



Leigh Day
Asbestos Newsletter
Volume 2

Leigh Day

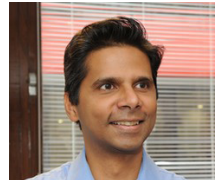
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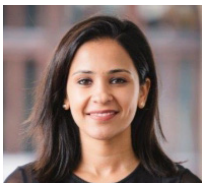
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Introduction

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 2023

What the team is known for: “Leigh Day has a highly respected industrial disease practice offering first-rate representation to claimants suffering from asbestos-related diseases. The team features prominently in headline disease cases and retains strong links to support groups and non-profits catering for those with mesothelioma, and is also well versed in handling large international group claims, particularly those concerning claimants in developing countries. The firm boasts an extensive national platform, with offices in London, Manchester, Birmingham and Liverpool, and is highly experienced in taking cases to the Court of Appeal and in making judicial review challenges.”

Legal 500 2023

A client says: “Our experience of Leigh Day was that throughout the process from start to finish, it felt to my wife like the main priority was her health and wellbeing, underpinned by the legal process which Leigh Day managed exceptionally well. They just shared with us the right amount of information and discussion on decisions where they needed to be made, without making any assumptions on how we felt, or what we should feel or decide. A really good balance of skills and communication engagement with the lead and support roles, we felt really well supported throughout the process.”

Our Offices

Birmingham, Chesterfield, Liverpool, London, Manchester, Newcastle, Plymouth

Leigh Day Meso Miles

We know the tireless and invaluable work that all of the support groups put into assisting people suffering from life-changing asbestos-related diseases. We see the incredible help provided to our clients, who speak so highly of the support groups and the support group workers.

We therefore decided to dedicate the period 8 to 23 June 2023 to raising funds and awareness for all of the support groups around the UK.

We set a target of 2,544 miles, which is the same number as those who sadly lost their lives to mesothelioma in 2020, the last year of recorded data. We recorded the miles from our daily exercise, whether that was walking, running, cycling, rowing, or even surfing and kayaking!

We also marked and visited the sites of some of the notorious asbestos hotspots in Kent, Manchester, Liverpool and the North-West, paying respect to those who have suffered as a result of their terrible legacies.

We supported the following support groups from Dundee to Devon and Cornwall, taking in Newcastle, Barrow and Blackpool, Liverpool, Manchester, Leeds, Sheffield, Chesterfield and Derby, Birmingham, Cardiff, Bristol, East Anglia, Southampton, London and the Medway:

- Asbestos Action (Tayside)
- Asbestos Awareness and Support Cymru (AASC)
- Asbestos Support Central England (ASCE)
- Cheshire Asbestos Victim Support Group (CAVS)
- Clydebank Asbestos Support (Glasgow)
- Cumbria and Lancashire Asbestos Victim Support Group (CLASAG/Disability First)
- Derbyshire Asbestos Support Team (DAST)
- East of England Asbestos Patient Support Group (EEA-PSG)
- Greater Manchester Asbestos Victim Support (GMAVS)
- HASAG (Hampshire and South Coast)
- London Asbestos Support Awareness Group (LASAG)
- Merseyside Asbestos Victim Support Group (MAVS)
- Mesothelioma UK
- Readley (the North East)
- South West Asbestos Support Awareness Group (SWASAG)
- Yorkshire and Humberside Asbestos Support (SARAG)

On 15 June 2023, our London team walked from Tilbury Docks to Chatham Docks, a distance of over 15 miles. On a glorious summer's day, we trekked along the Saxon Shore Way, visiting the sites of the dockyards and meeting up with support workers from London Asbestos Support Group, before finally ending up at Rochester Castle for a well-deserved ice cream.

On 20 June 2023, our Manchester and Liverpool teams walked 15 miles along the Manchester to Liverpool canal and the Transpennine Way, meeting representatives from Cheshire Asbestos Victim Support Group, Greater Manchester Asbestos Victim Support and Merseyside Asbestos Victim Support Group along the way. They suffered adverse weather conditions compared to the London team, but reached their target and had some much earned refreshments at the end.

We are delighted to say that with efforts like these, our team smashed our target, recording over 2,700 miles and raised £8,000 along the way, representing a £500 donation to each of the groups!



