES**

**REVIEW STATEMENT**

**1 NOVEMBER 2005 – 31 OCTOBER 2006**

## **MINISTERIAL FOREWORD**

Ten years of reform and economic stability under this Government have transformed work and opportunity in Britain so there is reason to be proud of living in this great and prosperous country. The Department's objectives to eradicate child poverty, promote employment opportunity for all and improve health and safety outcomes are some of the most challenging social ambitions ever set by government.

Today, Britain is recognised by the international community as a leader in promoting employment and tackling disadvantage in the labour market and as having one of the best health and safety records in the world. However, good health and safety has not always been a business priority and a key step for employees was the introduction of the Employers' Liability (Compulsory Insurance) Act 1969 which protects employees who are injured or made ill as a result of employer negligence.

ELCI supports the right of employees who suffer bodily injury or disease during the course of their employment in Great Britain to be fairly compensated. But our people also need reassurances that they can make legitimate claims as illnesses arise, even many years later. That is why, in 1999, we launched the Code of Practice in conjunction with the insurance industry. This Code, which is managed by the insurance industry, was introduced following a review of ELCI which found that some employees suffering from industrial diseases could not trace their employer's insurance policy as their condition often developed many years after they left the job which caused it. A Review Body chaired by DWP provides close scrutiny on the operation of the Code on behalf of claimant representatives.

I am delighted therefore to introduce the fourth Statement of the Review Body on the Code of Practice for Tracing Employers' Liability Compulsory Insurance (ELCI) Policies and would like to thank the Review Body for all their efforts in the preparation of this important document and their continual hard work.

This year, the ABI has introduced a new scheme to help maximize successful traces. These improvements include: a clearer enquiry form, an online guide for claimants and a full-time ABI helpline. The ABI is also developing a fast-track mesothelioma tracing system so that claimants suffering from mesothelioma may be able to claim compensation quicker. This year the Review Body has also actively engaged and regularly met with several other stakeholders covering certain insurance interests, and not currently represented by the review body, to establish how they could contribute to the smooth running of the Code.

Through working in partnership, and with the continued commitment of insurers, we have achieved a lot. But there are still some 5,000 cases a year where these traces fail. We hope shortly to establish whether these are recent or older claims, and I would like then to consider whether there are further joint approaches we could use to reduce the number of people who have been injured or made ill by work, but who are unable to make a claim solely because they cannot trace the relevant insurer.

I am determined that this work should continue and know that by providing means of identification of relevant policies, the Code of Practice will be of real help to those employees who need to seek compensation.



Lord McKenzie of Luton  
Parliamentary Under Secretary (Lords)

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## **INTRODUCTION**

- 1.** The Association of British Insurers (ABI) and the Lloyd's Market Association (LMA) have been operating the Code of Practice for tracing ELI policies since 1 November 1999.
- 2.** The purpose of the Code of Practice is twofold. It is for insurers to:
  - Retain, and do their best to search, those ELI policy records that do exist, and
  - Retain future policy records in ways that will make it easier to answer future enquiries from employees and their representatives (including outsourcing arrangements).
- 3.** So that policies issued since November 1999 can be traced easily, one important feature of the Code was an undertaking by insurers to keep records of current and future policies for 60 years.
- 4.** The Code addresses the difficulties experienced by some employees when seeking compensation from their employer, in identifying the insurance policy held by their employer at the same time an injury or disease was caused. The problem is most common in occupational disease cases that have taken a long time to develop, where the employer has ceased trading and details of their insurance have been lost or destroyed.
- 5.** The Code was introduced to help ensure that, from its introduction, insurance records would be much more accessible.
- 6.** However, it has not always been possible to capture data on policies which had lapsed earlier, and some records had already been destroyed. In some instances a policy may have never existed or contained exclusions on the risks covered. This means that the records, which each insurer has, at present, is not necessarily a complete record of the policies they have issued. Progressively, it will become a complete record. Until that time, there will inevitably be searches that are unsuccessful.
- 7.** Part one of this statement was produced by the Review Body chaired by the Department for Work and Pensions, and including representatives from the Association of British Insurers, the Lloyd's Market Association, the Association of Personal Injury Lawyers, the Forum of Insurance Lawyers, the Trade Union Congress, the Confederation of British Industry, the Financial Services Compensation Scheme, the Financial Services Authority, the Association of Run off Companies and the International Underwriting Association. This demonstrates the Review Body's commitment to closer stakeholder working and trust between partners. Parts two and three of this report were completed by the ABI and LMA.

# **PART ONE**

## **EXECUTIVE SUMMARY**

### **Background**

1. This statement reviews the seventh year of operation of this voluntary Code of Practice for the insurance industry, between 1 November 2005 and 31 October 2006. It is divided into three parts:

(i) A DWP report outlining an assessment of performance agreed by the Review Body

(ii) the Association of British Insurers report, and;

(iii) the Lloyd's Market Association report.

### **2005 – 2006**

2. During the period from 1 November 2005 to 31 October 2006, there were 6,658 enquiries received from claimants' lawyers or claimants. This indicates that the number of enquiries is remaining broadly steady.

3. For the review period in question, an average of 28% of policies were traced. This equates to around 1,851 claimants potentially receiving compensation that, without the Code, they would not receive. The number of successful traces has increased steadily in comparison to previous years, with the number of enquiries remaining broadly steady. However, if the introduction of ABI's improvement measures in early 2007 are effective, the tracing code system should become increasingly more accessible, faster and efficient (see point 7 below).

