

Hamers

SOLICITORS

Jim Wyatt - jwyatt@hamers.com
Stephen Ball - sball@hamers.com

Freephone:
0800 591 999



5 Earls Court, Priory Park East, Hull, HU4 7DY
Tel: 01482 326666
Fax: 01482 324432

Aspect Court, 47 Park Square East, Leeds, LS1 2FB
Tel: 0113 394 4245 Fax: 0113 394 4246



www.hamers.com

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Asbestos Brochure

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Introduction

This guide is intended to explain how **Hamers** SOLICITORS can help you with a compensation claim if you or a member of your family is suffering from an asbestos related disease.

We have established a strong national reputation for asbestos claims with offices in Hull and Leeds.

Our commitment to providing a quality service is proven with registration to BS EN ISO 9001: 2000 quality standard.

Our team of asbestos specialists all have many years of experience handling asbestos claims. The team includes Partner Jim Wyatt and associate Solicitor Stephen Ball. Jim Wyatt has been dealing with asbestos claims for over 25 years and during this period has been closely associated with 'Asbestos Action' and related support groups.

How we can help with your claim

Our experience

Over the past 25 years **Hamers** SOLICITORS has handled a number of successful claims and has developed a large database holding information on various companies, their insurers, working conditions, jobs, and witnesses which can help you with your claim.

Free initial interview / Home visits

We provide a free initial interview with no obligation and, if it's more convenient for you, we will happily arrange to see you at home wherever you live, at a time to suit you.

No win, no fee and no deductions

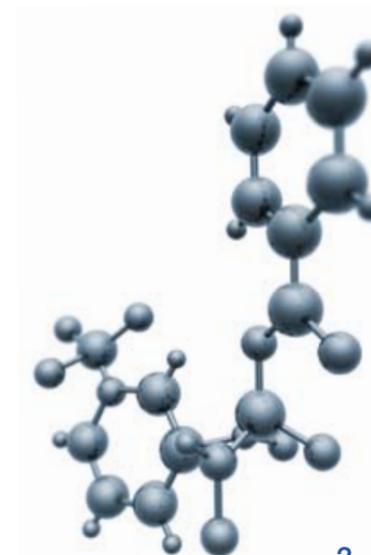
We offer a no win, no fee and no deductions funding arrangement for asbestos claims. This means that win or lose you have nothing to pay.

Free research

We know how difficult life can be for those who have been diagnosed with an asbestos related disease. For this reason we offer a free investigation service for victims, their family and friends. This free investigation helps us to identify whether or not you have a strong enough case to make a claim worthwhile.

Legal expense insurance

If proceedings are issued, you may require after the event legal expense insurance to cover you for the defendant's legal costs. We can arrange this for you ensuring that the premium forms part of the costs claimed back against the defendants.



Tracing witnesses

Our experience enables us to efficiently trace witnesses, who are often former workmates.

Inquests

If necessary we will attend inquests on the behalf of relatives and friends.

Safety consultants

Despite the number of regulations controlling the use of asbestos, it is often the case that the advice of an industrial safety consultant is needed to assist with the preparation of a claim. Our experience enables us to appoint the right consultant to advise us on any type of asbestos claim.

Claims for compensation

Depending on the circumstances of your exposure to asbestos, you may be eligible for compensation even if you have claimed state benefits.

What will the process involve?

We will:

- meet you at our office or in your home to explain how any claim can be funded. If you do not already have the benefit of legal expense insurance for this sort of claim we will take your case on a no win, no fee, no deduction basis.
- obtain relevant GP and hospital records (with your prior approval)
- obtain a medical report
- assist in tracing witnesses and take all necessary statements
- obtain your work record from HM Revenue and Customs
- help you identify and trace the relevant companies and their insurers
- collect all the necessary evidence to support your claim
- take you through how we pursue the claim under the terms of the 'Industrial Disease Protocol'
- try to negotiate a settlement of your claim or if that is not possible pursue your claim through the Courts

What are the types of asbestos related diseases?

As medical research continues to monitor the effects of asbestos exposure it is now well established that there are various types of asbestos related disease including the following:

a) Pleural plaques

The pleura is the outer protective membrane of the lung.

