

Mesothelioma

Expertise and Understanding

Legal advice from Irwin Mitchell

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

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.

Choosing to pursue a compensation claim for mesothelioma is an important decision. What you need is expert advice from professionals acting in your and your family's best interests – from initial contact right through to the successful outcome.

Receiving a diagnosis of mesothelioma (pronounced mee-so-thee-lee-oma) will have a devastating effect on you and your family. Usually caused by breathing in asbestos dust at work, it is very likely that you will be able to make a compensation claim. At Irwin Mitchell we believe that our clients deserve the best possible legal advice, medical care and ongoing specialised support following a diagnosis of mesothelioma.

Our dedicated team will fight fearlessly to achieve the best outcome for you and your claim. We are renowned for our understanding of the issues affecting you and your family, following a diagnosis of mesothelioma, and we know what positive action to take to make a difference.

We will deliver the highest level of professional advice and expertise combined with dedication and sensitivity.

Above all, we put you first.

"Thank you for managing my father's claim so quickly and efficiently. The whole process was carried out with total professionalism resulting in a stress free time for him for which I am truly grateful. Now I can ensure he gets the best care for the rest of his life and I will never forget your part in making that possible. Thank you so much".

- Jill Wright

Talk to a specialist advisor today

Freephone **0800 23 22 33** or visit
www.irwinmitchell.com

If you have been diagnosed with mesothelioma, in most cases it will have been caused by going to work.

What is mesothelioma?

Mesothelioma is a form of cancer that most commonly affects the external lining of the lung (pleura) but can also occur, less commonly, in the lining of the abdomen (peritoneum) and the 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 symptoms.

These other asbestos related conditions will only develop where the sufferer 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 and development

For all asbestos related conditions there is a delay between first exposure to the substance and the development and diagnosis of the condition. For mesothelioma, this can take anything between 10 to 60 years.

Knowledge of risks

Knowledge of the risks to health associated with substantial exposure to asbestos dust dates back to the 19th Century. Lucy Deane, HM 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 low exposures were identified.

Despite developing knowledge, 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, ignoring the dangers, and an equal failure by successive governments in failing to enforce workplace regulation.

Although the widespread use of asbestos has long since ceased, the danger 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 danger posed by exposure to low levels of asbestos is not appreciated; in schools for example.

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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.

Most at risk

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 and engineers, ladders, railway employees 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 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.

Irwin Mitchell is one of the largest and most experienced personal injury law firms in the country. Our reputation for helping mesothelioma sufferers and their families is second to none and every year we recover millions of pounds of compensation for people diagnosed with the disease.

Specialist team

Irwin Mitchell has dedicated and specialist teams working specifically and almost exclusively for clients with mesothelioma claims. Employing many of the country's finest personal injury lawyers, our highly specialised team delivers expert, insightful and effective advice. Combining powerful legal arguments with care and consideration, we will handle your claim with strength and sensitivity to ensure the best possible outcome.

Our service

The service we provide is about much more than securing compensation. Our extensive experience of mesothelioma compensation claims has made us aware that it is essential that you not only receive the best possible legal advice but that it is delivered with sensitivity and knowledge of the support that will be needed in the months ahead.

Our service includes:

- Visiting you in your own home, if that is convenient for you.
- Undertaking immediate investigations to determine who was at fault
- Obtaining interim payments wherever possible to help fund any care needs
- Working in your best interests and giving quality legal advice, backed by many years of experience in supporting sufferers of mesothelioma and their families.
- Pursuing your claim diligently and as speedily as we can.
- You will not have to pay us anything for the work that we do*
- You will keep all of your compensation**
- Specialist in-house services such as Personal Injury Trust advice, financial planning, Wills, Powers of Attorney.

* Does not apply to group actions or accidents and illnesses outside England and Wales and is subject to compliance with the terms of your funding arrangements.

** Subject to entering into a 'No Win No Fee' agreement with us and complying with its terms.

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Irwin Mitchell is committed to you and your family and achieving the best outcome for your claim. We'll ensure that you are well cared for throughout the process and do everything we can to secure the compensation to which you are entitled.

Campaign for improvements

Seeing the effects of mesothelioma first hand has not only increased our determination to recover compensation for our clients, but has also seen us lead the campaign to research the disease so that we can improve the quality of treatment available to those suffering. Together with other groups we seek improvements in health and safety to prevent disease wherever possible, and to improve the quality of life and levels of compensation for those who contract mesothelioma.

Over and above

Extending our work in this area, we often host and sponsor important asbestos related conferences, support and raise funds for the June Hancock Mesothelioma Research Fund and campaign alongside the Asbestos Victim Support Groups and the medical profession for new and improved treatments to be made available on the NHS.

We have also pursued many leading legal cases in order to improve the prospects of success of claims for various forms of personal injury, and to obtain fairer compensation. These have also included campaigning for the safe removal of asbestos.

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 enforces 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.

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If you have been diagnosed with mesothelioma it is important to seek legal advice as soon as possible. Even if you don't know whether you are entitled to make a claim or not, you should speak to one of our specialist advisors straightaway.