Compensation received for lung cancer, despite successful surgical removal of the cancer

Kevin Johnson represented Graham Midgley, who lives in Australia, in his claim for compensation for lung cancer against his former UK employers. He underwent treatment in Australia which involved the removal of a section of his lung and thankfully, he made a good recovery and continues to be in good health.

He was exposed to asbestos during multiple periods of employment as a plumber in England and a number of his employers are no longer trading or in existence. Through extensive research and investigations, Kevin was able to locate a number of his previous employers and their insurers, going back as far as the 1960s in some instances.

Kevin commenced court proceedings in the High Court and the case gave rise to complex legal issues. Whilst Graham had clearly been through a very distressing diagnosis and radical surgery, he had made a good recovery. There are limited legal precedents where courts have assessed compensation, in such circumstances as this.

There were also issues about the division of payment of compensation, as some employment liability insurers could not be traced. Kevin obtained a very detailed statement by forensically going through Graham's previous work conditions and using his experience to identify different ways in which Graham was exposed to asbestos.

Kevin also faced difficult legal arguments with regards to contributory negligence which were raised by Graham's employers. They argued that because Graham was a former smoker he had partly contributed to the risk that he may develop asbestos related lung cancer.

The conventional medical view is that whilst asbestos is a cause of lung cancer, other factors such as smoking can cause or contribute to that lung cancer. These cases can succeed if evidence is obtained, to prove, "substantial levels of asbestos" exposure.

The employers admitted liability and offered Graham a substantial sum of compensation. Significantly, his case settled on a provisional damages basis. This means that he is entitled to come back and apply for further compensation if his previous lung cancer reoccurs or if he develops a new lung cancer or any other type of asbestos illness.

Graham said:

"I was diagnosed with lung cancer in 2019, due to asbestos exposure and smoking between 1966 to 1977. A law firm in Australia advised us that Leigh Day in UK had the best legal team to deal with any asbestos related claim. They contacted Leigh Day and without delay, we heard from Kevin Johnson.

My wife and I spoke with Kevin through many hours of FaceTime. He made a difficult claim stress free for us and easy to understand each step. It became like talking to an old friend. He contacted us regularly through emails to keep us informed on all aspects of the claim as new information came in and how everything was progressing.

His team was fantastic and worked tirelessly and meticulously throughout. This ended in getting us a good result. We cannot recommend Kevin and his team at Leigh Day highly enough.

Thank you all so very much for your many hours of hard work, it's much appreciated."

Painter died after being exposed to asbestos at Quiggins, the popular shopping centre in Liverpool

Steven Dickens represented Steven Doran in his successful legal case against Quiggins.

Steven sadly died at the age of 54 from mesothelioma. He was only 20 years old when he employed by Quiggins to paint their building whilst it was being converted from a warehouse into a shopping centre.

Between 1988 and 1989, Steven painted steel beams in the ceiling which were coated with sprayed asbestos. The building was being refurbished from an egg warehouse and a storage facility into a shopping centre with cafes.

In 2007, the shopping centre was demolished to make way for the current Liverpool One shopping centre. During this period, inspections were carried out regarding the removal of asbestos.

Steven was successful in his legal case as evidence was obtained from the person responsible for inspecting the building and was able to confirm the existence of asbestos.

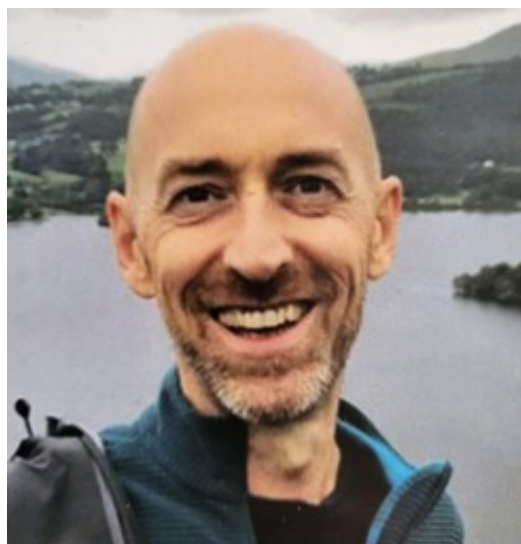
Aviva, the employers liability insurers of the building, were forced to admit the existence of asbestos in the building once the court case had commenced. They admitted that Steven had been exposed to dangerous levels of asbestos and agreed to pay him £315,000 before the trial commenced.