By breathing in asbestos this membrane can become scarred with the accumulation of asbestos dust. It can occur in one or both lungs. Usually there is no breathlessness or disability. In themselves plaques are not a serious injury but do worry most people. The reason for this is that there is a risk of more serious illnesses developing. Unfortunately it is not currently possible to claim compensation for this injury.

b) Pleural thickening

Pleural thickening is more serious than plaques because it can cause pain and breathlessness. Pleural thickening occurs when the asbestos fibres accumulate in or around any part of the pleura.

c) Pleural effusion

This is a build up of fluid in the chest cavity. It is usually treated by way of a pleural aspiration i.e. drainage of the fluid from the chest cavity. A complete recovery would be expected although it can be the case that further illnesses do develop.

d) Asbestosis

This is the formation of fibrous or scar tissue in the lung itself. Symptoms associated with this include pain and discomfort when breathing, a dry cough and breathlessness. More often than not the development of symptoms will increase over the years and people often mistakenly associate the symptoms with old age rather than the disease itself. Asbestosis often gets worse with time - sadly there is no cure for it.



e) Mesothelioma

This is a type of malignant tumour usually caused by inhalation of asbestos dust. It is a type of cancer of the pleura or peritoneum. Unfortunately despite advances in medical science there isn't a cure for this type of cancer.

The symptoms associated with Mesothelioma include gradually increasing chest pain caused by a build up of fluid around the lung, shortness of breath, tiredness, weight loss and lethargy.

These diseases have no connection with smoking and some can be caused as a result of only short periods of exposure to asbestos dust.

f) Other asbestos related diseases

Modern medical research has now proved that there is a link between asbestos exposure and some cancers including lung, gastro intestinal and laryngeal cancer.

The basis of compensation

Compensation for pain and suffering

If you have developed an asbestos related disease you will be entitled to compensation for the pain and suffering, inconvenience, disability and loss of amenity caused by the injury.

General damages as it is known, ranges from about £7,000 for pleural thickening and up to over £70,000 for Mesothelioma.

Medical and other expenses

These include travel expenses to hospital and prescription charges together with the cost of any private health treatment such as consultations with chest physicians, x-rays and CT scans.

Loss of wages

If you have had to give up work because of an asbestos related disease or your earnings have dropped as a result of it, or you have been away from work, you can claim for all these losses.

You can also include a claim for future loss of earnings.

Loss of earning capacity

It is often the case that people suffering with asbestos related disease cannot, because of the disability, earn as much money as they used to.

In addition, these days someone with an asbestos related disease may have to disclose this on a job application form, thereby reducing the chance of obtaining work.

This loss of earning capacity can be included in a claim.

Care

If, because of an asbestos related disease, you require care on either a short term, medium or long term basis, you can claim for this even if the help is given freely by a partner, relative or friend.

Mobility expenses

Where the disease is such that your mobility has been affected you will be entitled to compensation for the loss of that mobility be it short term or more permanent.

Aids and adaptations

If the illness is such that you require any aids or adaptation in the house such as a stairlift, special bedding or bathroom equipment or the need for ground floor accommodation you can claim for these.



Loss of pension

If as a result of your injury you have or will suffer a pension loss this can be included in the claim. It is often the case that there will be a loss if you have been in an occupational pension scheme and have had to give up work early.

Types of settlement

Unfortunately exposure to asbestos dust gives rise to the risk of developing further serious asbestos related diseases in the future. In other words even though you already have an asbestos related disease this may worsen or you may go on to develop another disease or cancer. Any medical report will provide details of future risks. At the moment the law gives you a choice as to how you can settle your claim. You can settle on a full and final basis or on a provisional basis.

Final damages

If you claim final damages you will receive compensation both for your current condition and for any future risks. It is important to note that once you have settled your claim on a final damages basis if your disease does progress or you go on to develop any other asbestos related disease or cancer you will not be able to claim any further damages. We generally advise against this sort of settlement.

