

COVID Disruptions

COVID—19 has caused some disruption and delays to clients making claims for certain DWP industrial injuries benefits, we are fully aware of these challenges and are in regular contact with the DWP for updates.

If anyone has any concerns about their claims please contact your advisor who will be able to provide you with an update.

Our staff are continuing to work from home, but are providing the same service as we could working from the office. We have access to our answer phone, so your call will not be missed.

Alternatively send us an email and we will respond as soon as we can.



Coffee Mornings

Before the outbreak of Covid 19, SARAG had set up monthly Coffee Mornings. Unfortunately, we have had to temporarily suspend them. We are hoping to go ahead once the restrictions are removed, so please look out for further information.

The Coffee Mornings are a support group for people with asbestos related diseases, and those who care for them. They provide an opportunity to meet others who understand what you are going through, learn more about mesothelioma and asbestos related conditions and the help that is out there.

Action Mesothelioma Day

SARAG had organised an event at Sheffield Cathedral to mark Action Mesothelioma Day for Friday the 3rd of July 2020 but, due to the circumstances around Covid19, this year's event had to be cancelled as we felt that holding the event would put too many people at risk.

Our staff members joined a number of online events that were held. The UKMA had organised a number of guests who spoke about Mesothelioma. This was recorded, and can be viewed online by visiting: www.youtube.com/watch?v=TySK6VW6Qkw



Boat trip fundraiser

We arrange different support events throughout the year and also have monthly meetings, that everyone is most welcome to attend. This year's events have been cancelled or postponed, but we aim to have these back up and running as soon as it is considered safe to do so.

Many of our clients are often isolated due to their aggressive terminal condition. In 2019 we arranged a boat trip, which proved to be an effective way of providing them with the opportunity to enjoy an away day, socialise and gain support. We would like to be able to extend this opportunity to more clients throughout the region we cover.

If you would like to support us to do this, please visit the website at: www.avivacommunityfund.co.uk/asbestosvictimssupport

Every £20 we receive will go towards the cost of the boat hire and lunch, allowing our clients to spend some valuable, quality time together and continue to make memories.

2020 Annual General Meeting going online

Mon 26th Oct 2020 • 10.30am to 12.30pm

This year our AGM will take place online, via Microsoft Teams. If you would like to participate, please contact us by email. We will send joining instructions to you before the event.

High court legal challenge

High Court hears legal challenge from Asbestos Victims Support Groups Forum UK

A new law called the Legal Aid, Sentencing & Punishment of Offenders Act 2012 (LASPO) came into force in 2013. It had a dramatic impact on the provision of Legal Aid and how legal costs are paid in a wide range of cases including asbestos disease cases. It meant that up to 25% of asbestos disease sufferer's compensation could be paid to lawyers for legal costs. Prior to this new law, victims of asbestos disease retained 100% of their compensation and the "losing party" paid the legal fees in addition to the compensation. This system worked well.

In 2014 the Asbestos Victims Support Groups Forum (the Forum) represented by Harminder Bains, Partner at Leigh Day brought a legal case against the Government regarding LASPO. The Forum argued that by including victims of mesothelioma without a review of the likely effects on mesothelioma victims, the Government were acting "unlawfully". The Forum "won" that case. This meant that mesothelioma sufferers to this day retain 100% of their compensation and in addition the legal fees are paid by the losing party.

However, victims of other asbestos diseases including asbestosis, pleural thickening and lung cancer still may pay up to 25% of their compensation in respect of legal costs. This therefore reduces their compensation or may prevent victims from proceeding with their case.

The Government carried out a post-implementation review of the effect of LASPO which was published on 7th February 2019. The review confirmed that there would be "no change" in respect of the effects on LASPO regarding any cases including those of asbestosis, pleural thickening and lung cancer. The Forum found this decision indefensible considering the effect on victims of other asbestos diseases. As a result, the Forum commenced a legal action, called a "Judicial Review", in the High Court in London and argued that

the Lord Chancellor's obligation to carry out a thorough and detailed impact assessment of the reforms with regard to asbestos related disease sufferers had not been discharged. It gave evidence that the LASPO reforms had adversely impacted on asbestos disease sufferers in ways which were significantly worse than in normal standard personal injury claims. As a result asbestos disease sufferers received less than full compensation and were therefore prevented from accessing justice.