Nina Doran, Steven's sister, said:

“For Steven to die so young, having his life cut short because the owners of Quiggins cut corners is devastating.

“Steven believed that the owners of the building were aware of how dangerous the asbestos was and were trying to disguise and seal the material. It's so alarming to think our family could have been spared this pain if the proper precautions had been taken.

“For Steven, compensation was blood money. For us, what is important is that we raise awareness of how businesses hide this killer so that other families don't have to suffer as we have.”



Steve Doran

Successful lung cancer settlement despite failure to meet Helsinki criteria

Louisa Saville represented Mr G, who was diagnosed with asbestos-related lung cancer. Sadly, the cancer had spread to his throat, making speech difficult. Mr G was a widower and lived alone in Scotland.

He instructed Louisa during the COVID-19 pandemic so a face-to-face meeting was not possible. Instead, Louisa obtained his witness evidence over the course of a number of video calls.

Louisa obtained evidence that Mr G had worked at Swan Hunter & Wigham Richardson Limited between 1966 and 1971 as a labourer. He worked on board ships that were being constructed in the vicinity of ladders who were mixing, applying and cutting asbestos lagging materials. He worked alongside these men up to 6 days a week and swept up the asbestos dust and debris they created at the end of each shift. He was not provided with any protective breathing equipment or given any other safety precautions to use during the course of his work.

Steps were taken to progress the claim as soon as possible given Mr G's poor health. An admission of liability was made by his employer's insurers at an early stage, but sadly Mr G passed away later the same day.

After his death, the claim was continued on behalf of his estate by Mr G's son. A post-mortem was carried out but did not identify the required number of asbestos bodies within the lung tissue samples to satisfy the causation test for asbestos related lung cancer ('the Helsinki criteria').

These results were at odds with Mr G's lifetime account of heavy occupational asbestos exposure and so an expert pathologist was instructed to review the lung tissue samples via an electron microscopic fibre count. At the same time, a Consultant Engineer was instructed to provide an asbestos dose estimate.

The pathologist's findings were similar to those of the post-mortem and so were unhelpful for the causation of asbestos related lung cancer.

The engineering evidence, by contrast, was positive. The engineer's opinion was that Mr G had asbestos exposure in excess of 225f/ml, almost an order of magnitude greater than the Helsinki criteria. The expert's opinion was crucial in this case.

Despite the negative evidence, Louisa continued to pursue the claim and presented the post-mortem and engineer's opinion to the employer's insurers and succeeded in negotiating a successful settlement.

Woman exposed to asbestos in her own home!

The daughters of Peggy Jones, Julie and Sally, instructed Vijay Ganapathy just before their mother's death from mesothelioma.

Unfortunately, as Peggy's mesothelioma was advanced, she was not well enough to provide witness evidence specifying where she was exposed to asbestos.

Subsequently, Julie and Sally provided evidence that at some point in the late 1960s and early 1970s, asbestos sheets were cut and fitted in the Islington flat in North London which Peggy and her family were renting. At the time, the letting agency had arranged for a firm to fireproof all the internal doors with asbestos sheeting which is believed to have been done to comply with fire regulations.

Peggy and Julie, who was a child at the time, were present in the flat when workers cut asbestos sheets which caused asbestos dust to be released in the air. This dust also settled on the floor and furniture which Peggy cleared by dusting and sweeping it up which caused her further asbestos exposure.

Investigations were carried out into the defendant letting agency which was found to still be in operation, so the family's claim was advanced against them.

Fortunately, it was still possible to gain access to the asbestos fireproofed doors as the family had since bought the flat. Vijay arranged for samples to be taken under controlled conditions by a UKAS (United Kingdom Accreditation Service) company and sent to a laboratory for testing. This revealed that they contained amosite and chrysotile asbestos fibres, both of which are very dangerous and capable of causing mesothelioma, even in small amounts.

Following the inquest, evidence was put to the letting agency who claimed this could not be their responsibility as they had hired competent contractors to do the work. They also argued that they could not have known asbestos was dangerous as it was not banned at the time they had been fitted. However, Leigh Day highlighted that they had provided no evidence that competent contractors had been hired and it was clear the dangers of asbestos were known much earlier.

