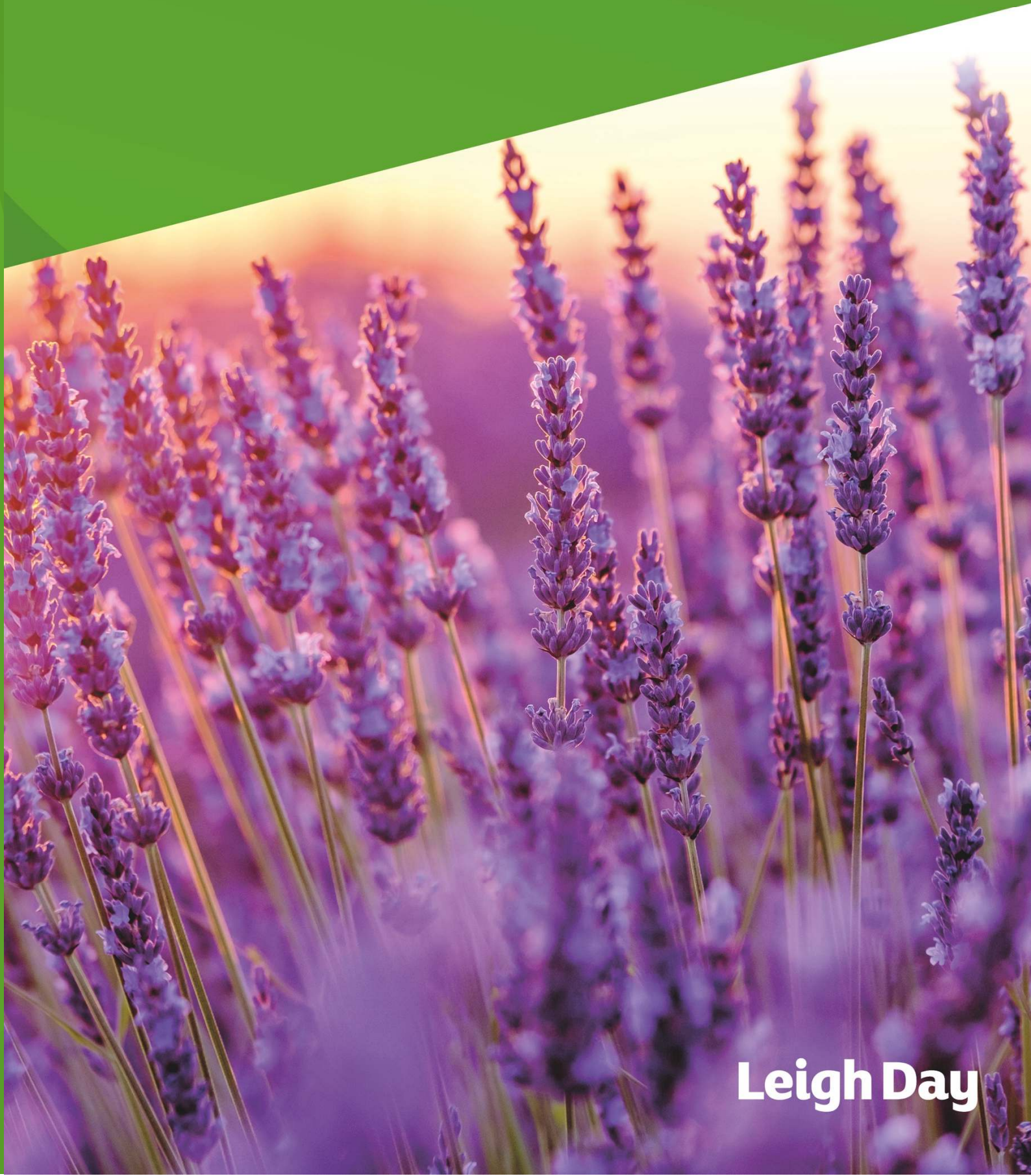


Leigh Day Asbestos Team Newsletter

Volume 1



Leigh Day

Leigh Day

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Introduction

Unlike some law firms, we exclusively represent victims of asbestos disease and never act for employers or insurance companies who defend these claims.

Our asbestos clients are guaranteed to keep 100% of their compensation and we fund insurance policies to protect them, in relation to all types of asbestos diseases.

Legal Directories Chambers and Partners 2022

What the team is known for: Highly respected industrial disease practice offering first-rate representation to claimants suffering from asbestos-related diseases. Features prominently in headline disease cases and retains strong links to support groups and non-profits catering for those with mesothelioma. Well versed in handling large international group claims, particularly those concerning claimants in developing countries. Offers regional strength, with offices in London, Manchester, Birmingham, Liverpool, Chesterfield and Newcastle. Highly experienced in taking cases to the Court of Appeal and in making judicial review challenges.

