

# Asbestos-related illness and your legal rights



## An overview

As long ago as 1900, the health dangers associated with asbestos began to be recognised. Today many people who suffer disease from exposure to the fibres in their work or home life have won compensation, even though many years may have elapsed since they were in contact with asbestos.

## What is asbestos?

Asbestos is a naturally occurring fibrous mineral and there are three main kinds:

**Chrysotile.** This is white with long and curly fibres. It is used to make fabric for items such as clothing and blankets. Chrysotile fibres are more likely to get caught on the lining of the windpipe – or bronchii – and therefore coughed out of the mouth via the sputum.

**Crocidolite.** This blue asbestos has fine, needle-like fibres. These do not tend to get caught in the lining of the bronchii; they are more likely to find their way into the lungs.

**Amosite.** These brown fibres are thicker than those of blue asbestos, but similarly needle-like in shape. The finer the diameter of the particles of Crocidolite and Amosite, the more dangerous they are.

## Asbestos in the environment

Asbestos fibres are invisible, and exposure to them usually happens when asbestos is used for things like insulating materials, or when asbestos products are broken up.

Many people – particularly in towns and cities – will have had some exposure to asbestos. Most will not suffer any ill effects, and there is no clear reason why certain people are affected, while others with similar levels of exposure do not become ill.

## The history of asbestos and its regulation

1931: the first set of asbestos regulations was produced to highlight the dangers of exposure to asbestos.

1930–1940: asbestos became widely used in the UK.

1955: Sir Richard Dolls' report confirmed the link between asbestos and lung cancer.

1960: Professor Chris Wagner established a link between asbestos exposure and mesothelioma, a fatal cancer.

1969: Wagner's findings resulted in regulations and the virtual banning of blue asbestos in the UK. Now, finally all asbestos use is banned in the UK.

## The diseases caused by asbestos

**Asbestosis.** Asbestosis can develop as a result of prolonged exposure to asbestos, usually more than 20 years. Symptoms include progressive shortness of breath, clubbing of fingertips and abnormal chest sounds (known as basal crackles). The sufferer will have been exposed to heavy amounts of asbestos fibres before contracting this condition. Investigation is by means of a combination of chest x-ray, high resolution CT scan, pulmonary function tests and a bronchoalveolar lavage. The condition progresses slowly and it can be very disabling, but few patients die from asbestosis.

**Diffuse pleural thickening.** The pleura is the lining of the lung. Fibrosis of the pleura can create a thickening of the lining which, if extensive, may cause breathlessness during activity, and chest expansion will also be reduced. Investigation is by x-ray and lung-function tests. The condition does not affect life expectancy.

**Pleural plaques.** These raised areas of transparent fibrous tissue can be seen lining the pleura. They are caused by regular exposure to asbestos fibres but do not generally cause impairment of the lungs. Pleural plaques have no effect on life expectancy and investigation is by chest x-ray.

**Mesothelioma.** Mesothelioma is a tumour, most commonly occurring in the lining of the lungs. The tumour can appear anything from ten to fifty years after exposure to asbestos. This extremely serious condition typically causes chest pain and shortness of breath which progressively become worse. Investigation is by chest x-ray, CT scan, pleural fluid aspiration and thorascopic biopsy. Research is continuing into its treatment, and a drug 'Alimta' has recently shown some success in extending life expectancy, though it is not available through the NHS.

**Lung cancer.** People suffering from asbestosis or exposure to a level of fibres likely to cause asbestosis, may develop lung cancer. Sufferers who have also smoked are more likely to develop the disease. Deaths from asbestos-induced lung cancer are approximately twice as common as from mesothelioma.

## Asbestos-related disease is by no means inevitable

It is important to note that the majority of people who have been exposed to asbestos fibres at work or home will suffer no adverse effects whatsoever.

## Are you affected by asbestos illness?

If you feel that your health has been affected, or you are anxious about your past exposure to asbestos, it is essential to get advice from your General Practitioner. Speak to them about your worries and request treatment from the chest clinic of your local hospital, where x-rays and CT scans can be performed.

If it is discovered that you do have a chest condition, you will be put under the care of a specialist chest consultant. And if your diagnosis points to asbestos as a cause of the condition, you may be entitled to special benefits and compensation.

## What to do next

**Claiming benefits.** Firstly contact your local Department of Work & Pensions office and enquire about benefits you are entitled to. The diseases which qualify for the payment of benefits include: PDD1 Pneumoconiosis, PDD3 Diffuse Mesothelioma, PDD4 Primary Carcinoma of the Lung with evidence of (a) asbestosis and/or (b) bilateral diffused pleural thickening and PDD9: Bilateral Diffuse Pleural Thickening.

**Claiming compensation.** Secondly, talk to a lawyer with experience of these kinds of claims to discover whether you have a good case for claiming compensation. Remember, compensation may well be payable for injuries caused by asbestos exposure both in and outside the workplace.

**Workplace exposure.** It has been known since the beginning of the 20th century that asbestos exposure in the workplace can cause illness. Most large employers have known of the dangers for more than 70 years. Therefore it is highly likely that your employers knew – or should have known – at the time the risks they were exposing you to.

**Exposure at home.** You can claim compensation if you have had exposure in the home environment to asbestos fibres. This could be from being exposed to the substance in your locality, or via relatives who worked with asbestos coming home in overalls covered in the fibres.

All asbestos exposures should be investigated, because the majority of cases will have reasonable prospects of gaining compensation for the injured person.

**Compensation.** It can take a long time for an asbestos-related disease to take hold or progress. So if your injuries are presently relatively minor, it's still possible to get compensation and reserve the opportunity to get more damages if you develop one of the more serious conditions in later years.

There is no reason to put off pursuing a claim for compensation. As soon as you find out you have any form of asbestos-related illness, seek legal advice, otherwise you may find you are 'out of time' and cannot bring a claim.

## Pursuing a claim for compensation

In asbestos cases there are four main hurdles to clear in order to win compensation:

- Establishing that the claimant is suffering from an asbestos-related disease. This is confirmed by a report from a medical expert in respiratory medicine.

- Establishing that the disease has been caused by exposure from a particular source, which in most cases will be the employer. This can be shown by producing evidence of exposure to asbestos and the years when it occurred.
- Establishing that the employer should have foreseen that, at the time of exposure, the employee could suffer from an asbestos-related condition. Many employers have known of the dangers of asbestos for over 50 years.
- Establishing that the exposure to asbestos was due to the employer's negligence. Most employers did not warn their employees of the dangers of asbestos exposure, or take steps to prevent it.

## Who do you claim against?

It's likely that you may have been exposed to asbestos fibres with more than one employer. Equally, the courts have held that it may be impossible to identify which exposure – and therefore which employer – has caused a victim's illness. However, if we can prove that the exposure to asbestos increased the risk of developing an asbestos-related illness, or increased the claimant's level of disability, then a claim can be pursued against that employer.

Please do not be anxious if your employer has gone out of business. We can apply to the Companies Court to restore the name of the company

## We are here to help

We know from experience that the mention of asbestos-related illness can cause anxiety if you know you have been exposed to the substance in the past. Talking about your concerns may help, so please do not hesitate to call us for help and advice.

## Contact Us

*Please feel free to discuss your own position and concerns. Contact your nearest Russell Jones & Walker office or call:*



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