Whilst the letting agency never conceded liability, they agreed to pay Peggy's daughters a substantial sum for the loss of their mother.



Peggy Jones

Handyman receives compensation within three months

Catriona Ratcliffe represented John.

John was employed as a handyman by Samuel Williams & Sons Ltd (a subsidiary of William Hudson Group Ltd) where he worked from 1953 to 1982.

Samuel Williams & Sons Ltd received shipments of oil and liquid chemicals for storage and distribution. Pipes lagged with asbestos were used to move the liquids between tanks and vehicles and the pipelines were changed frequently.

John assisted contractors with the removal of old asbestos lagging from pipes and the application of new asbestos lagging. He was also involved in the construction and demolition of buildings on site which had been constructed using corrugated asbestos cement sheets and asbestos insulation boards. With each task, asbestos dust was dispersed into the air around him and settled on his clothes and skin.

In 2021 John was fit and healthy for his age and enjoyed an active social and family life. Unfortunately, in early 2022 John developed a cough and shortness of breath. Following medical investigations, John was given the devastating diagnosis of mesothelioma in July 2022.

Catriona prepared detailed witness evidence. As a result, Samuel Williams & Sons Ltd admitted liability for the claim without the need to commence court proceedings.

John's case settled for a six-figure lump sum, plus payment of any future private medical expenses. This speedy settlement was obtained within three months of John instructing Catriona.

Sadly, John died shortly after his case settled.

His daughter-in-law gave the following Trustpilot review:

"I would like to say a massive thank you to Catriona Ratcliffe. She was the solicitor acting on behalf of my father-in-law. I can honestly say she was amazing from start to finish. Patient, kind and thorough and extremely professional. She made my father-in-law feel very comfortable in what was a very upsetting situation. She explained everything to him in great detail and kept him updated every step of the way. She did an outstanding job and he received an out of court settlement, an acceptable amount and the whole process took three months from start to pay out. Would highly recommend Catriona. Thank you."

Former ICI employee, now living in Australia, secures settlement

John Douthwaite, who lives in Australia, instructed Daniel Easton in his claim against Imperial Chemical Industries Limited (ICI).

John worked for ICI in their factory in Harrogate from 1961 until 1976. He was employed as a lathe turner. During his employment, he had to remove and apply asbestos lagging on to pipes. He used a hacksaw and a stanley knife to remove asbestos rope and he wore asbestos gloves and asbestos aprons during this work. He also made asbestos plates. During his work, he was covered with asbestos dust.

John and his family moved to Australia in 1989 where he continued renovating properties. When he developed symptoms of mesothelioma, he was in the middle of renovating two properties and needed help to complete the work.

Due to John's property investments and the refurbishments he had planned, Daniel worked with Australian lawyers to gather extensive evidence involving a specialist accountant to estimate the value of his losses. Daniel was able to secure a substantial settlement which included ICI having to fund ongoing future medical treatment.

John said:

"You have exceeded our expectations. The professionalism, thoroughness, your unwavering patience and gentle approach with all the people involved was duly noted across the board. Your ability to work with people is a great asset to your profession. Thank you for all your hard work, which shows in the amazing result you have achieved."



John receiving his apprenticeship papers at ICI

Rare diagnosis of both pleural (lung) and peritoneal (stomach) mesothelioma

Helen Ashton was instructed by Sean Smith who was diagnosed with both pleural (lung) and peritoneal (stomach) mesothelioma. It is very rare to have both. Despite immunotherapy treatment, he died from the disease in just over a year.

Sean's widow, Susan, continued the claim. Sean was exposed to asbestos when working as a mechanic from 1987/88 to 1994/95, changing car and lorry brakes. The defendant argued that by the 1980s brake linings were asbestos free but Sean gave evidence that he used to collect the brakes from a specific company that used to reline them with asbestos linings, explaining that most mechanics preferred these to avoid squealing brakes.

The claim was issued in the High Court in London and judgment was obtained at the first case management conference, leaving quantum issues to be determined.

Quantum was complicated because Sean discovered he had a familial SDHB gene mutation (which predisposes a person to renal cell carcinoma) at the same time that he was being investigated for mesothelioma. He also had a renal lesion, but due to the mesothelioma, this was never investigated or treated further.