Strengths: *“They are brilliant,” says a client. “The whole process went very swiftly and it was a perfectly won case. Everything was seamless and the way they operate is very classy.”*

Sources say: *“They are one of the best industrial disease firms. Their level of knowledge, professionalism and commitment to clients is very strong.”*

A client says: *“Everyone on the team at Leigh Day is helpful, kind and professional. They work as an efficient, highly competent and well-led team.”*

“Their work in pursuing justice for asbestos victims is unrivalled,” an interviewee reports. Another source says: “They are very knowledgeable and experienced in asbestos litigation and are very committed to this work. They go the extra mile.”

“Leigh Day’s Asbestos & Industrial Disease Department is regarded as the foremost elite team in the UK fighting for justice on behalf of clients with industrial and asbestos diseases against employers and manufacturers.”

A short synopsis of our legal cases

Members of the Leigh Day asbestos team have represented claimants in some of the most significant asbestos and industrial injury disease cases in the UK over the last 20 years. This is as a result of our determination to protect the rights of victims of asbestos and industrial diseases. Despite the risks, we have been willing to take cases to the appellate courts including the Supreme Court. Some of the cases have been dealt with on a pro-bono basis, which means we have received no fees for our work.

Our team's legal cases as evidenced by the synopsis below have set precedents which have benefited countless asbestos disease sufferers. This is the reason, we stand out amongst our contemporaries.

Fairchild v Glenhaven Funeral Services Ltd [2002] UKHL 22 | Is probably the most well-known asbestos case. The House of Lords decided that each employer who "materially contributed" to the risk of contracting mesothelioma must pay 100% compensation. Fairchild remains one of the most important asbestos judgments in UK litigation history and was encapsulated into legislation in the Compensation Act 2006. Kevin Johnson and Patrick Walsh worked on the case. Patrick acted for Mrs Fox (in Fox v Spousal (Midlands) Ltd) which was one of the three test cases in the Court of Appeal and House of Lords.

Maguire v Harland & Wolff PLC [2005] EWCA Civ 1 | This case considered the duties of employers to their workers' families when Mrs Maguire contracted mesothelioma from her husband's overalls. The Court of Appeal determined that no later than 1966 employers should have known of the risk of contracting mesothelioma to family members. Patrick Walsh acted for Mrs Maguire.

Barker v Corus UK Plc [2006] UKHL 20 | Kevin Johnson was part of the Claimant legal team co-opted at the House of Lords (Supreme Court) stage to help carry out research on various points of law for the legal submissions. Barker controversially introduced apportionment into mesothelioma claims resulting in the risk of victims being undercompensated due to defendants being dissolved and untraced. It was swiftly overturned by legislation with the Compensation Act 2006.

Rice and Thompson v Secretary of State for Trade and Industry [2007] EWCA Civ 289 | Kevin Johnson worked on this test case for dockworkers with asbestos diseases which involved two High Court hearings and a Court of Appeal judgment on a preliminary issue regarding whether a duty of care is owed to dockworkers. The success of the case enables claims to be brought for dockworkers with asbestos diseases in circumstances where the government previously denied owing them any duty of care to them. It has helped many asbestos victims to bring successful claims.

Durham v BAI (the "Employers Liability Trigger Litigation") [2012] UKSC 14 | One of the longest cases to be heard by the Supreme Court, Durham v BAI determined who should pay mesothelioma claims based on the insurance policy wordings at the time. Helen Ashton represented Ruth Durham and won the case for her client at all stages of the litigation. Winning the case meant hundreds of mesothelioma patients in future could continue to recover compensation via their employer's insurers from the time of their employment.

Chandler v Cape plc [2012] EWCA 525 CA | Vijay Ganapathy and Daniel Easton represented Mr Chandler in this landmark Court of Appeal case which set a new legal precedent both in tort and company law. This was the first case to hold a parent company liable for its subsidiary company's operations, thereby ensuring compensation for victims of Cape's subsidiaries which lacked insurance.

Tony Whitston (on behalf of the Asbestos Victims Support Groups Forum UK) v Secretary of State CO/15967/2013 | Harminder Bains successfully represented the Forum when it argued, a consultation issued in July 2013 headed 'Reforming Mesothelioma Claims' proceeded on an invalid basis and on a number of false assumptions.

Dowdall v William Kenyon & Sons and 2 others [2014] EWHC 2822 | Kevin Johnson successfully represented a mesothelioma victim against previously untraced employers despite the claimant having agreed 'full and final' damages for his development of asbestosis in a previous claim.

