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Dear Regulator,

### **Work-related hearing loss in the NSW Workers Compensation System - August 2019**

We thank you for this opportunity to contribute to the review into services to support people with work-related hearing loss. BlueScope makes this submission as a self-insurer in the NSW workers compensation system.

BlueScope consents to publication of this submission.

#### **Introduction**

1. BlueScope proposes:
  - A clarifying amendment, ensuring that claims for lump sum compensation where the deemed date of injury is before 1 January 2002 are subject to the "greater than 10% WPI threshold" which was introduced by the reforms in 2012;
  - That IMEs and AMSs be directed to properly obey the provisions of section 323 of the 1998 Act.
2. BlueScope also proposes amendments to hearing aids entitlements to reflect;
  - a cap on claims when the period of employment on the relevant insurer ceased more than 20 years prior to lodgement.
  - An age limit for initial claims for hearing aids, capped at 75 years.
  - An age limit on the supply of replacement aids, capped at 80 years.
  - A threshold of a minimum 6% (employment-related) BHI for the provision of aids.
  - Hearing aids only be provided to injured workers if not available through the Government Subsidy program.
  - Alternatively, the workers compensation insurer provides for partial payment, equivalent to the Government subsidy, with the injured worker meeting any additional cost.

#### **Scope of submission**

3. The Consultation Paper covers two broad areas:
  - Access/barriers to benefits;
  - Effectiveness/enhancement of treatment.

4. BlueScope's experience principally relates to access/barriers to benefits. BlueScope accordingly confines this submission to principles and pathways for claiming work-related hearing loss.
5. This submission is designed to demonstrate that some serious inequities should be rectified in the applicable principles concerning entitlement. This should then result in greater resources being available to provide improved treatment and support for those workers genuinely suffering work-related hearing loss.
6. Almost all hearing loss claims dealt with by BlueScope concern gradually acquired hearing loss, referred to as 'industrial deafness'. This submission relates to that condition, as distinct from traumatically induced hearing loss.

### **The Claims Pathway**

7. This is remarkably simple for industrial deafness claims. No changes are needed from the perspective of claimants.
8. The matter is largely governed by section 17 of the Workers Compensation Act 1987 (1987 Act). Dealing with that section, it has been remarked: "Section 17... provides **an easy path** to compensation for a worker suffering from hearing loss of gradual onset.": A & G Engineering P/L v Civitarese [1996] NSWSC 619.
9. A worker need only demonstrate that an employment involved a risk of causing hearing loss. Actual causation need not be established. Further, it is no defence for an employer to show that hearing protection was provided: Blayney Shire Council v. Lobley (1995) 12 NSWCCR 52.
10. Proof of loss of hearing due to industrial deafness is habitually made out by a worker's lay description of sources of noise in the workplace, combined with opinion from a qualified ear, nose and throat surgeon (**ENT**). For example, a worker who describes a working environment in which he or she needs to use a raised voice to communicate with fellow workers 1 metre away is at risk of hearing loss if employed in such an environment in excess of 4 hours per day. A worker using a chain saw for in excess of 2 minutes per day is likewise considered to be at risk of hearing loss.
11. Next, the path to obtaining lump-sum compensation for industrial business is a simple matter. In the event there is a dispute about the extent of impairment, this can be determined by an Approved Medical Specialist appointed by the Registrar of the Workers Compensation Commission.
12. The bar is also very low for workers with industrial deafness to obtain hearing aids pursuant to section 60 of the 1987 Act. In order to obtain an award for this section 60 expense, the governing principle is that the work related component of a worker's loss of hearing need only have made a 'material contribution' to the need for hearing aids. It does not have to be the only, or even a 'substantial', cause of the need for hearing aids.
13. It may be noted that hearing aids have been awarded in cases where a worker's employment related binaural hearing loss is as little as 1.7%.

### **Flawed Methodology – section 323 of the 1998 Act**

14. Premiums are collected and reserves maintained to fund injuries to New South Wales workers sustained in employment within New South Wales or properly connected to this State: section 9AA of the 1987 Act.
15. This fundamental Scheme principle is not being adhered to in a large cohort of industrial deafness claims.

