

Mesothelioma:

a guide for sufferers and their families



I want you to know
how pleased I have been
with the way you have dealt
with my father's claim
for compensation for
contracting mesothelioma.
I was extremely impressed
by the sensitive yet professional way
in which David dealt with my father
and myself during what was a very
difficult period for our family.

Philip, Sheffield

This information relates to the law and procedures in England and Wales. Please contact us if you need advice about the law and procedure in other legal jurisdictions.

This booklet is intended as a guide for mesothelioma sufferers and their families.



What is mesothelioma?

Mesothelioma (pronounced “mee-so-thee-lee-oma”) is a cancer that affects the external lining of the lungs (pleura) or, less commonly, the lining of the abdomen (peritoneum) or heart (pericardium). There is no cure, but treatment can ease symptoms and extend survival.

Mesothelioma is one of a number of conditions that are caused by exposure to asbestos dust. Other asbestos related conditions include lung cancer and asbestosis, which may result in premature death, and pleural thickening or pleural plaques which are benign and may cause minimal symptoms.

These other asbestos related conditions will only develop where the victim has had substantial exposure to asbestos dust over a period of time. In contrast, mesothelioma may be caused by minimal exposure to asbestos dust.

Although those who have been diagnosed as suffering from benign asbestos related conditions, such as pleural plaques or pleural thickening, may be at an increased risk of developing mesothelioma only a small proportion will go on to develop that condition.

Delay between asbestos exposure and development of mesothelioma

For all asbestos related conditions there is a delay between first exposure to asbestos and the development and diagnosis of the condition. For mesothelioma this period of latency can vary enormously from a period of about 15 to 60 years.

The annual number of deaths due to mesothelioma has increased from less than 200 in the 1960s to over 2,000 at present. It is predicted to continue to increase and for the rate to peak at a little under 2,500 per annum between 2011 and 2015 or later.

Development of knowledge of risks to health

Knowledge of the risks to health associated with substantial exposure to asbestos dust date back to the 19th century. Lucy Deane, H M Lady Inspector of Factories, described the “evil effects” of asbestos in 1898. By the middle of the 20th century knowledge of the risks to health associated with minimal exposure were identified.

Despite developing knowledge about the risks to health associated with exposure to asbestos fibres, asbestos continued to be widely used in industry until the mid-late 1970s. Its continued use over this period, almost invariably without precautions, was a consequence of scandalous negligence by industry in ignoring the dangers and an equal failure by successive governments in failing to enforce workplace regulation.

Although the widespread use of asbestos has long ceased, the risk of continued exposure remains from asbestos materials already in place. The risks of such exposure will be greatest for demolition workers and other tradesmen including plumbers, joiners and electricians. However, the risks may arise in all walks of life. Often the risks associated with the exposure to minimal amounts of asbestos dust are not appreciated; in schools, for example.

Who is at risk?

Although mesothelioma may be caused by background exposure to asbestos, the more a person has been exposed to asbestos, the greater is their risk of developing the condition.

Those most at risk of developing the condition will be (usually) men who have worked in industry where they have had heavy exposure to asbestos. Typically, those most at risk include shipyard workers, ships engineers, ladders, railway employees (particularly those involved in building or repair of locomotives) and construction workers.

However, as mesothelioma may be caused by exposure to small amounts of asbestos, cases involving workers such as teachers or health professionals, whose exposure to asbestos dust was minimal, are not uncommon. Sadly, cases of other people who have been exposed environmentally (e.g. because they lived near an asbestos factory) or domestically (because another member of the family worked in a job that caused exposure to asbestos dust which was brought home on their overalls) are also not uncommon.



Thank you so much
for handling my case so well.

You came to know us at a great time
of sadness and
you were so kind.

We will always remember
you as very professional
but also very warm hearted.

Sylvia, Irwin Mitchell Client.

Obtaining compensation

For anyone who is given the devastating news that they have mesothelioma, it may be possible for them to obtain financial assistance in the form of legal compensation and state benefits. Clearly no amount of money can compensate for being given this diagnosis, but it may help to reduce any concerns about the financial future.

A compensation claim can recover any loss of earnings or pension, the cost of nursing care and other financial losses and provide an effective means of providing for the sufferer's "nearest and dearest", usually their spouse, partner or children.

We have a national reputation for pursuing claims for those who develop asbestos related conditions including mesothelioma and what follows is a guide to assist those affected in pursuing a compensation claim.

Time limits

There are time limits within which claims for damages must be made. Usually, court proceedings must be commenced within 3 years of the date of diagnosis. However, the law is complex and it is best to seek advice from a specialist solicitor as soon as possible. Even where there has already been delay, or the mesothelioma victim has already died, it may still be possible to pursue a claim, but advice should be sought without further delay.