Tony Whitston (on behalf of the Asbestos Victims Support Groups Forum UK) v Secretary of State for Justice [2014] EWHC 3044 | Harminder Bains acted for the Forum to successfully challenge the Government's decision that mesothelioma sufferers should, upon winning their case, pay up to 25% of their compensation for legal costs. The proposals would have saved the insurance industry millions of pounds. The case revealed documents that demonstrated there had been contact between the government and the insurance industry about the reforms.

Yates v HMRC [2014] EWHC 2311 QB | Daniel Easton was instructed by APIL to intervene in this case which determined a streamlined court procedure for obtaining employment evidence in deceased cases.

Tony Whitston (on behalf of the Asbestos Victims Support Groups Forum UK) v Secretary of State for Justice [CO/2097/2015] | Harminder Bains represented the Forum when it brought a Judicial Review against the Ministry of Justice increasing court issue fees to £10,000. The then Secretary of State, Michael Gove conceded defeat.

Zurich Insurance PLC v I E G Limited [2015] UKSC 33 | Louisa Saville and Patrick Walsh were instructed on behalf of the Asbestos Victim Support Group Forum UK as interveners in this leading case. Following the line of authorities from Fairchild and the EL Trigger Litigation, the Supreme Court confirmed employer's liability insurers are obliged to compensate mesothelioma victims fully, even if the insurance cover is only in respect of part of the employment. This case was crucial in maintaining full compensation for mesothelioma victims.

Coventry & Ors v Lawrence & Anor [2015] UKSC 50 | Supreme Court case where Harminder Bains argued successfully that defendants in asbestos cases should pay legal costs such as success fees and ATE premiums, rather than the burden of these costs falling on the victims.

Heneghan v Manchester Dry Docks and Others [2016] EWCA Civ 86 | Heneghan is the leading authority on asbestos related lung cancer claims, determining how causation and apportionment should be addressed to prove and win lung cancer cases. Louisa Saville supported Patrick Walsh representing Mr Heneghan's son.

Dryden & Others v Johnson Matthey Plc [2018] UKSC18 | Harminder Bains represented Mr Dryden and others in this renowned industrial injuries Supreme Court case which redefined what constitutes a "personal injury" in UK law. The men Harminder represented each obtained hundreds of thousands of pounds of compensation, even though they suffered "no symptoms".

Graham Dring (on behalf of the Asbestos Victims Support Groups Forum UK) v Cape Intermediate Holdings Limited UK [2019] UKSC 38 | Harminder Bains represented the Asbestos Victims Support Groups Forum UK in the Supreme Court and was successful in obtaining vital historical documents from Cape which Cape intended to destroy as they revealed the "real" extent of the dangers of asbestos. This is a landmark Judgment and the documents will assist asbestos disease sufferers in the UK and abroad.

Rudd v Bridle [2019] EWHC 893 | Harminder Bains represented Dr Robin Rudd, a leading asbestos expert, who brought a claim against John Bridle, an asbestos lobbyist who claims chrysotile products are safe. John Bridle wrote to the GMC claiming that Dr. Rudd was preparing court reports deliberately claiming chrysotile was dangerous for fees. The case defended the reputation of a medical professional who presents information about the health of asbestos victims when they seek compensation for their illnesses.

Inside the Asbestos Epidemic, podcasts

We recognise and appreciate the invaluable work undertaken by support groups and medical professionals in dealing with the victims of asbestos disease. To that end we were lucky enough to obtain interviews from some parties so that their experience can be shared and kept for posterity. Please see below the identities of those already interviewed and please do listen to the podcasts on <https://www.leighday.co.uk/latest-updates/podcasts/the-asbestos-epidemic/>

- Marjorie Chandler, widow of David Chandler
- Samantha Cox, support worker Readley Asbestos Support Group
- Liz Darlison, CEO Mesothelioma UK
- Graham Dring, welfare officer at Greater Manchester Asbestos Victims Support Group
- John Flanagan, support worker at Merseyside Asbestos Victims Support Group
- Joanne Gordon, co-ordinator Derbyshire Asbestos Support Team and chair of the Asbestos Victims Support Groups Forum UK
- Angie Mulligan, services manager at Yorkshire and Humberside Asbestos Support Group
- Joanne Murray, support worker Readley Asbestos Support Group
- Vera Rigby, trustee at Greater Manchester Asbestos Victims Support Group
- Peter Szlosarek, consultant in medical oncology, St Bartholomew's Hospital
- Dave Trigg, chair of Derbyshire Asbestos Support Team

Newsflash: We are delighted to announce that we are due to interview Dr Robin Rudd, consultant physician, Tony Whitston, founder and ex-chair of the Asbestos Victims Support Groups Forum UK and David Ellis, OBE and chairman of the London Asbestos Support Awareness Group. Please look out for future podcasts.