4. The analysis of success rates shows that post-1972, the Code is tracing 33% of ELCI policies. Data also indicates that almost half of the tracing requests are pre-1972 when hit rates decrease to 15%. The lower percentage rate for pre-1972 is probably because ELCI was not compulsory at this time so many employers did not take out ELCI cover (point 19 of the review statement section gives more detail).

### **The Future**

5. In early 2007, the ABI introduced a new pilot system to further improve the smooth running of the Code, with a more accessible enquiry form, and a fast-track mesothelioma enquiry system. It is too early to identify the full impact of all these measures so Review Body members have agreed to meet to review progress in May 2008.

6. Though some members have expressed concerns about this year's post-1972 success rates, the Review Body hopes that ABI's new measures are successful and that the Code will build on its achievements with insurers continuing to retain and search EL policy records as required. The Review Body is also committed to maintaining, its recent closer working alliance with key insurance stakeholders, building on trust between partners, and to continue making good progress.

7. Traces for policies issued on or after 1 November 1999 should in theory, always be successful if the search contained the required information and is covered by the Code, if the employer required EL insurance (some employers are exempt and/or self-insure, such as Local Authorities) and if the employer met their obligations to have insurance. There were no

mechanisms in place to break down data to identify the number of traces that relate to policies issued after 1999 when this report was written. However, the ABI has agreed to provide post-1999 data for searches made since November 2005 for inclusion in the next review statement due to be published in late 2008.

**8.** The Review Body agreed that the review of the Code's operation should take place earlier in the year. The operation of the Code's eighth year from 1 November 2006 to 31 October 2007 will therefore be reviewed in May 2008. ABI's improvement measures will be reflected in the 2007 to 2008 report.

## REVIEW STATEMENT

1. This statement reviews the operation of this voluntary Code of Practice for the insurance industry from 1 November 2005 to 31 October 2006. The last review of the Code of Practice was carried out in January 2007 and covered the fifth and sixth years of the Code's operation from 1 November 2003 to 31 October 2005.
2. This Review Statement is to inform those with an interest in the effective working of the Code – particularly solicitors representing claimants from an occupational injury or disease, and those in the insurance industry involved in operating the Code.

### The Review Body

3. The Review Body that produced this Review Statement is chaired by the DWP and includes a representative from each of the following groups:

- Association of British Insurers (ABI)
- Association of Personal Injury Lawyers (APIL)
- Confederation of British Industry (CBI)
- Forum of Insurance Industry Lawyers (FOIL)
- Lloyd's Market Association (LMA)
- Trade Union Congress (TUC)

This year colleagues covering certain insurance interests not currently represented by the review body were also invited to the Review Body meeting. The key reason for this was to ensure that all relevant organisations are committed to the Code, and that all EL policy records are being searched under the Code. We agreed that the Financial Services Compensation Scheme, Financial Services Authority, and the International Underwriting Association would attend future meetings in an observer capacity, and that the Association of Run off Companies would become a signatory of the Code.

4. Representatives are nominated by their representative bodies. A list of the members involved in this review statement is at Annex A.

### How the Review was done

5. In producing this Review Statement, the Review Body has taken into account the Annual Reports produced by the ABI and LMA on how they operated the Code during the period of the Review. These Reports are reproduced in full at Parts Two and Three of this report.

### Signatories to the Code

6. The ABI report shows a list of the ABI members who are Code signatories. The LMA's Annual reports list Lloyd's market participants who are Code signatories.
7. Statistical information on the working of the Code, together with further background information, can be found in the ABI and LMA Reports at Parts Two and Three of this report.
8. Code signatories were asked by the ABI or LMA, as appropriate, to sign end-of-year compliance statements along the following lines:

"For the period 1 November 2005 to 31 October 2006, I confirm that [*name of Insurance Company/Managing Agency*] has enforced the Code of Practice for Tracing Employers' Liability Insurance records and made every practical effort within reasonable bounds to try

and establish for a potential claimant whether it was on risk at the time their injury occurred or during the period of exposure to cause an occupational illness or disease.”

9. All ABI members who participate in the Code, and all the Managing Agents for Lloyd’s underwriters who participate in the Code, have provided such a statement.

### **Statements on historical records**

10. Prior to the coming into force of the ELCI Regulations in 1999, employers were not legally required to retain details of their insurance arrangements. They must now store these for a minimum of 40 years (for policies current on 31 December 1998 or later). But the only information on some historic policies would be that held by insurers.

11. An important commitment under the Code is that insurers will keep for 60 years records of policies issued from 1 November 1999, and that these will be stored in such a way as to enable searches using the employer’s name (including those of subsidiaries) and the employer’s address. All records include the management and/or retention of outsourced EL data by the insurer or managing agent. This will be crucial in preventing in the future the kinds of tracing problems that gave rise to the Code.

12. Accordingly, each of the signatory companies was asked (by the ABI or LMA) to set out what information they hold on historical policies. Each statement lists the years for which records are available, and the format they were stored in – paper, microfiche or computer. A copy of an insurer’s statement can be obtained by application to the relevant insurer, the ABI or LMA.

### **Scale of enquiries and success rates**

13. An employer may buy employer’s liability insurance from:

- (i) an insurance company, or
- (ii) an underwriting Syndicate at Lloyd’s.

14. Given that these two types of organisation operate in different ways, there are two parts to this Code: the ABI Code and the LMA Code. Each has the same purpose, approach and standards.