16. Consider the typical example of a worker who worked in an excessively noisy environment for two decades outside New South Wales, followed by two decades of noisy employment within New South Wales. Notable in this context is the generally accepted medical proposition that most of a person's loss of hearing from industrial deafness is acquired in the earliest years of employment (also refer to Appendix A to this submission).
17. Nevertheless, in this type of scenario, ENTs commonly purport to apply a "default 10% deductible" pursuant to section 323 the Workplace Injury Management And Workers Compensation Act 1998 (**1998 Act**). This is said to be on the basis that, in the absence of an audiogram at the conclusion of the non- New South Wales employment, it cannot be determined with "scientific exactness" what the deductible proportion should be.
18. This flawed approach ignores the text of the following emphasised part of section 323 (2) : "If the extent of a deduction under this section (or a part of it) will be difficult or costly to determine (because, for example, of the absence of medical evidence), it is to be assumed (for the purpose of avoiding disputation) that the deduction (or the relevant part of it) is 10% of the impairment, **unless this assumption is at odds with the available evidence.**"
19. In the given example, a 10% deduction is plainly "at odds with the available evidence", yet commonly applied. Therefore, loss of hearing due to employment having no connection with this State is being compensated via the NSW Scheme.
20. ENTs and insurers should be trained to appreciate that the calculation of a deductible proportion does not involve any requirement for " scientific exactness". It requires a finding on a balance of probabilities only, using the application of clinical judgment to the history provided by a worker concerning the duration and intensity of exposures to sources of noise throughout their working life. This is wholly unexceptional in personal injury claims, and mandated by section 323 (2).
21. Adoption of the correct methodology will ensure compliance with the legislation. It will also increase the funds available for treatment and support to be provided to workers whose injuries arise from employment within New South Wales.

#### **Pre-1 January 2002 Claims: An Inequity**

22. Amendments introduced in 2012 include the current minimum threshold for an entitlement to lump sum compensation pursuant to section 66 of the 1987 Act. Specifically, the worker in question must have a loss of greater than 10% Whole Person Impairment (**the threshold requirement**).
23. On its face, the threshold requirement applies to any claim made after 18 June 2012, regardless of the date of injury. However, the Commission has held that the section 66 threshold requirement does not apply to injuries sustained prior to 1 January 2002, being the date upon which the WPI system was introduced: *BP Australia Ltd v Greene* [2013] NSWCCPD 60. Although the correctness of *Greene* has been challenged, it has not been overturned.
24. The effect of *Greene* is that there is a gross inequity between classes of litigant in the Scheme. The section 66 threshold requirement has a so-called retrospective application to workers injured between 1 January 2002 and 18 June 2012. There is no principled reason why workers with injuries occurring before 1 January 2002 should not be subject to the same threshold requirement.
25. The current position is a gross inequity and leads to unwarranted waste of resources. For example, there are cases where workers recovered lump-sum compensation during an employment, often towards the end of their working life. Some decades later, a lump-sum compensation claim for further loss of hearing is made on the basis of excessive exposure to noise in the final but short period of employment. This has resulted in awards for additional lump sum compensation for as little as 0.2% further binaural loss of hearing!

26. The legislation requires a clarifying amendment, so that the threshold requirement applies equally to all workers, specifically including those whose injury occurred prior to 1 January 2002.

