Mesothelioma and Compensation

MESOTHELIOMA UK

www.mesothelioma.uk.com

0800 169 2409

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Introduction

If you have been diagnosed with mesothelioma, it is likely that you will be able to claim compensation.

You will need expert legal advice from a solicitor who is a specialist in mesothelioma claims.

A specialist mesothelioma solicitor will help you get the right amount of compensation without charging you for the work that they do so that you get 100% of what you are entitled to. This is because they are usually instructed on a Conditional Fee Agreement, commonly referred to as a "no win, no fee" agreement.

Asbestos was used widely in the UK from the 1930s to the 1970s in buildings and in building products. All asbestos fibres are dangerous.

Some of the products that contained asbestos include:

- Insulation around pipework and on boilers
- Asbestos insulation boards used as partitions or fire breaks
- Soffits and fascia boards
- Asbestos rope
- Ceiling tiles
- Corrugated roofing

sheets

- Asbestos gloves, blankets and mitts
- Talc and powdered make-up

You may know how your asbestos exposure occurred, but not everyone does, especially because symptoms tend to appear many years after exposure. It may not have been you who handled or disturbed the asbestos you were exposed to, but you may have been nearby when someone else did.

A specialist solicitor will see you at home or in hospital and go through your work history and try to help you identify where and how you may have been exposed.

If you would like information or advice about your particular circumstances please contact Mesothelioma UK and one of our specialist nurses or our benefits advisor will be happy to help you. Alternatively, please contact one of the solicitors listed on our legal panel.

Compensation Claims

What do you have to prove to win?

In order to get compensation, you have to:

- Prove you were exposed to asbestos when you should not have been

- That your mesothelioma was caused by asbestos fibres

It has been known for many decades that asbestos was dangerous and from the mid-1960's, that it caused mesothelioma even after breathing only small amounts of asbestos dust.

Mesothelioma is almost always due to asbestos exposure. A solicitor will be able to advise you on the likelihood of a successful claim.

What will your claim be worth?

No amount of compensation can replace your health, but it can provide much needed financial support for you and your family going forward. The aim of compensation is to put you in the same financial position as though you hadn't developed mesothelioma.

The amount awarded in each case is different as it depends on each individual's personal circumstances, but it is reasonable to expect the amount of compensation will be substantial.

Compensation is likely to exceed £100,000 and often an amount much greater than that. Many settlements include an agreement for the Defendant to pay for private medical treatment in future after the case has concluded.

How long should your case take to conclude?

Mesothelioma cases should be dealt with swiftly. There are fast track procedures in courts and some cases can be concluded within six months of contacting a solicitor. Some cases will take longer than this if complications arise or if tactical considerations mean it is advisable to delay.

Your solicitor should advise you if your case has unusual features which may mean it will take longer.

In some cases it will be possible to get an agreement from the defendants or an order from a judge that they are responsible for your illness as well as a payment on account of your compensation, usually £50,000, while the case is ongoing.

Can you get compensation if your employer has gone out of business?

If your former employers' insurance company can be traced, then you can claim against them.

Alternatively, it may be possible to bring the claim against some other party for example, the occupier of the site where you worked, or your school, or a family member's employers – if they worked with asbestos.

Or your solicitor may advise you to make an application under the Diffuse Mesothelioma Payment Scheme (DMPS), which is a fund of last resort where no employers insurance can be traced.

The website for the DMPS: **www.mesoscheme.org.uk**

Former armed forces personnel may be able to make an application to the veterans agency for a lump sum of £140,000.

If you have served in the armed forces please see our Benefits and Compensation Options for Armed Forces Patients leaflet or contact Mesothelioma UK for advice on 0800 169 2409.

Can you get compensation after someone has died from mesothelioma?

Yes. You will be able to bring a similar compensation claim in the courts if your spouse has died.

A claim is also possible for cohabitees who have lived together for at least two years. Family members can pursue a claim if they have lost a loved one to mesothelioma and they are unable to bring or conclude a claim themselves.

However, where at all possible please seek legal advice as early as possible because it is likely to be easier to prove a case where the evidence of the person who was exposed to asbestos is given first hand.

In Scotland it is also possible for immediate family members to recover significant damages, even if the loved one concluded a claim in their lifetime.

