

Our specialist team has a wealth of experience in dealing with claims arising from asbestos and chemical poisoning. We work in a practical, supportive & clear way, dedicated to gaining the best possible outcome for each of our clients.



# Practical, supportive & clear

**Benefits / Compensation**  
**What you need to know about asbestos claims**

## **About us**

Our Industrial Disease team has knowledge and experience of asbestos disease cases ensuring both a practical and supportive approach to these often complex claims.

All our Industrial Disease team members have individual accreditation with the Association of Personal Injury Lawyers (APIL) and Thomson Snell & Passmore is APIL accredited.

## **Treatment and care**

Your hospital specialists and GP will provide the best advice.

The definitive and most informative summary of care is given by the BTS (British Thoracic Society) Standards of Care Committee – BTS Statement on Malignant Mesothelioma in the UK. It is preferable for you to read this yourself. This can be downloaded from the BTS website (see 'Useful websites' on the back page) or we can supply copies upon request.

## **Types of compensation**

There are two types of compensation:

- a) benefits paid by the Government 'as of right' – you simply apply, and
- b) a civil compensation claim where you claim damages invariably from an ex-employer(s)' insurance company.

## **Government benefits that you can apply for now**

### **Industrial Illness Disability Benefit (IIDB)**

What is IIDB? This is a weekly allowance paid by the Department of Work and Pensions (DWP) even if you are retired and over the age of 65.

### **Am I eligible for it?**

Yes, if you satisfy each of the following six points:

- the asbestos-related illness has been caused by your current job or any previous job
- the asbestos exposure was on or after 5 July 1948 (if you were exposed before this date you may be able to claim under the pneumoconiosis scheme, see the following page)
- the illness you suffer from is one of the eligible diseases. For asbestos-related diseases these are:
  - i. Diffuse pleural thickening
  - ii. Asbestosis
  - iii. Lung cancer with asbestosis
  - iv. Lung cancer in the absence of asbestosis
  - v. Mesothelioma
- the disease has made you disabled (a minimum level of disability may apply)
- the asbestos exposure may need to be as a result of a particular type of job (this depends on the disease suffered and usually only applies to iv above)
- the asbestos exposure you experienced at work needs to be relatively substantial (unless you are suffering from mesothelioma).

### **When should I apply?**

As soon as possible, because the benefit can only be backdated by three months. If you delay it may mean you lose benefits you could otherwise have received.

### **How do I apply?**

You need to complete and return a claim form from the Department of Work and Pensions. A pack can be obtained from any Jobcentre Plus office or Social Security office or downloaded from the DWP website (see back page).

### **Who can I get in touch with to help me?**

The Department of Work and Pensions – Benefit Enquiry Line:  
0800 882200.

### **How long do I have to wait until I start getting it?**

If you suffer from mesothelioma you will be eligible for the payments as soon as you are disabled by the disease. If you suffer from any of the other diseases listed above you will have to wait 15 weeks from the onset of the disease.

### **What if I was exposed to asbestos as a member of HM Armed Forces?**

If you are suffering from an asbestos-related illness as a result of your military service you may be entitled to claim a War Disablement Pension. For further information contact either the Veterans Agency or the War Pensions Welfare Service (see back page).

### **Will IIDB affect my other benefits?**

It may do. You should check with the DWP Benefit Enquiry Line to see how your benefits may be affected. It is possible that IIDB could increase your Pension Credit and may allow you to claim a Workers Compensation Act Payment; ask the DWP.

### **Can I claim IIDB after someone has died?**

It is possible to claim IIDB in respect of someone who was entitled to IIDB, but died before being able to make a claim. You should write to your local Jobcentre Plus office (within six months of the date the death certificate was issued) requesting to be appointed to act on behalf of the deceased person. You should then complete the form they send to make a claim just as if the person were still living and send the form plus an original death certificate with your letter to the Jobcentre Plus.

### **What benefits other than IIDB can I claim?**

You may be able to get the following extra allowances once you have IIDB:

- Constant Attendance Allowance
- Exceptionally Severe Disablement Allowance
- Reduced Earnings Allowance.