15. Between them, the ABI and the LMA represent the majority of the UK insurance industry. The ABI is a trade association that represents insurance companies, some of whom underwrite EL; and the LMA is a marketplace in which Syndicates transact business, some of whom underwrite EL. However, there are some insurers who are not represented by either body but also underwrite or have underwritten EL policies, including companies and syndicates that are solvent and active, solvent and in run-off and insolvent and in run-off. In order to ensure that all EL policy records are being searched under the Code, these bodies should become signatories to the Code and should demonstrate that they are tracing policies. The organisation representing many of these bodies is the Association of Run off Companies, who has agreed to become a code signatory (points 24 (iv) & (x) give more detail). In addition, some Review Body members have actively engaged and regularly met with several other stakeholders covering certain insurance interests, and not currently represented by the review body, to establish how they could contribute to the smooth running of the Code. To this end, the Financial Services Compensation Scheme, Financial Services Authority, and the International Underwriting Association have agreed to attend future meetings in an observer capacity.



**16.** Findings in the last report indicated that the majority of enquiries under the Code are received by ABI. When enquiries are received by the LMA, they are almost invariably also received by the ABI from the same enquirer. The ABI subsequently prepares a single list of all enquiries which is circulated by LMA and ABI every 4 weeks for inclusion in the ABI's annual report to avoid double counting/duplication. With effect from January 2008, the ABI have taken central control to the circulation of EL enquiry lists to both ABI and LMA members to improve the efficiency and maintenance of EL data.

**17.** Annex B details the numbers of enquiries circulated by the ABI to members to be dealt with under the Code. It also shows the number of successful traces and success rates for the period of the Review.

**18.** Of the 6,658 enquiries circulated by ABI over the period covered by the report, the proportion of successful traces was 28%. The number of successful traces has increased in comparison to previous years, with the number of enquiries remaining broadly steady. This means that the proportion of successful traces has risen. The review of ABI's improvement measures in May 2008 will examine success rates more closely as it is designed to improve speed and efficiency, reduce duplicate traces and ensure that traces have the mandatory information currently required by the code. If successful, the tracing code system should become increasingly more accessible, faster and efficient. (See point 24 below for more detail about ABI's improvements).

**19.** A new facility providing a breakdown of hit rates on claims against policies applicable both before and after 1972, (the date employers liability insurance became compulsory) is now available. This shows there is a hit rate of 33% for post- 1972 policy traces (the date EL insurance became compulsory). The post-1972 hit rate for 2005-06 is lower than the 41% for 2003-05, even though the overall hit rate for 2005-06, at 28%, is higher than the 2003-05 combined hit rate of 25%. The reasons for the 8% dip in performance for post-1972 policy traces is not known but it could be that the distribution of enquiries between pre- and post-72 was different for 2003 to 2005 and 2005 to 2006 or it may be purely down to chance in that the policies being traced may have never existed or records may have already been destroyed. In addition, it should be noted that traces under the Code are undertaken when all other avenues have been exhausted and many available policies have already been traced. Some Review Body members have expressed concerns about this decrease. It is too early to tell whether a decrease in post-1972 hit rates will become a regular pattern but Review Body members will monitor this closely and take appropriate steps if considered necessary. For traces trying to find a policy before 1972 where insurance policies may not have existed, the hit rate is understandably lower at 15%.

**20.** Traces for policies issued on or after 1 November 1999 should, in theory, always be successful if the search contained the required information and is covered by the Code, if the employer required EL insurance (some employers are exempt and/or self-insure, such as Local Authorities) and if the employer met their obligations to have insurance. There are no mechanisms in place to break down data to identify the number of traces that relate to policies issued after 1999 at present. However, ABI have agreed to provide separate data from 1 November 2005 in an easily accessible format for inclusion in the next review statement.

**21.** The next review meeting is in May 2008 and will discuss the report from 1 November 2006 to 31 October 2007, due to be published at the end of 2008. The report will outline the new improvements to the Tracing Code, designed to increase speed and efficiency, reduce duplicate traces and ensure that traces have the mandatory information currently required by the Code. In the meantime, however, DWP will monitor the impact of ABI's improvement measures closely and this will include scrutiny of success rates.

## Complaints

**22.** There is a formal complaints system under the Code. Annex E reproduces the relevant information.

**23.** The Review Body noted that no complaints about the performance of any insurer under the Code were made to the ABI or to the LMA. There were also no complaints received by DWP formally under the prescribed procedures.

## Suggested Improvements/other issues

**24.** At the review body meeting on 29 October 2007, ABI stated that they had been working hard with its members (including CEOs) and all relevant parties to significantly improve the online Tracing Code system. They then delivered a brief overview of the improvement measures introduced/to be introduced:

**(i)** ABI indicated that the introduction of new mechanisms had enabled them to identify that 'incorrect use' amounted to 16% of the tracing code enquiry figures. Examples include duplicate requests.

**(ii)** ABI talked about the effectiveness of the ELI COP User Guide for claimants recently introduced to avoid duplications. In addition to this, they are currently developing a 'Frequently Asked Questions' page on their website with input from APIL.

**(iii)** ABI will discuss with APIL ways to continue to inform solicitors about the correct procedure of using the enquiry form.

**(iv)** ABI plan to organise a seminar to talk with all signatories to the Code, including their members, the LMA's members and insolvent/run off insurers about the changes relating to 'The Best Practice Guide'. Invitations to attend the seminar will also be sent to both DWP and APIL.

**(v)** ABI will provide figures for the first six months since the new pilot scheme started in February 2007 at the COP mid year review due in May 2008.