Choosing the right solicitor

For anyone wishing to pursue a claim for mesothelioma (or any other asbestos related disease) it is essential to seek advice from a specialist solicitor. Choosing the right solicitor may be the most important factor in determining whether or not a claim is successful; and, if it is, the amount of compensation obtained. An appropriate specialist solicitor will be one who:-

- a) has the right experience and expertise;
- b) will deliver the right level of service to someone who is terminally ill;
- c) will deal with the claim at no cost to the mesothelioma sufferer.

Many solicitors do not meet those requirements and mesothelioma sufferers should not simply instruct the firm that may have dealt with their house sale or purchase, divorce etc. They should go direct to a reputable specialist and, at all costs, avoid intermediaries such as Claims Management Companies.

Funding the claim

Pursuing a claim for compensation is potentially costly. However, a specialist solicitor will provide a funding arrangement so that the claim can be pursued at no cost to the claimant and with no hidden charges e.g. interest, union deduction or requirements to pay arrears of union contributions etc. An appropriate arrangement will ensure that:-

- a) If the claim is successful the cost of pursuing the claim will be recovered from the defendants, with no additional charge to the claimant;
- b) If the claim is unsuccessful such costs are provided for, together with any liability for the opponent's costs, without any charge to the claimant.

Potentially there may be a number of different funding arrangements available including legal expenses insurance, trade union support or a conditional fee arrangement with insurance ("no win no fee"). Available options should be discussed at an early stage. No one should be deterred from pursuing a claim because of concerns about the cost of doing so.

Who will be liable to pay compensation?

In the majority of cases, exposure to asbestos dust has occurred at work. In such cases, that exposure will almost inevitably have occurred because the employer failed to take appropriate precautions, in which case a claim can be pursued against the employer, who is likely to have been insured.

Where the exposure to asbestos dust was not the fault of the employer or it occurred other than at the victim's place of work, it may still be possible to pursue a claim against the person(s) or companies responsible.

What if the company no longer exists?

Even if the employer no longer exists it may still be possible to pursue a claim by tracing the insurer of the defunct company. Over the years, we have successfully pursued thousands of cases in this way.

In cases where the company is defunct and it is not possible to trace the insurers, it may still be possible to obtain compensation under a government “no fault” scheme designed for such cases – a claim under the Pneumoconiosis etc. (Workers Compensation) Act 1979 should always be considered.

In addition, a new scheme under the Child Maintenance and Other Payments Act 2008 provides for a payment to mesothelioma victims who were exposed outside the workplace, e.g. environmentally or domestically from dust on the overalls of a family member.

What if I cannot recall being exposed to asbestos?

Often those diagnosed with mesothelioma can clearly remember the circumstances in which they were exposed to asbestos dust. However, it is not unusual for the sufferer to be unaware that he or she has been exposed.

Mesothelioma is almost invariably caused by exposure to asbestos. The source of the asbestos may not have been obvious. It may have been slight or as a result of exposure to dust from composite materials of which asbestos was only an element. Dealing with asbestos related disease claims, after careful and thorough investigation, we are likely to be able to identify the circumstances in which your exposure to asbestos dust occurred.

What will the claim cover and how much compensation might be awarded?

The amount of compensation awarded in each case depends upon the individual circumstances of the case. The overall sum of compensation will include elements for:-

- Pain, suffering and disability;
- Financial losses including loss of wages, pension and other financial losses as appropriate;
- Care costs and other expenses.

Taken together the elements are likely to provide a lump sum of compensation which is an effective way of providing for the sufferer’s family and dependants.


Early Interim Payments

We aim to obtain a substantial interim payment at an early stage in the claim to provide for the additional expenses that will be required to meet the sufferer’s needs for care etc.

Claims by families where the sufferer has already died

It is always best if a claim is commenced during the sufferer’s lifetime. He or she will be uniquely placed to provide information about the circumstances in which their exposure to asbestos occurred.

Nevertheless, it is still possible to bring a claim after the sufferer has died on behalf of his or her estate and any of their dependants. Included within that claim would be a sum for pain and suffering, any expenses incurred as a result of the illness, a bereavement payment, a percentage of the deceased’s income, and a valuation of the services they provided (e.g. home maintenance).



Your solicitor will be with you
every step of the way,
and will be on hand to
help and support
you through this difficult time

State Benefits

It is also possible to claim state benefits. In particular, the mesothelioma victim will be entitled to welfare benefits which may include:

- Industrial Injuries Disablement Benefit – if exposed to asbestos at work
- Incapacity Benefit – if s/he is forced to stop work
- Attendance Allowance (if over 65)/Disability Living Allowance (under 65) – automatically in every case
- Blue Disabled Parking Badge – automatically in every case

Irwin Mitchell can assist with all benefit applications which should be made as soon as a diagnosis is suspected.