Sadly, the Forum did not win the argument and the High Court handed down a Judgment on 31st July 2020 confirming that the Court found that there was "not a clear and unambiguous promise" of any kind to deal with the effect of LASPO. This was despite the fact the Lord Chancellor had accepted there was a clearly expressed intention that the post-implementation review would assess the LASPO reforms.

The Forum had provided the Court with a statement together with statements from solicitors, QCs, Dr. Robin Rudd and Lord Alton who had taken part in the debates in Parliament in 2012. Part of Lord Alton's evidence was as follows:

"One of the purposes of the implementation review, which I am informed was promised to be in the nature of an impact assessment (see Legal Aid Sentencing and Punishment of Offenders Act 2012: Post Legislative Memorandum (Cm 9468, October 2017)) necessarily must have been to assess whether the legitimate concerns raised about asbestos sufferers (and those suffering from related industrial respiratory diseases) losing 25 per cent of their damages, and being denied access to justice because of difficulties in finding solicitors to accept their cases, had proved to be true."

As a consequence of the Judgment the Forum has made an application for permission to appeal to the Court of Appeal and is awaiting a decision.

Joanne Gordon on behalf of the Forum said: "This is a difficult decision to digest. The Forum had relied on clear statements made by the Government in the Post Legislative Memorandum to argue that there was an enforceable commitment for a thorough and detailed review in the nature of an impact assessment of the effect on LASPO on specific categories of case e.g. Asbestos Related Disease claims.

"At the hearing the Divisional Court appeared to accept the Forum's argument that if that was the nature of the promise, then it had not been discharged.

"Yet the claim has failed because the Court has found there was no such commitment or enforceable promise made by the Government despite the wording of the Memorandum and despite the Lord Chancellor's own acknowledgment that he had at least committed himself to carry out some kind of thorough post implementation review.

"If ministerial promises of the kind which were made in this case are not upheld, then public confidence in democratic accountability is undermined."

Leigh Day Partner Harminder Bains said: "This case raises major issues of general public importance regarding the reliance that can be placed upon public ministerial promises.

"From the Forum's point of view it rather defeats the purpose of conducting Post-Implementation Review at all, if the detailed response they made identifying disproportionate effects on access to justice for Asbestos Related Disease claims, is not properly engaged with or investigated or responded to by the Government." Lawyers representing the Forum are Harminder Bains and Jamie Beagent, Partners at Leigh Day with Jeremy Hyam QC and Alasdair Henderson of One Crown Office Row.

Business (almost) as usual for benefits advisors

SARAG benefits advice team continue to support people through difficult time

Despite the pandemic and lockdown, it has been business (almost) as usual for the advisors. The following case studies hopefully give a picture of what we have been up to.

Not being able to see our clients in person has been the biggest problem, and holding initial telephone conversations, posting out claim forms, waiting for clients to sign them and send them back, then conducting interviews over the phone is time consuming (and frustrating when things inevitably get lost).

We have certainly kept the postal service busy and we are grateful to the the Royal Mail and Post Office staff for all their hard work.

As I write, we are almost at the end of our reporting year (ready for our Annual General Meeting in October). The stats to date show we have still managed to advise over 250 people and raise over £1.7 million pounds in benefit income for our clients. Despite the challenges 2020 has brought, we have done okay.

Recent case studies

Ann

Ann rang SARAG on the advice of her solicitor, after her husband died of lung cancer in October 2019. At inquest (held during lockdown) the coroner advised that his death was asbestos related and advised Ann to take legal advice. Despite the solicitor being unable to pursue a civil claim he referred Ann to SARAG, and we successfully made posthumous claims for Industrial Injuries Disablement Benefit and the Workers Compensation Act lump sum. Both these claims were done via post, phone and email, and both the payments brought Ann approximately £10,000.

During our telephone conversations, it also became apparent that Ann had arthritis so was finding it difficult to get around and perform everyday selfcare tasks. As a single pensioner her income had dropped, and she was missing the car she and her husband ran before he died. Again, over the phone we discussed Attendance Allowance and completed the form. A full benefit check showed that if the Attendance Allowance claim succeeded, Ann would also qualify for Pension Credit.

After a few weeks, the Attendance Allowance claim was allowed, giving Ann an additional £89 per week. Pension Credit brought an additional few pounds per week, plus entitlement to Housing Benefit and Council Tax Support which reduced her rent and council tax payments, thereby boosting her finances considerably.

Unfortunately, Attendance Allowance does not have a mobility component, but with the lump sum, Ann has bought herself a car, and is now less reliant on other people to go out, do her shopping and walk her dog. The last piece of work we need to do with Ann is to try to get her a blue badge to go with her new car! She also knows she can ring us for a chat whenever she is feeling down.