**(vi)** ABI will work with members to help them provide swift responses to traces.

**(vii)** ABI will consider introducing a new insurer response 'still looking' and no trace.

**(viii)** Concerning successful enquiries, the ABI have created a 'matching enquiries' system, which matches new enquiries to successful enquiries and sends the original response back to the enquirer, ensuring a swift response to the claimant and avoiding duplication of work for insurers. In the ABI's view, no value would be added by creating a central database of successful enquiries - it would duplicate the purpose of the current system, which was agreed on by the Review Body. The ABI will report back on progress of the matching enquiries system at the next COP review meeting. ABI and APIL will also arrange a separate meeting to discuss data collation and sharing arrangements. ABI welcomes APIL's input here.

**(ix)** DWP to look into the issue of self insurance with reference to historically nationalised industries and to ascertain if HMRC has any useful information in this context. Also both ABI and APIL to arrange a meeting regarding drafting guidance for the use of the Code in relation to self insurers/independents.

**(x)** Financial Services Compensation Scheme (FSCS) officials reported back on the findings of visits made to key Estates holding sizeable EL books and FSCS's intention to produce

subsequent audit reports. They also agreed to provide relevant information to the ELI COP Review Body once an audit of Capita and BAI companies has been undertaken.

**25.** More ABI initiatives to improve ELCI policy tracing rates are included in para 4.1 of ABI's report at **PART TWO** of this review statement.

## **PART TWO**

### **CODE OF PRACTICE FOR TRACING EMPLOYERS' LIABILITY INSURANCE POLICIES**

Report by the Association of British Insurers covering 1 November 2005 –  
31 October 2006.

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ABI Findings

## **ABI FINDINGS**

Freda Ali  
Department for Work & Pensions  
Workplace Health Division  
The Adelphi  
1-11 John Adam Street  
London WC2N 6HT

Dear Ms Ali,

### **Code of Practice for Tracing Employers' Liability Insurance Policies**

Thank you for your letter seeking details of the commitment to the Code of Practice, and the performance of the Tracing Code, for the period from 1 November 2005 to 31 October 2006. This covers the seventh year of the Code of Practice.

The key points to note in this year's report are:

- (i) the Tracing Code success rate for 2005-06 has increased to 28%, reaching its highest level for four years;
- (ii) over the last three years, at least 16% of enquiries have been identified as an incorrect use of the Tracing Code, risking delay to claimants receiving compensation.

As you mention in your letter, the Code of Practice was last reviewed in September 2006. Since then the ABI has been working with our members and all relevant parties to significantly improve the online Tracing Code system. The improved system will provide a more accessible, understandable and faster service for claimants and their representatives. We will produce a report on the first six months of the improved system later this year, which will also include a more detailed analysis on the types of enquirer, disease, industry and periods of employment.

Justin Jacobs  
Head of Liability and Motor

## **Code of Practice for Tracing Employers' Liability Insurance Policies**

### **ABI Report November 2005 – October 2006**

#### Introduction

1.1 ABI members are firmly committed to the Code of Practice, which supports claimants' enquiries about historic EL policies and thereby allows claimants to recover damages for personal injury, where their former employer is insolvent or untraceable. Under the Code, insurers agree to safeguard existing EL policy records, search records effectively for enquirers, and store current and future records in an accessible format for 60 years.

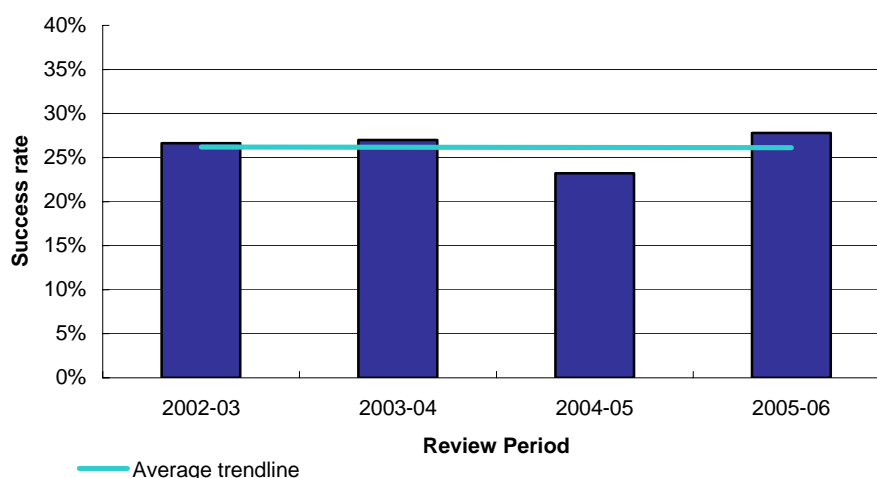
1.2 In keeping with the Code, the ABI retains its strong commitment to the Tracing Code system. The Tracing Code is an effective, free and easy to use tool allowing claimant solicitors to search ABI members' and Lloyds' Market Association members' databases and written records for historic EL policies.

1.3 This submission provides the Department for Work and Pensions with a review of the performance of the Tracing Code system, incorrect use of the system, and ABI proposals to improve the system further in the future.

#### **Performance of the Tracing Code**

2.1 Over the review period 2005-06, 28% of all enquiries were traced successfully. This is an 18% increase on the 2004-05 success rate, and is broadly consistent with the average success rate of 26% over the last four years, as you can see from Chart 1 below. Please see Annex A for more details.