#### Limitation issues

27. Most of BlueScope's claims for hearing aids arise from former employees of the Port Kembla steelworks. This operation commenced in 1928, and has employed over 150,000 persons. The Company has held self insurance since commencing operations. Since 1962 onsite medical centres, staffed by Occupational Physicians and Registered Nurses have provided injury treatment and rehabilitation services to employees. Since the early 1970s various technologies have been utilised to conduct hearing tests, with resultant audiograms leading to payment of the applicable benefit if noise induced hearing loss exceeded the relevant threshold. While hearing protection had always been available, from 1996 the Company entered a phase of mandatory protection based on colour-coded muffs appropriate to the level of noise generated within the area employees worked.
28. An entitlement to claim for hearing loss has long been well communicated, to the extent that making a claim on leaving our employ became part of the culture of the organisation. Our records indicate the Company has dealt with at least 25,000 hearing loss claims. The Wollongong area is serviced by a plethora of hearing aid providers, and solicitors that provide advice on hearing loss.
29. BlueScope regularly receives request for new and replacement hearing aids, as well as batteries from –



30. In BlueScope's view there is adequate support for injured workers to pursue entitlements to hearing aids. We have significant concerns with the structure and application of the current Fees Order, and legislation, which have led to a proliferation in 'out of time' claims from;

- Persons, despite the legislative requirement to make a claim when they first become aware of injury, having left our employ many years ago. Since the regulations changed to allow claims for unrestricted aids (albeit subject to the requirement of ENT recommendation), BlueScope received the following claims.

Years since leaving BlueScope	Number of claims received since Sept 2014
>70 yrs	1
61-70	1
51-60	1
41-50	6
31-40	7
21-30	24
15-20	24
11-14	9
Estimated value of hearing aids x 1 pair each claimant	\$438,000

Estimated value of initial plus replacement aids over lifetime	\$720,000
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31. As the entitlements currently stand, despite the period that has lapsed since leaving our employ, assuming appropriate ENT support, these claims are eligible to receive hearing aids. BlueScope maintains that given the period that has passed, we are significantly disadvantaged in being able to determine the extent to which employment has been a material contributing factor to the requirement for hearing aids, and the contribution of other factors.
32. In a review of "Occupational Noise-Induced Hearing Loss" (JOEM, Volume 54, Number 1, January 2012) it was found "there are a number of other causes of sensorineural hearing loss besides occupational noise. Of primary concern is non-occupational noise exposure from a variety of sources, especially recreational noise, such as loud music, weapons firing, motor sports, etc. Other causes include a wide variety of genetic disorders, infectious diseases (e.g., labyrinthitis, measles, mumps, syphilis), pharmacologic agents (e.g., aminoglycosides, diuretics, salicylates, antineoplastic agents), head injury, therapeutic radiation exposure, neurologic disorders (e.g., multiple sclerosis), cerebral vascular disorders, immune disorders, bone (eg, Paget disease), central nervous system neoplasms, and Meniere disease".
33. In addition, the same paper concluded "Any assessment of hearing loss requires the review of all previous audiograms, as well as noise exposure records, hearing protection data, and clinical history, to assist in the diagnosis of NIHL. A referral for a comprehensive audiology evaluation, including bone conduction testing, can assist in verifying the nature of hearing loss".
34. BlueScope is at a disadvantage when determining liability for the provision of hearing aids if such a period has passed that investigation of the claim cannot be completed;
  - Noise surveys or details of the environment of the areas claimants allege exposure are no longer available. Many areas of the plant have closed or their processes changed over the decades. Levels of noise varied across the site depending on the operation and it is incorrect to assume that all areas generated noise. It is no longer possible to verify a claimant's allegation with respect to the environment in which they were employed.
  - Neither role descriptions, nor witnesses who may be able to provide information on the levels and frequency of noise are now available to assist with determination of liability. It is incorrect for an assumption to be made that the Port Kembla Steelworks was wholly a noisy environment. The plant area covers 800 hectares. There are 66 kms of roads. Many roles were involved in administration of the works, or were performed in an outdoors environment, or in buildings where the operations created little noise. Employees may have been engaged with departments whose activities generated noise, but their roles may not have exposed them. The Hot Strip Mill building is 901 metres long – employees may have been engaged with that Mill but their work may have been literally out of ear-shot of loud noise.
35. Forensic prejudice to defendants in personal injury claims brought outside 6 years of the occurrence of injury has been referred to by the High Court of Australia in the following common-sense terms:

*"For nearly 400 years, the policy of the law has been to fix definite time limits (usually six but often three years) for prosecuting civil claims. The enactment of time limitations has been driven by the general perception that "[w]here there is delay the whole quality of justice deteriorates.".... it is oppressive, even "cruel", to a defendant to allow an action to be brought long after the circumstances which gave rise to it have passed. ...people should be able to arrange their affairs and utilise their resources on the basis that claims can no*

*longer be made against them. Insurers, public institutions and businesses, particularly limited liability companies, have a significant interest in knowing that they have no liabilities beyond a definite period:" Brisbane South Regional Health Authority v Taylor [1996] HCA 25.*

36. BlueScope acknowledges that a compensation statute should provide some laxity for 'out of time' claims. In the context of industrial deafness claims, great laxity is provided by the interpretation given to section 261 of the 1998 Act in *Unilever Australia Ltd v Petrevska* [2013] NSWCA 373. The near impossibility in successfully raising limitations in these types of matters will also be evident from *BHP Billiton Ltd v Eastham* (2013) NSWSC 34.
37. BlueScope urges the introduction of a 20 year "long stop" limitation provision for industrial deafness claims, commencing from the deemed date of injury under section 17 of the 1987 Act. Studies referred to in this submission support the idea that if a worker takes any longer to make a claim, the bulk of the hearing impairment and catalyst for the need for hearing aids is likely to be due to factors such as the ageing process.
38. Case Studies provided in Appendix B to this submission show that **BlueScope is receiving claims up to 40 years and even more after the deemed date of injury.**

#### Hearing aids - other issues

39. During Financial Year 2018/19 BlueScope paid \$945,000 for new and replacement hearing aids for approximately 300 former & current employees. BlueScope was particularly impacted by the decision taken by the Regulator, effective September 2014, to reinstate lifetime provision of hearing aids (having been withdrawn by reforms in 2012), without regard to a minimum hearing loss threshold, age of claimants, nor the period that has passed with respect to exposure to noise since leaving our employ.
40. BlueScope is concerned the Hearing Aid Fees Order leaves it open for initial claims for hearing aids to be made at the later stages of a person life, when age related hearing loss predominates. A review of first hearing loss claims received since September 2014 indicates as follows.

Age at time of first claim for hearing aids (Years)	Number of claims received since Sept 2014
>90	1
86-90	3
81-85	6
76-80	11
71-75	20
66-70	10
<65	7

41. In addition, it is apparent that a number of Accredited ENTs utilise template reports when providing their findings on the need for hearing aids. The wording of the relevant text recommending the requirement for hearing aids never changes and appears to be included in the body of the report without consideration. For instance, reports always stating the worker should have hearing aids, inter alia, for reasons of safety, while at work. This particular reasoning is present regardless of the person's age or employment situation, often having been retired for decades.
42. BlueScope draws on a number of studies to support a position that as people age the distinction between noise induced and age-related hearing loss becomes increasingly difficult to determine

(see Appendix A). Consequently, we hold the view that it is inequitable and unfair to hold the insurer responsible for the full cost of aids, and continued supply over a lifetime, given that many factors contribute to hearing loss.

43. In the matter of BlueScope Steel (AIS) Pty Ltd v Sekulovski (2018) NSWCCPD 48, BlueScope raised the concern of the supply of hearing aids for work-related bindingly-assessed binaural hearing loss of 1.9%. The worker had left BlueScope in 2000 and first claimed hearing aids in 2017, at the age of 75 years. In BlueScope's view there can be no justification for the supply of hearing aids for such a minor loss, and an open acceptance that such low levels could become a standard has grave cost implications across the entire Scheme. BlueScope is particularly alarmed at the explicit refusal to have regard to the role of presbycusis in *Sekulovski*.
44. Last, in the case of lost or damaged hearing aids, there is no obligation on the injured worker to contribute to the replacement cost. The only obligation is to complete a statutory declaration. In our experience, this Declaration comes through the hearing aid provider, who clearly has a vested interest in the worker's claim for replacements being successful. Claims for replacement aids are generally paid as there exists no basis for denial by the insurer. While declaring they have not been able to recover the loss from any other insurance, there is no obligation to provide evidence of this. The lack of accountability or onus on the injured worker is disproportionate to the \$6,000 cost, fully incurred by the insurer, for a replacement.