What are the time limits for bringing a claim?

Although the usual rule is that a claim should be brought within three years of the date of diagnosis, or within three years of the date of death if someone has died, shorter timescales can apply to

some claims and in all cases, the sooner you take action the better.

However, if there are good reasons as to why the claim was not brought in time then it may be possible to bring a successful claim, but you need to get legal advice quickly.

Some solicitors are specialist at bringing out of time cases. If your case is out of time, make sure you ask your solicitor if they have represented people in your situation before, and if they aren't or they can't help you, don't be afraid to get a second opinion.

Similarly, if you previously made a claim for an asbestos related illness in the past, ask your solicitor if they have helped others in this situation.

How are your legal fees met?

If the case is successful, then the person paying your compensation will also pay your legal costs.

If your case is unsuccessful then you shouldn't have to pay a bill. You must check with your solicitor that this is the position. Some solicitors will make a deduction for applications to the fund of last resort, others will assist you with this without charge. Don't

be afraid to ask your solicitor for specific details about how your legal fees will be met. A specialist solicitor will be used to advising people in this situation.

Will you have to go to court?

The vast majority of cases settle before they get to court.

However, court proceedings often have to be started to put pressure on the defendants to take steps to resolve your case. You may even get a date for trial. There is likely to be opportunity for your solicitor to apply to the court to get a decision about whether the defendant should pay you compensation before a trial date is set. This is known as the 'show cause' procedure.

Finding A Solicitor

We think it is important that if you decide to take legal advice that you use solicitors that specialise in asbestos disease claims.

Asbestos disease law is a distinct area of law and the procedures and practice are specific to that area. Specialist solicitors have dealt with many asbestos claims in the past and will handle your case expertly, swiftly and sensitively.

Mesothelioma UK Legal Panel

Mesothelioma UK have appointed a Legal Panel of specialist solicitors who have years of experience providing specialist legal advice to people diagnosed with mesothelioma and who offer the following service:

- Meetings in a place of your choice, including home visits
- Timely response times to enquiries
- Give clear and sound advice throughout
- Commitment in looking after your interests
- Accessible by phone or email
- No costs to patients or family (no win, no fee)
- Agree deadlines and timely feedback
- Technical expertise throughout
- 100% of the compensation claim with no deductions for legal fees

In Scotland the legal system is different and our specialist Scottish panel solicitors will be able to advise about any potential deductions from recovered damages.

You can find information about the Mesothelioma UK Panel at www.mesothelioma.uk.com/legal-advice or contact Mesothelioma UK on 0800 169 2409.

You can also locate asbestos solicitors via your local asbestos support group, your lung cancer nurse or through your Trade Union.

** Disclaimer: Mesothelioma UK does not accept any responsibility relating to the appointment of a law firm.*

Questions to ask a potential solicitor

To help you we have listed some questions you may want to ask the solicitor dealing with your case.

- How many mesothelioma cases has the law firm dealt with?
- Has the law firm taken any cases like yours to settlement and if so, how many?
- How long does it usually take the law firm to conclude mesothelioma cases?
- Does the law firm have specific knowledge of the employers involved

in your claim?

- Will they arrange to visit you at your home or a place of your choice at a time convenient to you to discuss the claim?

- Will all medical details of your case be gained from your medical records or will it be necessary for you to have a medical examination?

- How will you be kept informed of your claim's progress and how often will you be updated?

- Will they deal with the claim at no cost to you?

- Will you receive 100% of the sum of compensation agreed or awarded?

** Disclaimer: Mesothelioma UK does not accept any responsibility relating to the appointment of a law firm following the use of this list of questions. These questions are suggestions only to help you assess the solicitor's expertise.*

Glossary

Defendant
A person defending a court action which has been taken against them. For example, a previous employer. You will also see the phrase “the person paying your compensation” used in this booklet which is used dependent on the outcome of the claim.

Instructing
Authorising a lawyer to represent you. An instruction describes the type of work that you want them to do.

Mesothelioma UK provides specialist, impartial, up to date support and information.

To sponsor or donate contact: Mesothelioma UK
CIO Registered Charity Number 1177039
Email | info@mesothelioma.uk.com

Freephone | 0800 169 2409

Website | www.mesothelioma.uk.com

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