You can talk to a specialist advisor today on freephone **08000 23 22 33**

Free advice

The sooner you contact us, the better your chances of making a successful claim. To find out if your circumstances could lead to a claim, contact us on the number above or visit our website and complete the online form.

Once you have made contact, we will give you free advice on whether we think you could make a claim. It is then up to you to decide to proceed. Should you wish to go ahead we will make an appointment to see you at a convenient time and place.

In many personal injury cases there are strict time limits on when you have to start court proceedings for your claim. For this reason it is important that you seek advice from one of our specialist advisors immediately.

Mesothelioma

In the vast majority of mesothelioma cases, the time limit for pursuing a claim will be three (3) years from the date of diagnosis. It is important, however, to understand that, if this time limit is exceeded or even if the mesothelioma sufferer has already died, it may still be possible to pursue a claim.

Make contact

The sooner you contact us the better we are able to prepare your claim, but in any case we will give you clear advice about the time limits that apply to your particular circumstances.

"I should like to take this opportunity to thank you for all your hard work in settling Gerald's claim. It has obviously been a very difficult time for me, and it has been much easier dealing with someone who has been so helpful and compassionate"

- Barbara Gibbins

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If you are unsure whether you have a claim, you must always call us to talk it over. We'll assess your case free of charge, tell you what we think and then you can decide if you want to go ahead.

At Irwin Mitchell, we have a long track record of winning compensation cases where the client initially thought they did not have a claim, or that the law did not protect them.

What if I cannot recall being exposed to asbestos?

Not everyone can recall how he or she has been exposed to asbestos.

Mesothelioma is almost invariably caused by exposure to asbestos. The source of 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 are my chances of winning?

When you contact us we will give you realistic advice on the chances of winning based on the information you provide. It is not possible to give a definitive answer on any case. However, the more information we have the more accurate an assessment we can make.

We will always give you an honest, straightforward opinion.

If you are worried about legal costs, don't be.

Contacting us for initial advice on your claim will cost you nothing. If we advise you to pursue a claim with us, we will review all the options for funding it.

At Irwin Mitchell our preferred option is our "No Cost To You" scheme which under a "No Win: No Fee" agreement means that:

- If you win, you keep 100% of your compensation.*
- If you lose, you pay nothing.**
- There are no hidden costs.

When we discuss your claim in more detail we will tell you if the "No Cost To You" option is available or if we need to look at other funding options.

You may, for example, be able to fund your case through trade union membership or legal expenses insurance.

*Does not apply to group actions or accidents and illnesses outside England and Wales and is subject to compliance with the terms of your funding arrangements.

**Subject to entering a 'No Win, No Fee' agreement with us and complying with its terms.

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The amount of compensation you receive will depend on many factors and your circumstances.

Individually assessed

From the outset, our team will advise you on how the Courts approach the assessment of compensation and how this fits with your circumstances. The fact is that we are all different and, therefore, the consequences will vary from person to person. The trial judge will always assess your claim on an individual basis and award compensation according to his/her findings.

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 your needs for care.

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 pursue a claim after the sufferer has died on behalf of his or her estate and any of their dependants.

State Benefits

It is also possible to claim state benefits. In particular, a mesothelioma sufferer may be entitled to:

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

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

Keeping you informed

As we learn more about you and your circumstances, we will be able to provide a more accurate idea of what the Court is likely to award to you. You can be assured that we will do everything we can to recover the maximum amount of compensation available to you and organise payment terms to suit your immediate and ongoing needs.

We will investigate your case thoroughly by gathering witness statements, and other relevant details about your illness and ongoing requirements. All this information will be presented to the Courts.

Insurance

A claim will then be made against the relevant person or body, and it is likely that their insurance company will get involved. We will then wait for a response from the insurance company you are claiming against. This can go one of two ways; either they will decide to meet your claim, or they will not.

Don't panic if an insurance company turns down your claim at first as this often happens - it does not mean that your claim will fail.

What if the company no longer exists?

If your claim is against a former employer and they no longer exist, it may still be possible to pursue a claim by tracing the insurer of the company. We have fought for many clients on this basis and have secured compensation for them.

In cases where the company no longer exists 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 either self employed or exposed outside of the workplace, e.g. environmentally or domestically from dust on the overalls of a family member.

Out of Court

The vast majority of cases are settled before they go to Court. However, some will progress to Court. It can take time to prepare a claim for Court so you will need to be prepared for this. Don't worry, this is normal and we will keep you informed of the progress and what is happening all the way through.

We know this is a lot to take in but we will be with you every step of the way making your claim as easy and stress-free as possible.

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We understand that contacting a lawyer might seem like a big step, especially if you haven't done it before.

At Irwin Mitchell we understand the real impact and devastation of mesothelioma. Our team of specialists have the skills and experience to guide you and your family through the process.

We're renowned for our understanding of the issues affecting you and your family and we know what positive action to take to make a difference.

At Irwin Mitchell we will fight fearlessly to give you the greatest chance of winning your case, with the best possible outcome, and we will support you every step of the way.

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