

Mesothelioma Compensation Claims



Choosing the right solicitor

If a patient has been diagnosed with mesothelioma, s/he may be entitled to claim compensation because the dangers of asbestos have been known about for a very long time. The first Asbestos Regulations, controlling the use of asbestos, date back to 1931! Many employers failed to take steps to protect their employees (and their families) against exposure to the harmful dust.

Expert legal advice from a solicitor who is a specialist in asbestos-related disease claims is essential. Not all solicitors, even those who work in the personal injury field, are specialists in these cases.

The patient may know how they were exposed to asbestos but, frequently, people don't recall how or when their asbestos exposure occurred. It may not have been the person diagnosed who handled or disturbed the asbestos, but they may have been in the vicinity when someone else did. A family member may have brought the dust home on their overalls/work clothes. They may have worked in a building which contained asbestos which was removed or disturbed.

A suitably qualified solicitor will see the patient at home, or in hospital or another care setting, and go through their work and social history; and also use their specialist knowledge of the products, processes and their case archives. They will be able to advise the patient as to whether they may have a meritorious compensation claim.

At the time of the initial consultation, the solicitor will also ensure that the relevant government (DWP) benefits are accessed by completing the necessary application forms. It is essential that the information contained within those forms is accurate as that information will be considered and examined within any legal claim brought. Please note that there are also Asbestos Support Groups available across the UK to assist patients with the many benefits that they may be entitled to.

A specialist solicitor will help the patient obtain the right amount of compensation, without charging him/her for the work that they do, so that they get 100% of what they are entitled to.

What has to be proved to succeed with a legal claim?

It has been known for many decades that asbestos was dangerous and, from 1965, that it caused mesothelioma even after breathing only small amounts of asbestos dust.

In order to get compensation, proof of negligent exposure to asbestos (i.e. in circumstances when the person ought not to have been so exposed) and expert evidence that it was caused by asbestos fibres is necessary. Mesothelioma is almost always caused by asbestos exposure.

A specialist solicitor will be able to advise as to the prospects of bringing a successful claim.

What is a claim worth?

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How long should the case take to conclude?

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Is it possible to obtain compensation if the employer has gone out of business?

If the former employer's insurance company can be traced, then you can make a claim against them. Alternatively, it may be possible to bring the claim against some other party; for example, the occupier of the site where the patient worked, or their school, or a family member's employer – if they worked with asbestos. Alternatively, the solicitor may advise to make an application under the Diffuse Mesothelioma Payment Scheme (DMPS), which is a fund of last resort where no employer's liability insurance can be traced.

Former armed forces personnel may be able to make an application to the Veterans Agency for a lump sum payment; a solicitor will also assist with this.

Can compensation be obtained after someone has died from mesothelioma?

Yes. It is possible to bring a compensation claim if the patient's husband or wife or civil partner 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, legal advice should be sought as early as possible because it is much more straightforward to prove a case where the evidence of the person who was exposed to asbestos is given first-hand; sometimes that is crucial.

What are the time limits for bringing a claim?

A claim should be brought within three years of the date of diagnosis or within three years of the date of death.

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 outside of these time limits, but legal advice should be obtained quickly. Some solicitors are really specialist at bringing out of time cases. If the case is out of time, the solicitor should be asked if they have represented people in that situation before, and if they don't appear to be able to assist, then the patient shouldn't be afraid to get a second opinion.

Similarly, if there has previously been a legal claim made by a co-worker for an asbestos-related illness in the past, the solicitor should be asked if they have helped others in this situation.

How are legal fees met?

If the case is successful, then the person paying compensation will also pay their legal costs. If the case is unsuccessful then the patient shouldn't have to pay a bill, ie they should be at no financial risk. This should be checked with the solicitor to confirm that this is the position. A specialist solicitor will be used to advising people in this situation.

Will the matter 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 the case. There may even be a date set for trial (final hearing). There is likely to be an 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.

How to find a solicitor?

It is important that, if a decision is made to take legal advice, a solicitor who specialises in asbestos disease claims is consulted. 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.

Specialist solicitors have many years' experience of winning asbestos-related cancer cases and should be able to guarantee the following:

- ▶ 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 the patient's interests at all times
- ▶ Accessible by phone or email (or other method of communication)
- ▶ No costs payable by patients or their family ('No win; No Fee')
- ▶ Agree deadlines and timely feedback
- ▶ Technical expertise throughout
- ▶ 100% of the compensation claim with no deductions for legal fees.

Mesothelioma UK has a legal panel of solicitors who are specialists in dealing with civil claims.

Questions to ask a potential solicitor?

Listed below are some questions that the patient may want to ask the solicitor dealing with your case:

- ▶ How many asbestos 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 similar cases?
- ▶ Does the law firm have specific knowledge of the employers involved in your claim?
- ▶ Will they arrange a home visit or a meeting at a place of your choice, at a time convenient, to discuss the claim?
- ▶ Will all medical details of the case be gained from the patient's medical records or will it be necessary to attend a medical examination?

- ▶ How will the patient be kept informed of his/her claim's progress and how often will they be updated?
- ▶ Will the claim be dealt with at no cost to the patient?
- ▶ Will the patient receive 100% of the sum of compensation agreed or awarded?

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