Graham Dring (on behalf of the Asbestos Victims Support Groups Forum UK) v Cape Intermediate Holdings Limited (Cape)

Cape one of the world's leading manufacturer of asbestos products which made everything from asbestos insulation board (AIB) (trade name Asbestolux) to asbestos pipes and asbestos cement. It made billions of pounds in profit from its asbestos products.

A trial took place in the Royal Courts of Justice between Concept 70 Limited and Cape. Concept 70 represented insurers and employers who sought a monetary contribution from Cape pursuant the Civil Liability Contribution Act 1978 in respect of compensation they had paid to asbestos disease sufferers, over the course of several years.

As Concept 70 had the finances to do so (unlike individual claimants) they made several applications to the court for disclosure of documents against Cape, to disclose documents which had never seen the light of day.

Harminder discovered that the legal case between Cape and Concept 70 had settled on a confidential basis before the Court had had a chance to give its judgment and the parties had agreed between themselves to destroy the documents imminently. She understood the documents contained information which would be extremely useful in current and future cases brought by asbestos disease sufferers.

Thereafter after obtaining instructions from Tony Whitston ex-chair of the Forum she made an urgent application for ex parte preservation of the documents and the supply of the documents to a non-party under Court Procedure Rules 5.4C(2). Thankfully the court ordered that all the documents were returned to the court for preservation.

The legal case was protracted as Cape fought tooth and nail for many years. They hired a magic circle firm and numerous QC's whereas Harminder dealt with the case together with one QC and junior counsel on a pro-bono basis. This meant that we received no fees for our work on the case, which took over three years.

After successfully winning the case the documents are now publicly available on the Forum's website.

<https://asbestosforum.org.uk/cape-documents/>

These documents provide evidence as to the asbestos industry's real knowledge as to the risk of asbestos and how it interfered with the Government's regulation of asbestos in the 1960s and 1970s.

As the documents reveal the shameful legacy of the asbestos industry in the UK which put profit before safety the Forum is now calling for Cape to pay £10 million towards medical research to find a cure for mesothelioma. Please sign the petition today: <https://www.change.org/p/cape-must-pay-we-demand-that-cape-donate-10-million-to-fund-mesothelioma-research>

So far as Cape has refused to pay, the Forum is organising a protest on Friday 30th September 2022 at 1.00pm outside the following addresses:

- Building 2, Fields End Business Park, Davey Road, Thurnscoe, Rotherham S63 0JF
- Appleton Thorn Trading Estate, 3F Lyncastle Way, Warrington WA4 4ST

Anyone can attend, please do so if possible to support this good cause.



Harminder Bains & Graham Dring and Support Groups protesting outside the Supreme Court.

Civil servant exposed to asbestos in Whitehall buildings succeeds in obtaining compensation

Ewan Tant was instructed by Mr J following his diagnosis with mesothelioma. Mr J had been a Civil Servant working in Whitehall. Mr J could not specifically recall working in any environments where asbestos was present; however, he did recall working in dusty service areas at Whitehall during his employment with the Cabinet Office from 1987 until his retirement in 2011. Mr J recalled that asbestos had been discovered in Whitehall towards the end of his employment; however, he could not recall where the asbestos was located or what had been discovered. He could not say it was located in any of the areas he worked.

Ewan began investigations. He submitted a Freedom of Information Request to the Cabinet Office requesting all asbestos surveys / reports undertaken at Whitehall. He also tracked down and spoke to several of Mr J's colleagues at the Cabinet Office, who had also worked in the service areas in Whitehall. A couple of these colleagues recalled that there were lagged pipes in the service areas and that the service areas were dusty.

Six months following the original Freedom of Information Request, after repeated chasers, the Cabinet Office's Freedom of Information department finally disclosed information, only covering the period 1985 to 2002. Ewan conducted a full review of the documents, which showed that asbestos had been present in some of the areas of Whitehall in which Mr J had worked. It was clear, however, that this was not a complete set of documents, in particular the disclosed information was missing a letter from 2009 sent by the Cabinet Office to their employees, which had been provided to us by one of Mr J's colleagues. The documents did not include any documents from 2002 onwards.

Ewan therefore made a further request for additional documents regarding the presence of asbestos at the Cabinet Office in the period from 2002 onwards. This was denied on 20 December 2021 by virtue of section 14(1) of the Freedom of Information Act. Ewan therefore requested these additional documents from the Government Legal Department. The Government Legal Department did not disclose any further documents, but instead confirmed that they would not be defending the claim as to breach of duty and causation, and entered into settlement negotiations.

Following negotiations, Ewan agreed settlement for £332,000, which includes funding for any future immunotherapy treatment Mr J may receive.

Settlement secured for family of former British Rail worker

Claire Spearpoint represented Timothy Barry who worked for British Rail as an accounts manager from 1966 to 1968. His job involved delivering wages to British Rail's Temple Mills site in London, and he did not recall any first hand exposure to asbestos.