Expert evidence was obtained from a geneticist. Following comments from Susan's court expert, a supplementary statement had to be prepared by Susan to consider whether Sean would have opted for genetic testing and surveillance had he not died prematurely from mesothelioma, after which the expert was then able to prepare a supplementary report for the court in terms of likely prognosis and impact on life expectancy. This helped to increase the value of the claim significantly. Negotiations followed and the claim was settled.

Susan said:

“Thank you for all your kindness, patience, care and tenacity in fighting Sean's claim. I know there will be others that will follow in our footsteps and receive the devastating news...if they choose you Helen to fight their case, they will be in the safest hands possible.”

Successful DMPS claim after extensive investigations

Andrew Cooper was instructed by Edward Harris, who was employed as a roofer by Asbestos Roofing Contractors in the mid-1960s. He sawed asbestos sheets and he recalled the name of the foreman.

However, there was no firm diagnosis of mesothelioma. Sadly, Edward's health deteriorated quickly and he passed away. A post-mortem was performed and at the coroner's inquest, a diagnosis of mesothelioma was confirmed. Edward's widow, Mary, and his daughter, Lisa, then instructed Andrew to proceed with investigating the case. However, when Andrew obtained the HMRC employment history, it listed several company names during the mid-1960s, but did not include "Asbestos Roofing Contractors".

Thereafter, Andrew investigated each of the former employers in the mid-1960s to identify the area of work they did. One of the companies, W M Walker & Co Limited, had been involved in roofing work. Andrew obtained archive records from Companies House for this company and wrote to the former officers of the company to request any details which may assist.

A former employee responded, confirming that the company had installed asbestos roofing in the 1960s and recalled the name of the foreman, which matched Edward's recollection. This confirmed that W M Walker & Co Limited was the company which Edward had recalled as "Asbestos Roofing Contractors".

However, as the company was dissolved and no employers liability insurers were identified, Andrew advised Mary to make an application to the Diffuse Mesothelioma Payment Scheme. A signed witness statement from the former employee was served. The DMPS application was successful, providing Mary with a payment of £109,000.

Lisa Harris, Edward's daughter:

"The relationship with Andrew was amazing he was always at the end of the phone for us with any issues problems we had and he always made sure we understood everything going on. With Andrew he made a very hard situation more durable for me mum and the family checking in on us either by phone or email . We as a family spent a lot of time talking with Andrew who was always gentle kind and very sympathetic of our needs and wants. I can't thank him and the company enough for a successful outcome in such a delicate matter. So thank you to you all at Leigh Day for making this happen it gives mum some reassurance that my beautiful wonderful amazing daddy did not die in vain. Thank you Andrew xx"



Edward and Mary

Widow of shopfitter receives compensation

Ewan Tant represented Mr X who was diagnosed with mesothelioma.

Mr X alleged exposure to asbestos whilst working as a shopfitter at two employers, neither of which had assets or insurers to meet a claim. On receipt of his employment history, however, Mr X recalled exposure at a third employer for a period of a few months. This employer had insurers and a claim was commenced.

Liability was strongly disputed on the following grounds:

1. The employer's insurer claimed to hold evidence that the company ceased using
2. asbestos products after 1964;
3. The benefit forms had made no mention of the employer which was being sued.
4. This was only the second claim ever to be made against the employer.

Ewan responded robustly, requesting sight of the evidence that asbestos had ceased to be used after 1964 and pointing out that the number of claims made against the employer was irrelevant, but the fact there had been a previous claim suggested that asbestos had been used regularly by the employer. Ewan also took evidence from Mr X as to why he had not initially recalled his employment with the Defendant, not an unusual situation where someone has had lots of previous employers and only recalls some of those employers once they have seen his full employment history.

Proceedings were served and the employer continued to deny liability. Sadly, Mr X deteriorated and he died before the claim was settled.

However, Mr X's widow continued to proceed with the court action and following more robust responses from Ewan to the employer, they admitted liability and substantial compensation was obtained for the widow, who was delighted with the settlement.

Firefighter recovers compensation for exposure to asbestos during his work

Patrick Walsh was instructed by Mr P, who was engaged as a firefighter and fire officer by a local authority fire department in the Midlands between 1978 and 2009.

Between 1978 and the late 1990s, Mr P worked on the ground extinguishing fires and attending the sites of fires to investigate the cause of the fire. This involved him removing asbestos materials from plant and equipment during firefighting and disturbing asbestos materials at the sites of fire whilst carrying out investigations.