Other benefits which you may be able to claim are:

- Incapacity Benefit
- Disability Living Allowance
- Attendance Allowance
- Income Support or Pension Credit, Housing Benefit and Council Tax Benefit
- Carer's Allowance
- Home Responsibility Protection
- Bereavement Benefits
- Child Tax Credit/Working Tax Credit.

Your first step is always to call your local Jobcentre Plus or Social Security office as soon as possible.

For more information, call the South East and London IIDB regional office: 0845 6088913.

### **The Pneumoconiosis etc (Workers' Compensation) Act 1979**

This provides for a scheme enabling asbestos victims and their widows who cannot make a civil claim for compensation (because a previous employer or their insurance company cannot be found) to claim a further state benefit. Our advice is to put in a claim as soon as possible. Contact: 0800 2792322

“No win, no fee”

### **The Mesothelioma Lump Sum Payments (Conditions and Amounts) Regulations 2008**

These Regulations came into force on 1 October 2008 and provide for a further award (i.e. a claim can also be made under the Pneumoconiosis etc. (Workers' Compensation) Act 1979) if the applicant has a diagnosis of mesothelioma with exposure to asbestos in the UK. Application is by way of a newly combined application form to the Department of Work and Pensions. You can contact the Freephone Helpline telephone number for advice. The amount of the award varies and is set out in a separate schedule attached to the Regulations and is dependent upon age at time of diagnosis. Higher awards will be made to younger living claimants. At the time this booklet was reviewed (March 2010), living applicants will (from 1 April 2010) be awarded £75,176 if they are aged 37 or younger, dropping down on a yearly scale to £11,678 if aged 77 or older whereas their dependants (typically the surviving spouse) will be awarded £39,122 if they are aged 37 or younger, dropping down on a yearly scale to £7,298 if aged 67 or older. Contact: 0800 2792322

### **Claiming in the Courts**

We guarantee that you will receive all your compensation without deduction of legal costs. Our aim is to meet with you at your home within 24 hours.

### **About civil claims for compensation**

Thomson Snell & Passmore has considerable experience in this area and will deal with all legal aspects of your claim, helping you through the compensation process.

“I came to you ... without a hope in the world of winning compensation for John ... I can't believe it is now settled.”

Maureen Willson, Client

## Valuation (Quantum) for mesothelioma claims

As the law says: “each case will turn on its own merits”, but many cases have already been settled and these give general guidance on damages for the Court.

For a death caused by asbestos you will be able to claim the following damages but you should note that the figures given are for general guidance and may well vary from case to case:

- general damages for pain, suffering and loss of comfort, convenience or enjoyment of life, are between £52,500 and £81,500 (depending on age at date of death)
- cost of care - often by a relative, in the region of £12,500
- funeral costs and memorial
- probate costs limited to obtaining Grant of Probate
- inquest representation costs
- bereavement award of £11,800 subject to statutory entitlement where the victim died on or after 1 January 2008 (£10,000 if the death was before then)
- loss of present and future income. This can be a substantial sum
- travel and ‘out of pocket’ expenses
- loss of services, for example labour costs for gardening, DIY etc.
- interest.

## Costs

**Legal costs will be recovered in addition to any compensation paid.**

We work on a conditional fee agreement i.e. ‘no win, no fee’ basis. If we do not recover damages then we do not get paid. We will only take on your case if we believe it has a good chance of success and will give you an honest assessment.

After your claim is settled our costs will be paid by the defendant in addition to your damages. We do not take any fees from your damages, unless you have insisted that we undertake work that we feel is unnecessary to resolve your claim or is ‘unreasonable’ in the circumstances. We assure you of complete transparency in relation to costs and guarantee not to take money from your damages unless there are exceptional circumstances agreed with you in advance.

## **Time-scale for claims**

**As to a time-scale for mesothelioma claims, there is now a High Court Queen's Bench Division 'Fast Track'.**

Alan Care (now with Thomson Snell & Passmore) was instrumental in the introduction of the 'Mesothelioma Fast Track' now being rolled out nationwide in our Court system following concerns as to the time asbestos claims were taking.

For a mesothelioma client we can issue Court proceedings very quickly but circumstances may differ from case to case.