About Irwin Mitchell

Irwin Mitchell was established over 90 years ago. It is the largest and most experienced personal injury practice in the United Kingdom. It has offices in major cities including, Birmingham, Glasgow, Leeds, London, Manchester, Newcastle, and Sheffield.

Irwin Mitchell solicitors are nationally recognised as leading experts in asbestos compensation claims and have been involved in a number of leading cases. There are dedicated teams in each office dealing with asbestos related disease claims. Irwin Mitchell strive to provide the highest levels of client care, which they have a reputation for delivering and for which they have won a number of awards.

**For more information visit
www.irwinmitchell.com.**

Case Studies

Mesothelioma from asbestos exposure as a school teacher

Substantial compensation was obtained for the family of a teacher who died, aged 65, from mesothelioma as a result of exposure to asbestos.

She was exposed to asbestos whilst working as a primary school teacher from 1974 to 1976. The asbestos was around the boiler and pipe work in areas of the school used by her during her employment. These included the boiler room which was used as a drying room and was where she would take her class to hang their coats etc to dry when it had been raining.

The defendant, Northumberland County Council, settled the claim without admitting liability. The council's own asbestos surveys identifying the existence of asbestos throughout the school at the time of Mrs C's employment and later.

Mesothelioma from asbestos exposure as an apprentice heating engineer

An award of half a million pounds compensation was obtained for Mr A who developed mesothelioma in his early fifties.

He was exposed to asbestos dust in the 1970s when, as an apprentice, his employers, a firm of heating and ventilation engineers, put him on a job stripping a boiler of its asbestos insulation for a month at an army camp.

After court proceedings were commenced, responsibility was admitted at an early stage and the court ordered an initial interim payment of £40,000 to be made to the claimant. Subsequently, days before the trial was due to take place, an offer of increased compensation was made and the case was settled.

The high award reflected the claimant's young age and high level of earnings prior to developing mesothelioma. Speaking after the settlement Mr A said "I'm very happy with the amount I have been awarded and with all the help and support I've received from Irwin Mitchell."

"Before this happened I had a promising and prosperous career and all I want now is for my wife and family to get what I was going to earn and to be cared for."

Action Mesothelioma Charter

Irwin Mitchell is proud to support the Action Mesothelioma Charter and we believe that:

Mesothelioma patients and their families have a right to:

1. A speedy and accurate diagnosis, supported by a Multi Disciplinary Team discussion
2. Good quality information from a variety of sources available in different media and languages
3. Support of a suitably qualified nurse and other Multi Disciplinary Team members throughout their illness
4. Be considered for the best possible treatments available with the support and input of a Multi Disciplinary Team
5. Have up-to-date advice on benefits and help in applying for them, and receive prompt payment of benefits
6. Have legal advice and guidance from a firm of solicitors experienced in mesothelioma claims
7. Guidance on end of life decisions and care at home
8. Provision of a consistent nationwide service from coroners using a clear and open process with a maximum case length of three months

And call upon the Government to:

9. Have mesothelioma made a national priority by the Cancer Tsar
10. Fund good quality research, alongside other national bodies, on mesothelioma with a view to improving diagnosis, treatment and outcomes for patients
11. Support the production of clinical guidelines on the best practice of diagnosis and management of mesothelioma
12. Ensure the Health and Safety Executive vigorously enforce existing regulations on asbestos

And call upon all employers to:

13. Prevent future exposure to asbestos by providing a safe working environment with all necessary equipment to protect employees
14. Work with unions and individuals to ensure enforcement of current regulations to safeguard all employees
15. Identify all asbestos in their properties and organise its safe removal where practical or necessary when work is being carried out.

telephone

08000 23 22 33

irwinmitchell.com/personalinjury

Text CLAIM to 61993 and someone will call you back

Irwin Mitchell

Imperial House
31 Temple Street
Birmingham B2 5DB
United Kingdom

Stewart House
123 Elderslie Street
Glasgow G3 7AR
United Kingdom

2 Wellington Place
Leeds LS1 4BZ
United Kingdom

40 Holborn Viaduct
London EC1N 2PZ
United Kingdom

Bauhaus
Rossetti Place
Quay Street
Manchester M3 4AW
United Kingdom

Gainsborough House
34-40 Grey Street
Newcastle upon Tyne NE1 6AE
United Kingdom

Riverside East
2 Millsands
Sheffield S3 8DT
United Kingdom

Irwin Mitchell Abogados

C/Alberto Aguilera, 62
28015
Madrid
Spain

Calle Puerta del Mar 15
29005
Málaga
Spain