In order to hand over wage packets to the workers, Timothy had to walk through railway sheds and past workers who were stripping asbestos products from railway carriages that were being repaired and renovated.

In early 2019, Timothy was diagnosed with mesothelioma. Claire was able to find a witness who worked at the Temple Mills site. The witness detailed the asbestos works undertaken in the railway sheds during this time and recalled seeing someone calling to deliver the weekly wages.

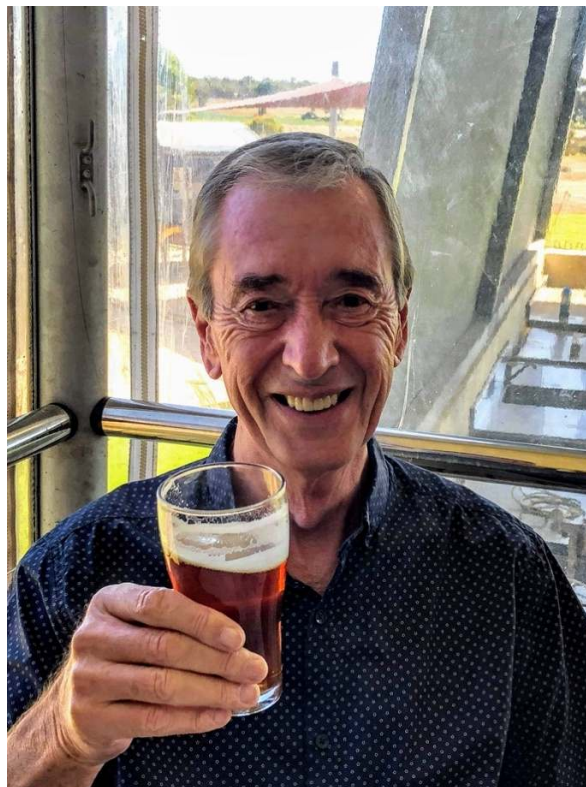
In January 2020, the Department for Transport admitted liability. Timothy died aged 75, two weeks later, but Claire secured a six-figure settlement for his family.

Claire said:

“Timothy did not work directly with asbestos but died as a result of coming into contact with it at British Rail's Temple Mills site, highlighting just how dangerous asbestos is. Although this settlement doesn't make up for the loss of Timothy, we are pleased that a settlement has been secured to help support his family.”

Timothy's widow, Penny gave a Trustpilot review as follows:

[Claire] could not have been more helpful to us throughout the lengthy process which involved my sons as well when my husband died in January 2020. There was so much empathy shown to us all, many phone calls, all done with such care. I am so grateful for that., I would recommend Leigh Day very highly.



Timothy Barry

Fatal case successfully included income received from trust funds, rental income and loss of DIY services

Helen Ashton represented the executors of an estate in a deceased mesothelioma claim, involving a dependent widow and four grandchildren.

The deceased, a retired engineer, did all the DIY and maintenance on the family home and on the couple's substantial rental property portfolio, some of the houses in the portfolio being held in discretionary trusts paying income, on occasion, to four grandchildren.

Helen included income from the trust funds in the dependency claims, despite these having survived and also included a claim for services for maintenance and refurbishment of the properties in the future.

Forensic accountancy evidence had to be obtained to show the net income flow from the trusts and rental portfolio and to consider the cost of replacement services. The accountancy task was long and complicated. There was a complete lack of legal case law for service awards at the level pleaded. The defendant not unsurprisingly, raised a point on double recovery.

The claim settled at a joint settlement meeting for £725,000 gross, the settlement included £10-12,000 per annum for services to age 75-78 and £2-3,000 thereafter for a further 4-5 years.

The client said:

"It was a great outcome today and we were really pleased that it could be agreed and wrapped up in the session without dragging it into the courts and hopefully now mum can start looking forwards and readjusting to the new normal. I know this has not been an easy case to manage so thanks very much for the help and support, you and Simon did a great job getting us to this point."

A doctor who was diagnosed with mesothelioma after being exposed at Walsgrave Hospital in Coventry between 1998 and 2004 won her case against University Hospitals NHS Trust of Coventry and Warwickshire

Dr Kate Richmond was aged 43 when she was diagnosed with mesothelioma in May 2018 and given months to live. At the time she was living in a Melbourne suburb with her husband and two small children aged 8 and 11. She contacted Daniel Easton to investigate her claim.

Given Kate's age, it was clear that any exposure to asbestos she had suffered must have occurred relatively recently and was most likely to be during her time as a trainee doctor at Walsgrave Hospital. Her case is a prime example of the latest 'wave' of younger asbestos victims who may not have worked with or around asbestos, but still suffered exposure from working in older buildings which contain the remnants of England's terrible asbestos legacy.