**Chart 1: Success Rate per Review Year**

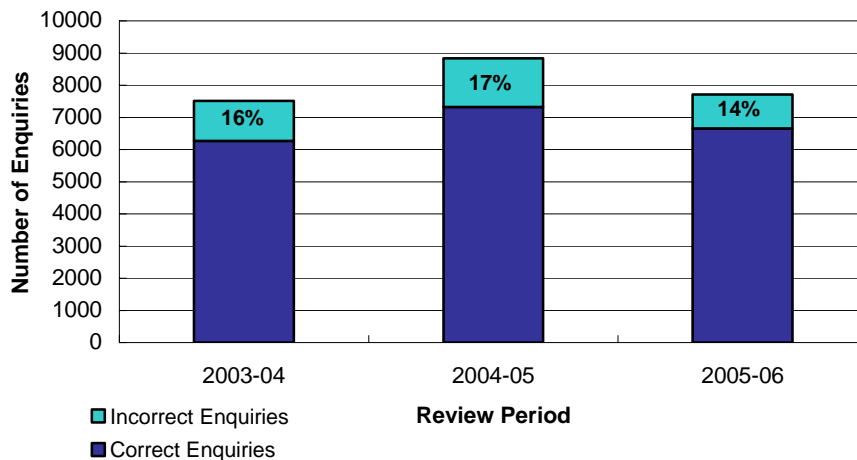


**2.2 The ABI continues to trace a higher percentage of policies for post-1972 enquiries, the date employers' liability insurance became compulsory. The success rate is understandably lower for enquiries trying to find a policy before 1972, where a policy may not have existed.**

### Incorrect use of the Tracing Code

**3.1 Unfortunately, there is evidence of incorrect use of the Tracing Code, which may cause responses to enquiries and potential subsequent compensation to be delayed. Incorrect enquiries fall into two categories. The first category involves duplicates of previous enquiries, which complicate the work for Code signatories and slow down the tracing process. Over the last three years, an average of 16% of all enquiries have fallen into this category, as shown in Chart 2. The second category, which is less easily identifiable, includes enquiries submitted by claimant solicitors for employers that are still trading, in which case the claimant may get compensation more quickly if their solicitor contacts the employer directly.**

Chart 2: Minimum Incorrect Enquiries per Review Period



### Improvements to the Tracing Code

4.1 The ABI prepared for a number of improvements over the review year 2005-06, to make the Tracing Code more accessible to enquirers, including:

- **A clearer enquiry form**, including drop-down lists for disease and industry, should simplify its use and prevent duplicate enquiries;
- **An online guide for claimants** should clarify appropriate use of the system, and answer frequently asked questions;
- **A fulltime ABI helpline** should help new users to get to grips with the system.

4.2 The ABI is also developing **a fast-track mesothelioma tracing system** so that claimants suffering from mesothelioma may be able to claim compensation quicker.

4.3 We will produce a report on the first six months of the improved system later this year, which will also include a more detailed analysis on the types of enquirer, disease, industry and periods of employment.

4.4 The ABI is looking to the Department for Work and Pensions to ensure that all current and historic employers' liability insurance providers are involved in tracing past policies, including insurers who are in run-off.

The ABI is happy to discuss any of these improvements in greater detail.

The ABI  
August 2007



Table 1: ABI SCALE OF ENQUIRIES AND SUCCESS RATE

Year	Enquiries	Successful	Success rate
2002-2003	6992	1861	27%
2003-2004	6299	1700	27%
2004-2005	7326	1700	23%
2005-2006	6658	1851	28%

Table 2: 2005-2006 ENQUIRIES AND SUCCESSFUL TRACES

Month	Year	Enquiries	Successful Traces
November	2005	675	187
December		453	130
January	2006	553	145
February		505	120
March		615	154
April		414	118
May		533	137
June		556	181
July		513	177
August		575	159
September		639	169
October		627	174

Table 3: 2005-2006 SUCCESSFUL TRACES PRE AND POST 1972

Pre-1972			Post-1972		
Enquiries	Successful Traces	Success rate	Enquiries	Successful Traces	Success rate
1809	268	15%	4849	1583	33%

## **PART THREE**

### **CODE OF PRACTICE FOR TRACING EMPLOYERS' LIABILITY INSURANCE POLICIES**

Reports by the Lloyd's Market Association covering 1 November 2005 to 31 October 2006.

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LMA Findings from 1 November 2005 – 31 October 2006

Agreement Enclosure A

Agreement Enclosure B

## **Information for the Employers' Liability Code of Practice Report in respect of the Code Year November 2005 to October 2006**

A review of support for the Code has been undertaken during June 2007 with the participation remaining unanimous amongst applicable Managing Agents. The number of Managing Agents active in the Lloyd's market between the Code of Practice Year 2005 to 2006 are 30 with 22 agencies having transferred their responsibilities to organisations specialising in run-off. However, all syndicates underwriting EL business, or are responsible for historical records of EL insurance and run-off specialists that are responsible for historical records are covered in the immediate list below. 30 Managing Agents and Run-Off Companies have confirmed by written statement that they participate in the Code, either as holders of relevant historical records, current writers or both.

Equitas (Resolute) provide an effective service to the EL Code of Practice circulation list but are not a member of the code.