First we must find a defendant employer with the ability to pay the claim and/or who has insurance. Asbestos disease claims are often resolved quickly without having to go to Court. We have recently taken two claims to an expedited trial – i.e. within three months of first being instructed. On average 9-12 months is not unusual and rarely some cases may take longer. However, only about 2% of asbestos claims end up in a Court trial. One recent claim was settled in 27 working days but this was exceptional.

## **The history of asbestos disease claims**

**Many clients ask how long ago was the danger of asbestos recognised.**

The law has established this date as the 1930s (HM Factory Inspector - Merewether Report) although concern about health effects of heavy industrial exposure to asbestos was expressed by the UK Government HMF I as long ago as 1898-1907. The first mesothelioma case histories were diagnosed in South Africa in about 1959. In August 1945, a letter by the Ministry of Labour and National Service (Chief Inspector HMF I) entitled "Asbestos insulation aboard ships" referred to the risk of injury of workers due to asbestosis and exposure to asbestos dust suggesting, among other things, protection by way of good ventilation and provision of respirators.

**“I feel that Thomson Snell & Passmore do take time to understand me personally. I am not just a folder, I am a person.”**

Client

Generally the more asbestos that you are exposed to the more likely it is that you will develop an asbestos condition. Many employers did little about asbestos hazards until the late 1970s although there are exceptions such as British Rail who began removing asbestos from train carriages in 1969. The first Court cases took place in the early 1970s.

### **Some asbestos facts and quotes**

- 1898** HM Inspector of Factories observed jagged glass-like fibres by microscope and discussed the hazard and “evil” of asbestos.
- 1922** Turner & Newall, a leading asbestos manufacturer, stated: “We repudiate the term “asbestos poisoning”. Asbestos is not poisonous and no definition or knowledge of such a disease exists”.
- 1930** HM Inspectorate of Factories Merewether report establishes industrial date of knowledge that asbestos is “hazardous”.
- 1965** “Scientists track down a killer dust disease”. The Sunday Times.
- 1970s** Compensation claims seeking damages for occupational asbestos exposure first heard in the UK Courts.
- 1972** Employer’s Liability (Compulsory Insurance) Act 1969 becomes law making it compulsory for employers to have insurance cover to protect employees.
- 2002** Mesothelioma “Fast Track” for High Court compensation claims introduced.

## Useful websites/links/contacts

[www.actionmeso.info](http://www.actionmeso.info)

[www.apil.org.uk](http://www.apil.org.uk)

[www.asbestosuk.org.uk](http://www.asbestosuk.org.uk)

[www.brit-thoracic.org.uk](http://www.brit-thoracic.org.uk)

[www.cancerhelp.org.uk](http://www.cancerhelp.org.uk)

(navigate to Specific Cancers and then Mesothelioma)

[www.directgov.uk](http://www.directgov.uk)

(navigate to Disabled people then Financial support then  
Other benefits then Diffuse mesothelioma payment)

[www.dwp.gov.uk](http://www.dwp.gov.uk)

(navigate to Resource centre)

[www.veterans-uk.com](http://www.veterans-uk.com)

The content of this booklet is correct at the date of publication (March 2010) and is intended to provide a general guide to the subject matter. It should not be considered comprehensive and is not a substitute for seeking professional advice on a specific issue.

Thomson Snell & Passmore is a law firm with a reputation for providing high quality, intelligent advice. We provide a comprehensive legal service and build long-term relationships by encouraging a culture of respect, understanding and excellence. **It's a common sense approach that's surprisingly uncommon.**

Member of the Law Society Personal Injury Panel  
Association of Personal Injury Lawyers Accredited Firm  
Member of the Headway Personal Injury Solicitors List  
Member of the Child Brain Injury Trust (CBIT)  
Member of the United Kingdom Acquired Brain Injury Forum  
Member of the Law Society Clinical Negligence Panel  
Member of AvMA (Action Against Medical Accidents)

### **Tunbridge Wells Head Office**

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Tunbridge Wells  
Kent TN1 1NX  
DX 3914 Tunbridge Wells 1  
T 01892 510000  
F 01892 549884

### **Thames Gateway Office**

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