In addition, Mr P had a training role which involved him setting up training incidents in the basements of hospitals and old buildings which involved contact with damaged and degraded lagged pipework. As a result of this activity, Mr P regularly came into contact with asbestos. He was not provided with a mask or respirator or any proper training in how to avoid contact with asbestos.

In 2021, Mr P began to experience breathing problems. Following this, he underwent investigations and was diagnosed with malignant mesothelioma.

He instructed Patrick Walsh from Leigh Day to pursue and investigate his claim. The Fire Brigade admitted liability and Mr P received £475,000, together with an agreement that the insurers for the Fire Service fund any private medical treatment needed for the mesothelioma.



Environmental exposure from Cape Asbestos factory in Barking

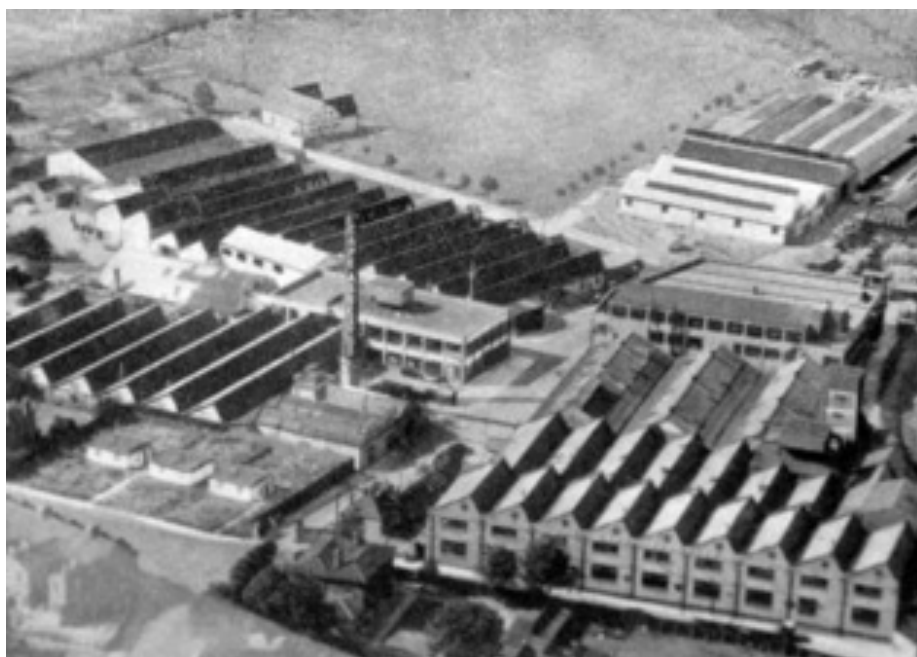
Claire Spearpoint was instructed by John following his diagnosis with mesothelioma aged 98. Despite his age, John was remarkably active and the primary carer for his wife, who suffered with vascular dementia and Parkinson's disease.

John did not recall being exposed to asbestos at work. The only contact with asbestos he recalled was when he lived in the vicinity of the Cape Asbestos Factory in Barking. He lived with his brother in Saxon Road and his mother in Boundary Road between 1962 and 1968/69. In addition, his brother was an employee of Cape in an office role, and John had attended the Factory grounds to watch his brother play cricket with the Cape sports team. His brother and mother had both passed away, so no evidence could be obtained from them directly.

Claire began investigations which started by locating historic maps of Barking and ascertained the family homes were both within one mile of the Factory. Contemporaneous records were also obtained detailing the condition of the Factory and area. Further questioning revealed that John parked his car at garages 250 metres from the Factory. Witness statements from former residents were located from previous Leigh Day cases and other contacts, which built a picture of background dust levels from the Factory processes which pervaded the general area of the Cape Factory. Greater details were also obtained about the arrangements whilst John lived with his brother, including how his brother greeted him and how John's sister-in-law undertook the laundry. Cumulatively, all the information obtained built a picture of how John sustained environmental exposure from asbestos being discharged from the Cape Factory, and potentially from secondary exposure through his brother's employment at the Factory.

The claim was presented to Cape who, whilst making no admission of liability, offered a six-figure settlement, enabling John to focus on his treatment and health.

John, who turned 100 earlier this year, was very happy with the outcome and is still living at home with his wife and the support of daily carers.