## Summary

45. BlueScope submits the entitlement to hearing aids in the current form expose insurers to significant costs for hearing losses attributed to employers that are:
- Absent of any meaningful threshold
  - largely speculative,
  - do not properly qualify the requirement for aids arising from non-work factors
  - expose the insurer to initial and ongoing costs without proportionate consideration for age-related or other health issues.
  - lacking in accurate supporting evidence,
  - rely on an ENT recommendation as the sole requirement for provision, and 5-yearly replacement, of aids valued at \$6,000.
  - prejudice the employer's ability to properly investigate liability.
46. BlueScope proposes a review of the legislation and associated Fees Orders as it pertains to work-related hearing loss along the lines mentioned above. It is unlikely the legislation in the current form envisaged the nature of claims now making their way into the system, resulting in inadequate protections and inequity towards employers.

*Hard copies of documents cited are available on request.*

Regards

Lyal Hammond  
Health & Wellness Manager  
BlueScope

## **Appendix A**

### **BlueScope: Submission Re: Work-related Hearing Loss in the New South Wales Workers Compensation System**

#### **Occupational Noise-Induced Hearing Loss** ACOEM Task Force on Occupational Hearing Loss

D. Bruce Kirchner, MD, Col. Eric Evenson, MD, Robert A. Dobie, MD, Peter Rabinowitz, MD, James Crawford, MD, Richard Kopke, MD, and T. Warner Hudson, MD JOEM Volume 54, Number 1, January 2012

- Hearing loss due to continuous or intermittent noise exposure increases most rapidly during the first 10 to 15 years of exposure, and the rate of hearing loss then decelerates as the hearing threshold increases. This contrasts with age-related loss, which accelerates over time.
- Available evidence indicates that previously noise exposed ears are not more sensitive to further noise exposure.

#### **An investigation into hearing loss among patients of 50 years or older** JI Fei, LEI Lei, ZHAO Su-ping, LIU Ke-fang, ZHOU Qi-you, YANG Shi-ming Journal of Otology 2011 Vol.6 No.1

- From the current investigation, some preliminary conclusions can be drawn. (1) Thresholds remain stable from 50 to 70 years of age, except a significant deterioration along with age at 8 kHz. (2) Thresholds increase dramatically at all frequencies after 70 years of age. (3) Between the 80 + and 90 + age groups, most threshold changes are at only 500 Hz and 1 kHz but not at high frequencies, indicating stable high-frequency hearing sensitivity in patients over 80 years of age. The decline in mid and low frequencies may lead to a significant decline in perception of loudness.

#### **Presbycusis and Noise-Induced Hearing Loss\*** Ulf Rosenhall; Kai Pedersen; Alvar Svanborg Behavioral Techniques in Audiology and Otology Ear and Hearing, Vol. 11, No. 4, 1990

- It is, however, difficult to differentiate between hearing loss due to aging and hearing loss due to extraneous factors such as noise exposure, ototoxic drugs, infections, and other precursors.
- The aim of the investigation was to study age-related changes in hearing in a representative sample of 70 year olds followed longitudinally and to evaluate the effect of protracted occupational noise exposure on the hearing at old age. The study also included a comparison of two 70-year-old cohorts born with a 5-year interval. The study was out in Gothenburg, Sweden. Gothenburg has a population of 430,000 and is the center of an urban area of altogether about 700,000 inhabitants. It is an industrialized city with heavy mechanical industries, the largest being the Volvo automobile factory and a manufacturer of ball bearings. Earlier, three shipyards were found in Gothenburg.
- Each cohort was divided into three groups: participants who had not been exposed to noise, those who had been exposed to noise from 1 to 15 years, and those who had been exposed to noise for 15 years or more.
- There was nevertheless a very clear difference in the high-frequency hearing for exposed and non-exposed men at ages 70 and 75 (10 to 15dB). The auditory thresholds were considerably better, not only in the high frequency range (4- 8 kHz) but also at 2 kHz in the non-exposed subjects. The same tendency was also observed, but to a lesser extent, in the low-frequency area. At age 79, the hearing acuity in the high-frequency range (4-8 kHz) was without significant differences in the heavily exposed

and not exposed groups. The effects of noise thus become less apparent in advanced age; **presbycusis eventually catches up with NIHL.**