ACE Underwriting Agencies Limited  
AEGIS Managing Agency Limited  
Amlin Underwriting Limited  
Argenta Syndicate Management Limited  
Beaufort Underwriting Agency Limited  
Brit Syndicates Limited  
Canopus Managing Agents Limited  
Catlin Underwriting Agencies Limited  
Cavell Managing Agency  
Chaucer Syndicates Limited  
Creechurch Underwriting Limited (Charrington Insurance).  
Duncanson & Holt Syndicate Management Limited.  
Equity Syndicate Management Limited  
Faraday Underwriting Limited  
Heritage Managing Agency Limited  
Hiscox Syndicates Limited  
Illium Insurance Group Limited  
Imagine Managing Agency Limited (including Goshawk & Abacus Syndicates).  
Limit Underwriting Limited  
Markel Syndicate Management Limited  
Marlborough Underwriting Agency Limited  
Mitsui Sumitomo Insurance Underwriting  
Munich Re Underwriting Limited  
Navigators Underwriting Agency Limited  
Newline Underwriting Agency Limited  
Novae Syndicates Limited  
Spectrum Syndicate Management Limited  
Wellington Underwriting Agencies Limited  
Whittington Capital Management Limited  
XL London Market Limited

23 Managing Agents and Run-Off Companies have confirmed by written statement that they have no involvement in EL business which is subject to the Code. They are:

Advent Underwriting Limited  
Ascot Underwriting Limited  
Atrium Underwriters Limited  
Beazley Furlonge Limited  
Capita Syndicate Management Limited  
Cathedral Underwriting Limited  
CMGL Syndicate Management Limited  
Gerling at Lloyd's Limited  
Hardy (Underwriting Agencies) Limited  
Jago Managing Agency Limited  
Jubilee Managing Agency Limited  
KGM Underwriting Agencies Limited  
R J Kiln & Company Limited  
Liberty Syndicate Management Limited  
Managing Agency Partners Limited  
Marketform Managing Agency Limited  
S A Meacock & Company Limited  
Omega Underwriting Agents Limited.  
PRO Syndicate Management.  
Riverstone Managing Agency Limited  
St. Paul Travelers Syndicate Management Limited  
Talbot Underwriting Limited  
Whittington Underwriting Management Limited

A total of 15 direct enquiries were received and traced by Managing Agents for the period November 2005 – October 2006 year, with no direct enquiries to Managing Agents that were redirected to the LMA for searches.

All direct enquiries received from solicitors or brokers were redirected to the ABI website to complete the claim enquiry form for circulation to the ABI/Lloyd's members of the code.

## EL Code of Practice Report from 1 November 2005 to 31 October 2006.

All lines of enquiry (written or electronic) received by the LMA are directed to the ABI website with an EL Code of Practice contact available to provide information and guidance. This arrangement assists the ABI in collating an accurate number of annual enquiries.

Some Underwriters noted an increase in list sizes in their declaration responses to indicate that the changes to the EL Code of Practice is having a positive effect on the behaviour of brokers, solicitors and the general public regarding direct EL enquiries to the ABI website.

Following Managing Agents and Underwriter enquiries, the LMA can confirm that all prior 1.1.1993 EL list items are the responsibility of Equitas (Resolute) to search and should be disregarded on any future circulation lists to EL Code of Practice members.

Further to the DWP Review Body meeting 21 September 2006, the ABI and LMA agreed that they would produce a draft 'User Guide' for consultation to the Review Body members. It was suggested that the 'User Guide' should be made available on all of the stakeholders websites and to include a hyperlink to the ABI EL Code of Practice website to capture all enquiries.

Progress Report From 1 November 2006 to 30 June 2007.

In January 2007 the LMA and ABI met to establish the improvements to the existing process and any further information to be included in the 'User Guide'. This was circulated by the ABI to the DWP Review Body members for consultation in February 2007.

With effect from February 2007, the ABI implemented a weekly 'fast-track' service to prioritise asbestos related claim enquiries to the EL Code of Practice members, as requested by central government.

In March 2007 the ABI User Guide became available on the ABI website with the LMA and Lloyd's websites providing hyperlinks to the User Guide from May 2007.

As discussed at the DWP Review Body meeting 21 September 2006, the intention is for all Review Body members to provide an ABI hyperlink on their websites and for the DWP to effect this arrangement in October 2007 to the Review Body members.

Full details to these key changes are reflected in the ABI November 2005 to October 2006 EL Code of Practice report.

Lloyd's Services to the EL Code of Practice 2005 – 2006.

Please find listed below a summary of the services provided by Lloyd's Managing Agents or Syndicates in support of the EL Code of Practice to the November 2005 to October 2006 period.

- 1) LMA e-mail responses redirecting Lloyd's written or electronic enquiries to the ABI EL Code of Practice contact for advice and assistance.
- 2) LMA/Lloyd's enquiries redirected to the ABI to assist in consolidating the annual number of EL Code of Practice enquiries.
- 3) Positive and nil responses to searches by Underwriters to remove repeat enquiries and unnecessary delays in respect of potential claims.
- 4) Active EL business writers declare that they record all required data to undertake effective searches.
- 5) A positive response from Underwriters to the 'fast tracking' of asbestos weekly circulation lists.
- 6) Managing Agents 2005 – 2006 year declaration responses collectively indicate a good success rate with EL searches.

Statistical data for the EL COP period 1 November 2005 to 31 October 2006.

The total number of enquiries received by the ABI and LMA.	0
The total number of enquiries circulated to insurers.	0
The total number of successful company traces.	0
The total number of successful LMA / Lloyd's traces.	15
The total number of successful company traces for the correct period of employment.	0
The percentage of successful company traces for the correct period of employment.	0

Further to all LMA enquiries redirected to the ABI EL Code of Practice representative or directly to the ABI website, the above DWP requested statistical data is included within the ABI 2006-2007 annual figures.



**Code of Practice for the Tracing of Records of Employers' Liability Insurances**

Please complete on your headed paper. A suitably authorised officer should sign this declaration.