Cape Asbestos Factory in Barking

PE teacher dies from asbestos exposure at a school in Surrey

Julia Browne was Head of Physical Education (PE) at St Teresa's Secondary Girls School, Sunbury on Thames (now called St Paul's Catholic College) from September 1971 to June 1979. She instructed Harminder Bains to advise her regarding her claim for compensation.

For a period of five to six months between 1972 to 1974 Julia was exposed to asbestos dust when building works were undertaken at the school in the changing rooms, assembly hall, the gym and other areas. Harminder obtained documents which showed that there was building work undertaken in the school as a result of cracks appearing in the ceiling, due to the use of "high alumina" concrete when the school was built.

During the building works, asbestos was found at the school. Thereafter, Harminder commenced court proceedings in the High Court. Surrey County Council denied almost every allegation, refused to admit that asbestos was disturbed during the building works and requested Julia "to prove" her claim. The case was set down for a three-day trial. Sadly, Julia died before trial. Her husband Peter asked Harminder to keep the trial date as he did not wish the case to be delayed as this would only add to his distress. The Coroner agreed to fast track the Inquest so that the trial date could stay in place.

The case was prepared for trial and Peter and Julia's teacher colleagues were ready to attend court in support of Julia's evidence. Faced with the prospects of a trial, the council made a substantial offer of compensation 13 days before the trial was due to start. The Council agreed to also pay Peter's legal costs. Peter accepted the sum offered.

Peter Browne said:

"My wife died shortly before the successful outcome of a legal action for mesothelioma against her former employers. Our case was handled by Harminder Bains at Leigh Day. I could not commend Harminder too highly. She demonstrated tenacity and conviction from the outset, inspiring a growing confidence in what initially appeared to us to be an insurmountable mountain to climb with my wife's exposure to asbestos dating back almost 50 years. These same qualities, and the detail and strength of the case compiled by Harminder, left the Defendant with no option but to concede the case prior to the trial by way of an out of Court settlement".



Peter and Julia Browne

Asbestos Campaigns

Not only do we represent individual clients in their claims for compensation arising out of exposure to asbestos, but we support and spend a great deal of our time and resources on supporting campaigns to protect and extend the rights of asbestos victims.

Asbestos Victims Support Groups Forum UK's campaign for £10 million to fund medical research #CapeMustPay

In 2017, Harminder Bains discovered that Cape intended to destroy historical documents regarding some of its asbestos products. Tony Whitston, founder of the Forum, gave Harminder instructions to urgently apply that the documents be preserved and handed to the Forum, so that they could be placed into the public domain. He, together with the then chair, Graham Dring, fought the legal case until they were ultimately successful in the Supreme Court.

The documents revealed, amongst other things that:

- Cape knew that Asbestos fibres were released from asbestos insulation board (AIB, tradename Asbestolux) but yet publicly stated that there was no risk from handling Asbestolux.
- Cape prevented warning labels to be put on Asbestolux
- Cape continued to manufacture Asbestolux in 1980 despite defending court cases on the basis that it had ceased manufacture in 1978.

After the successful legal case, Graham Dring instructed Harminder on 10th March 2022 to write to Cape, requesting that Cape pays £10 million to fund medical research to find a cure for mesothelioma. Due to Cape's failure to respond, Joanne Gordon, a subsequent chair of the Forum, launched the #CapeMustPay campaign.

In March 2023, current Forum chair Rob Rayner, together with Tony Whitston and Harminder entered into negotiations with Cape Plc. Unfortunately, an agreement was not reached and the Forum has resumed its #CapeMustPay campaign.

Cape's refusal to pay £10 million towards medical research is despicable, particularly given that Cape's parent company Altrad is a major sponsor of the All Blacks, the renowned New Zealand rugby team.

Altrad is a billion pound company which has recently been given a £30.8 million government contract to remove asbestos from the Berkley Power Station in Gloucestershire. The Forum has written to Rishi Sunak requesting that a moratorium is imposed until Cape/Altrad agrees to pay £10 million towards medical research.

In a nutshell, Cape/Altrad has gone full circle in that it has profited from:

1. Importing asbestos into the UK
2. Manufacturing asbestos products in UK factories
3. Constructing buildings and ships using their asbestos products
4. Now, removing their asbestos products, at the cost of the tax payer, as the government is funding them!