Provisional damages

If your claim is settled on this basis you will receive compensation in respect of your current asbestos disease. You will be entitled to claim further damages if in the future your disease worsens or you go on to develop any other asbestos related disease or cancer. Settlement on this basis is a very good way of protecting you and your family for any future asbestos related problems affecting your health.

Is it too late to bring a claim?

Usually the answer is no although the general rule is that a claim must be made within three years of the diagnosis.

The Courts over the years have given special consideration to the victims of asbestos related diseases. However, we advise you to seek legal advice as soon as you know you are suffering from an asbestos related disease. Don't wait for the symptoms to worsen, speak to us today.

Claims following death

State benefits and compensation can still be claimed after death. Following death your estate and dependents will be able to either start a claim (if one is not already started) or if one has been started carry on with it.

Dependents can mean wife, partner or children if they relied on you for money or help. Partner means someone you lived with for two years as husband and wife up to the date of death.

If you are dependent on someone who has already died of an asbestos disease you can get compensation.

State benefits

For many years now the state has recognised that victims of asbestos related diseases should receive state benefits, providing certain statutory criteria are met. Benefits most often payable include:

- Industrial Disablement Benefit
- Constant Attendance Allowance
- Exceptionally Severe Disablement Allowance
- Disability Living Allowance
- Incapacity Benefit
- Invalidity Benefits
- Severe Disablement Allowance
- Income Support
- Attendance Allowance
- Reduced Earnings Allowance
- Lump Sum Payments under the Pneumoconiosis Workmen's Compensation Act
- Invalid Care Allowance
- Home Responsibilities Protection



Dissolved Companies

One or more of the companies responsible for exposing employees to asbestos dust may, due to the passage of time, now be a dissolved company. This does not necessarily mean that a claim will fail. **Hamers** SOLICITORS has developed its own database and has access to a national database of dissolved companies' insurers. If the relevant insurer of a dissolved company can be traced then it will still be possible to pursue a claim against that dissolved company. We have been successful in pursuing insurers on behalf of dissolved companies for many years.

If however the insurer of a dissolved company cannot be traced then it will not be possible to pursue that company for any part of a claim.

What happens if this is the case?

Pneumoconiosis etc. (Workers Compensation) Act 1979

The Department of Works and Pensions (DWP) administered a scheme and pays fixed amounts of compensation in cases where the relevant employer has ceased to trade.

Payments are made for diffuse pleural thickening, Asbestosis, lung cancer if accompanied by Asbestosis or diffuse pleural thickening and for Mesothelioma. The amounts are determined by reference to a fixed scale according to age and level of disability.

It is also possible for widows and other dependents of people who have died from an asbestos related disease to make a claim under this scheme. If you are paid a means tested benefit such as income support the amount of benefit you or your partner get may be affected if you receive a payment under this act. Most other benefits will not be affected.

Financial Services Compensation Scheme (FSCS)

Usually compensation is paid by their insurers and not the employer themselves. However, if the insurance company has become insolvent the employer itself will have to pay. The FSCS was set up to deal with claims where both the employer and the insurer have become insolvent and unable to pay the claim. In such cases the FSCS will pay. Where the claim was covered by compulsory insurance (e.g. employers' liability since 1972), the scheme will pay all of the compensation. Where the insurance was not compulsory (e.g. Employers' liability before 1972), 90% of the compensation will be paid.

If the relevant employment was with a nationalised industry, payment will normally be made by the Government.

Industrial Injuries Disablement Benefit

Asbestos victims with an asbestos related disability caused by employment (but not self employment) after the 4th July 1948 will qualify for this benefit. Application is made through the DWP. A medical examination by their medical board is required except in the case of Mesothelioma.

Benefit will not be awarded for diffuse pleural thickening if the medical board assesses the level of disability to be at less than 14%. Such an assessment however does not necessarily mean that you will not be able to claim compensation for the disease or that you will not qualify for a payment under the 1979 Act.

War Disablement Pension

Victims with an asbestos disease caused by exposure to asbestos in military service whether in peace or war time should be able to claim a War Disablement Pension instead of Industrial Injuries Disablement Benefit. This is the same for civilians working in the armed services.