***Code of Practice for Tracing Employers' Liability Insurance Policies***

For the period 1 November 2005 to 31 October 2006, I confirm that [*insert name of Managing Agency*] has enforced the Code of Practice for Tracing Employers' Liability Insurance records and made every practical effort within reasonable bounds to try and establish for a potential claimant whether it was on risk at the time their injury occurred or during the period of exposure to cause an occupational illness or disease.

Signed:

---

for ( *enter name of Managing Agent* ):

---

by ( *enter name of signatory* ):

---

Position of signatory:

---

Date:

---

**Code of Practice for the Tracing of Records of Employers' Liability Insurance Policies**

Please complete on your headed paper. A suitably authorised officer should sign this declaration.

***Code of Practice for Tracing Employers' Liability Insurance Policies***

We confirm that Employers' Liability insurance is not currently written by the Syndicate(s) managed by this Agency and that our Agency has no responsibility for any historic records relating to such insurance cover.

Signed:

---

for (*enter name of Managing Agent*):

---

by (*enter name of signatory*):

---

Position of signatory:

---

Date:

---

**CODE OF PRACTICE FOR THE TRACING OF RECORDS OF EMPLOYERS' LIABILITY INSURANCES**

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**Confirmation of Information**

The information we hold regarding your agency is currently as follows. Please complete any gaps and correct any item that is no longer correct:

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Name of Managing Agent:

Compliance Officer:

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Main contact for Code reporting Purposes:

Name:

Telephone Number:

Fax Number:

email address:

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Secondary contact for Code reporting Purposes:

Name:

Telephone Number:

Fax Number:

email address:

---

The Agency's Syndicates were historic writers of UK Employers' Liability insurance: Yes / No

---

The Agency's Syndicates are current writers of UK Employers' Liability insurance: Yes / No

---

***Statistics***

Please state:

the number of enquiries received directly by your Agency, not via the LMA Lists where a policy was traced	
the number of enquiries received directly by your Agency where no policy was traced and the enquiry was referred to the LMA	

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## Computer Systems

Please set out below the extent to which your IT systems can record policy information in a manner that provides for ready searches. This should include commentary on the issues your company faced (or faces) in meeting this requirement. (Alternatively, you may wish to attach an update of the Statement you provided last year). Please use a separate sheet if necessary.

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## Overall Code Performance

Please set out below specific comments on the impact operating the Code has had on your company.

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Signed:

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for (*enter name of Managing Agent*):

---

by (*enter name of signatory*):

---

---

Position of signatory:

---

Date:

---

## **ANNEX A**

### **KEY REVIEW BODY MEMBERS**

Alison Scott	Department for Work and Pensions (Chair)
Justin Jacobs	Association of British Insurers
Martin Bare	Association of Personal Injury Lawyers
Janet Asherson	Confederation of British Industry
Yuling Palmer	Forum of Insurance Industry Lawyers
Peter Martin	Lloyd's Market Association
Hugh Robertson	Trade Union Congress
Philip Grant	Association of Run-Off Companies

### **ASSOCIATED REVIEW BODY MEMBERS**

Karl Jefferies	Financial Services Compensation Scheme
Lucy McClements	Financial Services Authority
Peter Furby	International Underwriting Association

(Those parties invited as observers and/or contributors of market information to the Review Body).

## ANNEX B

### ASSOCIATION OF BRITISH INSURERS (ABI) AND LLOYD'S MARKET ASSOCIATION (LMA) SCALE OF ENQUIRIES AND SUCCESS RATES

Year	Enquiries	Successful	%
*1999 - 2000	1062	262	25%
2000 - 2001	2239	907	40%
2001 -2002	3753	1560	42%
2002 - 2003	7004	1862	27%
# 2003 – 2004	6307	1708	27%
2004 – 2005	7341	1708	23%
2005 - 2006	6673	1866	28%

### ABI SCALE OF ENQUIRIES AND SUCCESS RATES

Year	Enquiries	Successful	%
*1999 - 2000	1062	262	25%
2000 - 2001	2227	896	40%
2001 -2002	3738	1546	41%
2002 - 2003	6992	1861	27%
# 2003 – 2004	6299	1700	27%
2004 – 2005	7326	1700	23%
2005 - 2006	6658	1851	28%

\*1999 – 2000 includes ABI & LMA combined figures

# Nov 2003 introduction of automated service

### LMA SCALE OF ENQUIRIES AND SUCCESS RATES

Year	Enquiries	Successful	%
2000 - 2001	12	11	92%
2001 - 2002	15	14	93%
2002 - 2003	12	1	8%
# 2003 – 2004	8	8	100%
2004 - 2005	15	8	53%
2005 - 2006	15	15	100%

**ANNEX C****Number of Enquiries and successful traces from 1 November 2005 to 31 October 2006**

Month	Year	Enquiries	Successful Traces
November	2005	675	187
December		453	130
January	2006	553	145
February		505	120
March		615	154
April		414	118
May		533	137
June		556	181
July		513	177
August		575	159
September		639	169
October		627	174