**Occupational Hearing Loss** John J. May, MD AMERICAN JOURNAL OF INDUSTRIAL MEDICINE 37:112±120 (2000)

- Noise-induced hearing loss (NIHL) is a phenomenon which usually progresses over 10±15 years of intensive noise exposure and then tends to progress more slowly thereafter.
- Presbycusis may show a somewhat different pattern on audiogram, but also leads to losses in the higher frequencies. Generally, these losses are seen after the age of 60 years. They are greatest at the very highest frequencies leading to a down sloping curve without a notch on audiogram. The distinction of presbycusis from NIHL may be impossible in the setting of combined occupational noise exposure and older age, as the higher frequencies are affected by both.

## **Appendix B**

### **BlueScope: Submission Re: Work-related hearing loss in the NSW Workers Compensation System**

#### **BlueScope Case Studies**

##### **Case Study 1**

Mr A is 71 years of age. He commenced employment with our Company in [REDACTED] leaving in [REDACTED] at age 35 yrs. He continued in the workforce until [REDACTED]. In [REDACTED] he was found to have a binaural hearing loss of 12.4%, diminishing to 4.6% after presbycusis. The current Fees Order entitle Mr A to the provision of hearing aids by BlueScope. The IME providing the assessment had no access to prior audiograms nor a history of the nature of his employment with our Company. The IME report provides no indication a history was taken of genetic disorders, infectious diseases (e.g., labyrinthitis, measles, mumps, syphilis), pharmacologic agents (e.g., aminoglycosides, diuretics, salicylates, antineoplastic agents), head injury, therapeutic radiation exposure, neurologic disorders (e.g., multiple sclerosis), cerebral vascular disorders, immune disorders, bone (eg, Paget disease), central nervous system neoplasms, or Meniere disease.

- The claimant has waited 36 years to make a claim for hearing aids. The industrial noise component of his hearing loss is only 1/3 of the total loss.
  - The industrial noise component of the hearing loss would not have exceeded the previous threshold requirement of 6% binaural.
  - The Company no longer has records that would enable investigation of the claim.
- Potential cost of claim, assuming provision of 4 sets of aids over worker's life = \$30,000

##### **Case Study 2**

Mr B was employed by BlueScope from [REDACTED] until [REDACTED]. He made a number of hearing loss claims amounting to a total binaural hearing loss of 20.04%. 2 months after leaving our employ a further test revealed no additional loss. In [REDACTED], at age [REDACTED], Mr B made a further claim for an additional 7.86% loss. His total hearing loss was 49%.

- The worker has suffered additional hearing loss, attributed to BlueScope, despite not having been employed for 21 years.

### Case Study 3

Mr C is 76 years of age. He was employed from [REDACTED] until [REDACTED]. He then gained employment as a roof tiler. He first made a claim for hearing aids in [REDACTED]. He was found to have a total binaural hearing loss of 16.1%, reduced to 7.5% after correcting for presbycusis. The IME had no access to prior audiograms, nor was a comprehensive history of other factors that may contribute to hearing loss taken. The claimant has waited 49 years before lodging a claim for industrial deafness.

- ½ of the current hearing loss is age related.
- The claimant has not provided any evidence as to noise levels as a roof-tiler, which involves power tools.
- The Company is unable to undertake noise studies of the claimant's previous work area as it has closed.
- The Company is unable to pursue investigations due to difficulties identifying witnesses, noting the time that has passed would make evidence unreliable, and absence of noise surveys from the period.
- Potential cost of claim, assuming provision of 3 sets of aids over worker's life = \$21,000

### Case Study 4

Mr E was employed by the Company from [REDACTED] until [REDACTED]. He left our employ at 53 years of age. On leaving our employ he was examined by the Medical Panel and a Consent Award was handed down for a 2.4% binaural hearing loss. Hearing aids were not recommended. In [REDACTED] he made a claim for hearing aids, at age 86 yrs, on the grounds he suffered a binaural loss of 10.18%.