We extensively researched asbestos in the old Walsgrave Hospital, which had been demolished in 2006, and appealed in the media for witnesses which led to statements from over 20 former members of staff who provided evidence of asbestos being present at the hospital.

In particular, one former labourer from the hospital came forward to describe how ceiling tiles, containing asbestos, were moved about and damaged from maintenance work and that no precautions were taken to prevent hospital staff being exposed to the deadly dust from the tiles and in the ceiling voids.

We then succeeded in a pre-action disclosure application to access documents about the old hospital buildings and uncovered over 20 lever arch files of records which supported our case that whilst the Trust had procedures in place to prevent exposure, it failed to follow them.

Armed with that evidence, we issued court proceedings and in November 2019 we won a contested liability hearing proving the hospital trust negligently exposed her to asbestos. In an emotional Facebook post, published after the verdict, **Dr Richmond wrote:**

"Obviously I'd rather be well, have no financial settlement and be around to see my children grow up instead of having money in the bank but it is at least some comfort. My legal team has been amazing, caring, compassionate, kind and persistent. I couldn't have wished for better. I feel very lucky to have had such wonderful support."

After succeeding on liability, the case continued to a further trial on quantum, where five leading experts from England and Australia were due to give evidence in April 2020. When the covid lockdown struck, we had to liaise closely with the judge to put in place emergency procedures to be able to carry on with the trial remotely by video, but in the end the case settled the day before trial for a 7-figure sum including recovering thousands of dollars of medical treatment.

The settlement of the claim included provision for the continuing payment of Dr Richmond's treatment, to ensure she could have complete freedom of choice in the treatment she subsequently underwent. We pursued further interim payments thereafter to meet the cost of the ongoing treatment but, sadly, after undergoing further chemotherapy and immunotherapy, Dr Richmond succumbed to her mesothelioma in April 2021.



Dr Kate Richmond and her family

Daughter receives compensation for her mother's death as a result of being exposed to asbestos by washing her husband's clothes

Louisa Saville was instructed by Mrs L following the death of her mother from mesothelioma aged 80. Her mother had suffered from debilitating pain which was inadequately controlled.

Upon investigation it was clear the deceased had no occupational asbestos exposure. However, Mrs L's husband, the deceased's son-in-law, recounted asbestos exposure in the course of his work at Adswold tip in Stockport between 1996 and 2004. Mr L described handling and disposing of asbestos waste at the local authority owned site. He came into contact with materials including corrugated asbestos sheets, asbestos lagging and asbestos insulation boards which had been left at the site by members of the public. He regularly had to pick up asbestos waste that had been dumped and place it inside the asbestos skip. Asbestos dust and fibres were released as he handled and broke up the asbestos materials which then transferred onto his clothing, skin and hair. In the evening he returned to his mother-in-law's home where she shook out and washed his work clothing over a number of years.

The case was fiercely defended. Proceedings were issued in the High Court. Louisa was unable to trace any additional witnesses. The defendants produced two witnesses who challenged Mr L's account, but there were inconsistencies with their evidence. The defendants argued that they had robust training and procedures in place relating to the handling and disposal of asbestos materials. They contended that if the asbestos exposure occurred as alleged, Mr L was acting outside of his training and that they were not vicariously liable for his actions.

Unusually, the defendants issued a court application to add Mr L to the case as a Part 20 Defendant. They held him accountable for the deceased's illness and death and as such argued he should contribute to any damages awarded.

Expert evidence was crucial in this case. Reports relating to the levels of asbestos exposure were obtained from leading Occupational Hygienists. Detailed calculations were carried out dealing with the likely dose of asbestos exposure the deceased had been subject to. Reports from eminent Consultant Respiratory Physicians were produced dealing with the causation of the mesothelioma.

The defendants continued to defend the case and the matter was listed for a trial. A few days before the trial was due to commence the Defendants instigated settlement negotiations. An agreement was reached three days before trial. Compensation was paid to Mrs L and the Part 20 proceedings against Mr L were discontinued.

BBC musician successfully sues BBC after being exposed to asbestos at iconic studios

Harminder Bains was instructed by Christopher Larkin who played the horn in the BBC Symphony Orchestra at the iconic BBC Maida Vale studios, where celebrities such as Bing Crosby, The Beatles & Pink Floyd had recorded.

The BBC denied exposing Christopher to asbestos and denied retaining any relevant documents. Harminder refused to accept this and made an application for pre-action disclosure to the High Court. Thereafter, hundreds of documents were obtained. Harminder analysed these and noted that the premises did in fact contain asbestos.

The BBC still continued to deny exposure, so Harminder sent the BBC a Part 18 Request which put the BBC on the back foot & rather than respond to this request because it would have been detrimental to do so, the BBC finally conceded liability hours before Christopher died.