## ANNEX D

### EL Code Signatories

ACE Insurance Co of Europe	IC Insurance Ltd
Aegon UK plc	Independent Insurance
AGF Insurance	Iron Trades Insurance Co Ltd
Albion	
Ansvar Insurance Co	Mitsui Marine & Fire Insurance Co
Assurant Group Ltd	
Avon Insurance plc	NFU Mutual
AXA Insurance plc	NIG Skandia
	Northern Star Insurance Co Ltd
Baptist Insurance Co plc	Norwich Union
Britannic Assurance plc	
BAI Claims Services Ltd	Trinity, Orion and Cotton Trades
CGU Insurance	Pearl Assurance plc
China Insurance Co	P&O Beaufort Insurance
Chiyoda Fire & Marine	Prudential Assurance Co Ltd
CNA Insurance Company (Europe)	
Congregational & General	Reliance Mutual
Co-operative Insurance Society	Royal London General Ins Co Ltd
Cornhill Insurance plc	Royal & Sun Alliance
Ecclesiastical Insurance plc	St. Paul International
Excess Insurance	Sphere Drake Insurance Co Ltd.
	Sumitomo Marine & Fire Insurance
Folgate Insurance	
Fortis Insurance	Trenwick International
Fuji International	Tryg-Baltica International
Highlands Insurance UK Ltd	Wesleyan Assurance
Hiscox Insurance Co. Ltd	Wintethur International
Gerling Global General	Zurich Financial Services
Groupama Insurances	

## **THE COMPLAINTS SYSTEM**

### **ABI Procedures**

If an enquirer has a complaint about the conduct of a particular Insurer in relation to their operation of the Code, this should in the first instance be referred in writing to that Insurer.

#### Action by the Insurer

The Insurer must acknowledge a written complaint within 5 working days of receipt, giving details of its complaints handling procedure. A definitive response will be provided within 40 working days.

If the enquirer is not satisfied with the explanation provided, they may refer the complaint in writing to ABI, who will take up the matter with the company concerned.

#### Action by ABI

A complaint which is referred to ABI will be acknowledged within 5 working days of receipt. ABI will forward correspondence to the senior management of the Insurer concerned, for their review and action, as appropriate.

If the enquirer is not satisfied with the explanation provided, they may refer the complaint in writing to the Department for Work and Pensions.

### **LMA Procedures**

Any complaint made by an enquirer about the conduct of a particular Syndicate subscribing to the Code should, in the first instance, be referred in writing to that Syndicate. Every Syndicate at Lloyd's is required to have written procedures to enable the prompt and proper handling of complaints.

If it is felt a Syndicate has failed to resolve the matter, the dispute can be referred to Lloyd's Complaints Department.

Correspondence should be addressed to;

The Manager  
Lloyd's Complaints Department  
Lloyd's  
One Lime Street  
London  
EC3M 7HA

The Lloyd's Complaints Department will acknowledge the complaint within 5 working days of receipt, and will initially refer the matter to a senior representative of the Syndicate concerned and allow them a final 14 working

days to review the matter. Lloyd's Complaints Department can be asked to investigate the matter if it still remains unresolved after that time.

In the event that the matter remains unresolved after investigation by Lloyd's Complaints Department, the dispute may be referred to the Department for Work and Pensions.

### **DWP procedures**

Consideration of a complaint by DWP is the final stage of the complaints process.

*DWP will only consider a complaint if:*

- In the case of an insurer, the insurer and the ABI, or
- In the case of a Lloyd's Syndicate, the Syndicate and Lloyd's Complaints Department

have first been given the opportunity to resolve it.

### Contacting DWP

Complaints should be sent to:

Code of Practice on Tracing EL Policies  
Improving Working Lives Division  
Department for Work and Pensions  
Adelphi  
1-11 John Adam Street  
London  
WC2N 6HT

The complaint must be submitted in writing.

### How your complaint will be dealt with

DWP will acknowledge the complaint within 5 working days of receipt.

DWP will decide if the insurer or Syndicate acted in accordance with the Code or not, on the basis of written evidence from the complainant and the insurer. The complainant should state clearly what aspect of the Code they believe has not been observed, and provide supporting evidence. The insurer or Syndicate will be asked to explain their view of the case and provide relevant supporting evidence.

### Where DWP concludes that a complaint is justified

It will inform the insurer or Syndicate in writing (with a copy to the ABI or Lloyd's Complaints Department as appropriate), giving the reasons for its decision. DWP will give the insurer or Syndicate one calendar month in which to rectify the situation.

If the insurer or Syndicate does not do so, DWP's report to the Review Body on the complaints it has received that year will highlight the case, and recommend that the Review Body should draw attention to it in its published Annual Statement – naming the insurer or Syndicate concerned<sup>1</sup>.

DWP will inform the complainant of its final decision on their complaint, and the reasons for this.

Where DWP concludes that a complaint is unjustified

It will inform the complainant and the relevant insurer or Syndicate (with a copy to the ABI or Lloyd's Complaints Department as appropriate), and give the reasons for its conclusion.

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<sup>1</sup> DWP will report to the Review Body on the number of complaints which have been referred to it and their nature, the numbers which were found to be justified, and the numbers which were not justified.

**RAILWAY INDUSTRY LIABILITIES**

Soon after the Code started, the Department for Transport, Local Government and the Regions was asked by the British Railways Board to distribute contact details on the appointed claims handler for BRB liabilities. This was incorporated into the first Annual Review Statement 1 November 1999 – 31 October 2000. The information below has been updated and provided by the Department for Transport.

Under the Transport Act 2000, the residuary liabilities of the former British Railways Board have been vested in BRB (Residuary) Limited. These include liabilities for certain (but not all) pre-1994 liabilities of the railway industry, including liabilities of the old pre-nationalisation railway companies. No insurers were involved due to the existence of self-insurance arrangements

Further information can be obtained from BRB (Residuary) Limited's appointed claims handling agents Crawford & Company Adjusters (UK)

All correspondence, including letters of claim, should be sent to this address and not to BRB (Residuary) Limited.

Tempus  
249 Midsummer Boulevard  
Central Milton Keynes  
Bucks  
MK9 1YA  
Tel: 01908 302279