- The 7.74% discrepancy was attributed by the IME to his employment to this Company, despite the Consent Award being handed down post his employment.
- The worker has suffered additional hearing loss, attributed to BlueScope, despite not having been employed for 33 years.
- The IME had no access to audiograms of prior loss, nor detail of employment. BlueScope's history indicates benign exposure to noise.
- BlueScope respectfully suggests that attribution of hearing loss to an employer under these circumstances can only be 'speculative'.

#### Case Study 5

Mr F was employed by BlueScope from [REDACTED] until [REDACTED]. He left our employ at age 30 years. At the time he left our employ he had a binaural hearing loss of 10.58%. He last hearing test was 6 months post-employment. He did not seek hearing aids and he was represented by solicitors. In [REDACTED] he has made a claim for the provision of aids. An Audiologist report quotes his current binaural loss of hearing at 22.7%.

- Mr F left our employ at a relatively young age.
- 23 years after leaving our employ he makes his initial claim for hearing aids.
- His current loss of hearing is approximately twice the level it was on leaving our employ.
- The worker has supplied no material with respect to employment for the last 23 years, including, but not limited to, noise surveys from employers post-BlueScope.
- Mr F has not approached the Company for hearing aids, despite having pursued, with the assistance of legal representation, lump sum hearing impairment claims.
- A significant portion of the worker's loss is unrelated to employment matters.
- Potential cost of claim over a lifetime = \$48,000

#### Case Study 6

Mr G lodged an initial claim for hearing aids in [REDACTED] at the age of 89 years, 26 years after leaving our employ. He alleged loss of hearing because of his employment as a Security Officer from [REDACTED] until [REDACTED]. He was found to have a binaural hearing loss of 12.5%, after a deduction for presbycusis of 19%.

- The Company disputes the allegations of the worker with respect to exposure however is unable to locate noise surveys of the area the claimant was employed due to the passage of time.
- The work area has substantially changed since the claimant's engagement and current noise surveys are not applicable.
- A significant portion of the worker's loss is unrelated to employment matters.
- The worker reported gradual diminution of his hearing over many years, characteristic of age related loss.
- Despite the worker's age, a comprehensive examination of conditions other than industrial exposure was not undertaken.
- Potential cost of claim - \$6,000-\$12,000.

#### Case Study 7

Mr H was employed by BlueScope for 33 years. He left our employment in [REDACTED]. In [REDACTED] he lodged a claim for hearing loss based on an IME report indicating a 4.5% binaural loss. The Hearing Aid Fees Order applicable at that time required a threshold of 6%. Hearing aids were not supplied. In [REDACTED], at age 79 yrs, Mr H made a further claim, this time alleging a binaural loss of 6.64%. The current Fees Order requires no threshold loss is required, and he is entitled to aids.

- Mr H's noise induced hearing loss has apparently diminished by over 2% over the last 8 years, despite leaving our employment 16 years ago.
- He is now entitled to a supply of hearing aids as the current Fees Order requires no threshold.
- Potential cost of claim = \$12,000-\$18,000.

#### Case Study 8

Mr I was employed by BlueScope from [REDACTED] until [REDACTED], leaving our employment at 31 years of age. He made an initial claim for hearing aids in [REDACTED]. He provided an IME report for a total binaural hearing loss of 9.6%, but the work-related component was only 5.5%. Hearing aids were recommended.

- The worker left our employ 35 years ago. He has an extensive employment history with 18 different employers since that time, denying exposure to noise at any of these. He has not produced noise surveys etc to support his position.
- There is no suggestion the worker required hearing aids on leaving BlueScope, and he has been capable of working with 18 employers without them.
- Potential cost of claim = \$35,000