Graham & Terry (Mesothelioma)

Graham was referred by the Lung Nurses and we claimed IIDB, the Workers Compensation Act Lump Sum payment and Attendance Allowance for him, all done by phone and post. All his benefits are now in payment and he is grateful for those. Graham not to pursue a civil claim because he has no family.

Terry also has mesothelioma, and we did much the same as we did for Graham, as well as put him in touch with appropriate legal advice for a civil claim.

Barry & Walter (Mesothelioma)

When they were referred to us, both were too ill to sign their own forms, so Industrial Injuries Disablement Benefit and the Workers Compensation Act Lump Sum claims were completed using the DWP's COVID 19 easement process, which allows advisors to sign forms on clients' behalf wherever a BI 100 PNA (the document which confirms the diagnosis and is signed by a doctor or nurse) is issued. In these cases, the DWP will contact the clients' families to do some identity checks, but so far there have not been any issues and it looks like claims have been processed swiftly.

Suspension of Industrial Injuries Disablement Benefit Medicals

No IIDB medicals have been held since the government announced lockdown, and we have around 50 clients with asbestosis and pleural thickening awaiting assessment. With our colleagues in the UK Asbestos Support Groups Forum we have been alerting clients' individual MPs to this problem, as we feel it is unfair. We are also concerned about the time it will take for the DWP to get through the backlog of claims needing medicals, as some of our clients made their claims before lockdown.

Looking forward...

It is an understatement to say that we are certainly looking forward to getting out and about to see clients again.

We also can't wait until we can arrange coffee mornings and meetings, because we are concerned that our clients may be facing isolation during this difficult time.

Recent impacts on hospital services

Update from Helena Stanley, Lung Nurse Specialist at Sheffield's Northern General Hospital

It has been a challenging few months for everyone, with shielding, lockdown and the world seemingly grinding to a halt. Those of us working in the hospitals have been busy, but COVID 19 has had a big impact on our day to day activities and how we do things in the hospital. We now do much more over the telephone, either as a formal clinic session, or relaying results and plans to people. We do miss seeing our patients and their family and friends, but keeping people safe is our primary concern. We would not want to see a rise in rates of COVID 19 again, and therefore we need to keep working this way for a while yet.

With mesothelioma and lung cancer, one of the main impacts has been on our ability to provide some of the drug and other

treatments and trials we normally offer. There has been a focus on examining the risks associated with each treatment, and if the risk of catching COVID19 in the hospital and surrounding community has been greater than the benefit of the treatment, then the treatment has been halted. This has been really difficult for all of us, and not what we would normally aspire to, but balancing these risks and benefits has been crucial when trying to keep people as safe as we can. Many of our hospital staff have been caring for COVID patients directly, including all of our trial staff, therefore all of the trials were stopped. We are slowly reopening them. In mesothelioma, we are delighted to have reopened the MARS2 surgical trial in Sheffield, and another positive is that some immunotherapy drugs have been made

available by NHS England for the first time for both lung cancer and mesothelioma. Without COVID 19, this may not have happened.

As a charity, both Mesothelioma UK and the Roy Castle Lung Cancer Foundation are still here supporting people through the crisis. Both have national helplines, and Mesothelioma UK have Nurse Specialists such as me throughout the country. We can be contacted at any time and are happy to support and advise as best we can. Hopefully at some point soon in South Yorkshire we will get the SARAG Coffee Mornings going, we were due to start them in April, but we all know what happened then! With any luck we will all see each other again soon, but until then keep safe and look after yourselves.

Donations always welcome!

SARAG is only able to provide our service because of the generous donations made from our solicitor panel members, and individual donations. We would like to take a moment to thank all who have donated or contributed to the charity over the years. Without this support the charity would cease to exist. If you feel you can donate to SARAG, please complete the form below and return it to us with a cheque payable to "Yorkshire and Humberside Asbestos Victims Support Group".

You can also help us raise funds on JustGiving, or set up a standing order. Get in touch to find out more.

Name
Address
Email
Donation amount

If you are a UK tax payer, for every £1 you donate we can receive an additional 25p from HMRC

I want to Gift Aid my donation and any donations I make in the future to Yorkshire and Humberside Asbestos Victims Support Group. I understand that I must pay an equal amount of UK income tax at least equal to the tax that SARAG will claim in my donations in each year (currently 25p for every £1 you donate).

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