Thereafter Harminder represented the family at the Inquest where the Coroner held that Christopher had been exposed to asbestos by the BBC. The case is significant as the Maida Vale studios are still in use and as a result was reported widely.

In addition, as a result of this case Harminder was able to re-open the case of Edwin Dodd who was another member of the BBC Symphony Orchestra, which she had previously closed over three years earlier due to lack of evidence. The BBC defended Edwin's claim on the basis it was out of time. However, Harminder issued proceedings in any event and the BBC paid substantial compensation.

Mr Larkin's daughter Helen gave the following Trustpilot review:

"My father fought a painful battle with mesothelioma caused by asbestos in his workplace of 36 years. Harminder and her team at Leigh Day not only won dad's case, winning much needed compensation for the family, but supported him sensitively and compassionately when he was alive, making a huge difference to his sense of being and hope. I couldn't praise this firm highly enough".



Christopher Larkin

Widow exposed to asbestos from washing her husband's overalls achieved a speedy settlement

Mrs Smyth was diagnosed with mesothelioma on 21 October 2020. She instructed Patrick Walsh to investigate her claim on 2 November 2020. At first, Mrs Smyth could not recall any occupational exposure herself, but recalled that her late husband had worked at Harland & Wolff's Belfast shipyard in the mid-1960s and was exposed to asbestos dust.

She washed her husband's work overalls which were contaminated with asbestos dust. In 1967, Mrs Smyth and her husband moved back to England where her husband worked for three other companies up until 1972, again, bringing home asbestos contaminated overalls, which she washed.

Mrs Smyth later recalled that she was exposed to asbestos dust at the premises of her former employer, when electrical work disturbed asbestos tiles whilst she was present as shop manager.

Mrs Smyth is a widow and has no financial dependents. At the time of her diagnosis, she was told that she had a limited life expectancy, but this might be extended with immunotherapy treatment. If she had died before the case was settled, her "lost years" damages claim would have died with her – the value being estimated at £98,000. The case was treated with extreme urgency to ensure that she recovered the lost years damages, and she obtained an Order that the defendant would pay for the costs of future immunotherapy treatment.

Court proceedings were issued on 24 March 2021 against five defendants, all of whom disputed liability. Following a directions hearing on 14 April 2021, the case was listed for a full show cause hearing and the defendants had to show cause in writing by 6 May 2021 with the hearing to take place on 28 May 2021. Four of the five defendants showed cause, but judgment was entered against the Second Defendant, Harland & Wolff Plc, and the case was listed for an assessment of damages hearing on 8 July 2021. Settlement was reached between the parties on 7 July 2021 and the defendants agreed to pay the claimant the sum of £210,000 (which included the £98,000 lost years claim) and pay for the costs of future immunotherapy treatment as part of the settlement.

Legal claim recovers compensation for treatment costs of private immunotherapy treatment and genetic testing

Paul Willis worked at Vickers-Armstrong Limited, later known as VSEL and then BAE Systems Ltd, in Barrow, during 1962 to 1972. He worked as a craft apprentice for five years in different departments, including in the top yard on the construction of submarines, before becoming a draftsman in the marine engineering drawing office where he would go on board ships to check on configurations of equipment and pipework. He had to strip asbestos and worked in close proximity to work involving asbestos lagging.

After being diagnosed with mesothelioma Paul instructed Kevin Johnson to bring a legal claim against his former employer. Although Vickers-Armstrong never admitted liability, Kevin secured, a settlement of £225,000 with a provision that allowed him to return to court and apply for future damages if he was recommended particular treatments, including treatments that are currently not funded by the NHS. As a result of the settlement, Paul was able to access privately funded chemotherapy and immunotherapy treatments that may not have been available to him otherwise and also had genetic tests to identify the most appropriate treatment options. These costs were met by the defendant.

Paul said:

“I was unexpectedly diagnosed with mesothelioma last year and was encouraged to seek compensation to cover treatments not available on the NHS. Leigh Day, who are expert lawyers in the specialist field of asbestos related diseases, were suggested.

“From my initial contact with Partner Kevin Johnson and throughout an emotionally difficult time the empathy, support and personal attention I received was without doubt unparalleled. The processes of preparing my case, to its highly successful conclusion was conducted in the most professional manner and I have the highest regard for Kevin and his team.”

Kevin Johnson said:

“We are pleased that Paul has received a settlement from his former employer who also allows him to return to court and apply for future damages if a treatment not funded by the NHS is recommended to him.”



Paul Willis

£1 million settlement for family of man whose childhood contact with asbestos at British Rail caused his death at 58

Andrew Godwin was exposed to asbestos as a child, when his father, an engine fitter with British Rail, returned home from work with substantial amounts of asbestos on his clothes. Before he began to suffer the symptoms of asbestos exposure, Andrew was healthy and well, leading an active life and working full time.

However, at the age of 56 he developed breathlessness and following tests, was informed he had mesothelioma.

Andrew's recollection of his father's work was limited but a former colleague was able to give a detailed witness statement which confirmed that Andrew's father worked with asbestos whilst maintaining the steam engines at Ebbw Junction in Wales from 1961 to 1982.

He frequently removed asbestos from the steam locomotives which caused him to become covered in asbestos dust which he then unknowingly took home on his clothes.

The Defendant, whose liabilities are now dealt with by the Department for Transport admitted liability while Andrew was still alive.

Andrew died aged 58 in 2019 before the claim was settled leaving behind a wife and a son and daughter aged 27 and 30 respectively at the time. Andrew's wife was able to continue with the legal case.

As Andrew was quite young when he was diagnosed and had a successful career, the widow's claim settled out of court with the Defendant for just under £1 million. This figure included a substantial sum for the dependency claim and payment for immunotherapy treatment which Andrew had undertaken during his lifetime after his legal claim commenced.

Vijay said:

"This case highlights the widespread use of asbestos within trains. Asbestos was commonly used in the thermal insulation and fireproofing of train engines and train carriages across the UK before the deadly material was banned."

£725,000 settlement secured for former labourer

A man, who we have named Patrick, worked for Norwest Holst Group Administration Limited (Norwest), as a labourer in the 1960s.

During his employment Patrick, now aged 73, worked on various construction sites where he was exposed to asbestos.

In June 2019, Patrick was diagnosed with mesothelioma and instructed Steven Dickens. Steven commenced court proceedings quickly and obtained an initial hearing at which the Court decided that Norwest could not defend this claim and entered judgment for Patrick.

Patrick is married and is also a carer for his adult grandchild, who suffers with a disability. We obtained evidence which suggested that Patrick had suffered a loss of life expectancy of approximately 10 years as a consequence of the mesothelioma.

Patrick wanted to ensure that his wife and grandson would be financially provided for in the future. Steven argued that the future help and support Patrick would have given, called “loss of services dependency”, in legal claims, should be included in Patrick’s lifetime. This argument is regularly opposed by defendants. There is competing case law in relation to the approach that should be taken. Defendants commonly argue that the losses are not pursuable beyond the end of a claimant’s life. This means that in these circumstances, claimants are left with an unenviable decision as to whether to conclude their claim in lifetime with a risk that the court will find against them, meaning that no compensation is recovered for the future losses, or have the claim settled by their estate after their death.

In this important case Steven was able to successfully negotiate a settlement with Norwest for £725,000, which included the full cost of the “future loss of services and care” in relation to Patrick’s wife and grandson.

In addition, Patrick can also claim the costs of treatment in the future, should he be recommended for treatments such as immunotherapy which are not available on the NHS.

Patrick said:

“I am glad to have been able to have the claim settled so that my family won’t have to worry about how they can provide for my disabled grandson after I am gone. It is a great comfort to me to know that despite my illness, my family will be provided for.”

Steven Dickens said:

“This is an extremely important case for Patrick and his family. I am pleased to have been able to secure a settlement which will help the family pay for professional services to replace the level of care provided by Patrick in the years to come.

“The law in relation to future loss of services in case of mesothelioma requires clarification by the higher courts so that victims such as Patrick can have certainty and do not have to face the agonising decision of potentially having their litigation concluded by their loved ones after their death in order to be fully compensated.”

Recent events which the Leigh Day team has been delighted to support

Bright Colours Ball | Bright Colours ball in support of Mesothelioma UK and Readley.



MAVSG Charity Gala | Merseyside Asbestos Victim Support Group at their Charity Gala Evening held at Anfield



Action Meso Day | Greater Manchester Asbestos Victims Support Group



Superhero Fun Run | London Asbestos Support Awareness Group



Muffins for Meso | Asbestos teams in London and Manchester offices donned our aprons in support



Joint Conference | Asbestos Support Central England, Derbyshire Asbestos Support Team and Yorkshire and Humberside Asbestos Support



Action Meso Day | Yorkshire & Humberside Asbestos Support Group



Action Meso Day | Merseyside Asbestos Victims Support Group



Action Meso Day | London Asbestos Support Awareness Group Action Mesothelioma Day



Hazards Conference 2022



“Highly respected industrial disease practice offering first-rate representation to claimants suffering from asbestos-related diseases. Features prominently in headline disease cases and retains strong links to support groups and non-profits catering for those with mesothelioma.”

Chambers and Partners

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Leigh Day is a specialist law firm with some of the country's leading asbestos lawyers. We have a track record of succeeding with cases on behalf of those diagnosed with asbestos related illnesses through no fault of their own.

Unlike some law firms, we act exclusively for claimants, we never act for employers or insurance companies.

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