The Forum has set up a petition urging Cape / Altrad to pay £10 million. Harminder, whose own father died from mesothelioma, urges all medical professionals and families of mesothelioma sufferers, to sign the petition. The funds will be spent on medical research to find a cure for mesothelioma

The link to the petition can be found here:

<https://chnng.it/S55JzgJL>

The Asbestos Victims Support Groups Forum website:

<https://asbestosforum.org.uk/>



A view from an Independent Specialist Surveyor

“Here’s my take on Asbestolux;

35 years of asbestos surveying and Consultancy work mostly in the UK. I still maintain that asbestos insulation board AIB (of which Asbestolux is the main trade name) is the most dangerous product out there in the built environment.

There is a valid argument to suggest sprayed asbestos coatings and pipe insulation are more dangerous products and that is true. However, the key element here is its location and sheer extent to which it was used in buildings from the very early 1950s until the 1980s.

Sprayed coatings are fairly rare in the UK these days. Pipe insulation is more common. Where these are found they are more often than not in more out of the way places such as boiler rooms, pipe risers, pipe boxing and roof spaces. As such they cannot usually be easily damaged or disturbed in the same way that AIB can.

AIB was extensively used during the 1950s to the 1980s across the built environment and often in schools, hospitals and other public buildings. It is often found in locations easily accessible during the normal day-to-day use of these buildings, such as walls, cladding, ceilings, packers, cupboards etc. AIB is often unsealed, partially sealed or damaged. Over time it can become easily damaged or disturbed by contractors, children kicking balls or banging chairs into them and the condition of AIB also deteriorates over time and it is a friable material. Add on to this the appalling level of asbestos management across parts of school estates, some hospitals and the mass of other buildings it presents a major risk of exposure.

We are often called to situations where AIB is damaged and/or in a poor condition. In fact, it is the most common of the call outs for us as a practice. Builders, electricians, plumbers, school children etc. all creating the damage or disturbing AIB through a lack of awareness, training and just poor building and contractor management. There is no legal requirement to label the material and therefore no last line of defence.

Greg Byrne”
Managing Director



R B ASBESTOS CONSULTANTS

Examples of Asbestos Insulation Board (AIB) / Asbestolux in buildings



Asbestolux door panel



Asbestolux in a wall



Asbestolux in a cupboard wall



Asbestolux beneath a skylight



Asbestolux in a wall



Asbestolux ceiling tiles

Daniel Easton & Patrick Walsh work with APIL & the Asbestos Victims Support Groups Forum to improve compensation for asbestos lung cancer victims

Daniel Easton and Patrick Walsh have been supporting APIL and the Asbestos Victims Support Groups Forum (the Forum) in their joint campaign to change the law in favour of victims of asbestos related lung cancer.

As the law stands, people with mesothelioma, an asbestos cancer of the lining of the lung, can recover full compensation from any employer who negligently exposed them to asbestos dust, whether or not there are other employers responsible as well.

By contrast, people who have developed lung cancer as a result of asbestos exposure can only recover full compensation if they can trace every one of their employers and insurers who exposed them to asbestos dust. If any employer or insurer cannot be traced then victims of asbestos related lung cancer lose out as they do not receive full compensation.

APIL and the Forum have started a campaign to ask Parliament to change the law so that victims of asbestos related lung cancer also get full compensation if they cannot trace all of the insurers for their past employers. It is unfair that one group of asbestos cancer victims can get full compensation, but another group cannot, when the situation they have been put in is more or less exactly the same. Both asbestos related lung cancer and mesothelioma cause extreme disability and, in most cases, result in death.

It is unfair that a person with lung cancer should only get a fraction of the compensation through no fault of their own. They have already proved that the cancer they have has been caused by asbestos exposure. It is wrong for them to only get part of the compensation because an employer has gone out of business or has no insurance when that employer was partly responsible for causing the cancer and there is no fault on the part of the person with the disease.

APIL and the Forum hope to persuade Parliament to introduce changes to the law which would mean that victims of lung cancer, like mesothelioma victims now, will receive full compensation.

Daniel Easton and Patrick Walsh have been advising APIL and the Forum in relation to the legal issues involved in making this change.

Kevin Johnson works with Asbestos Victims Support Groups Forum & APIL on two campaigns as follows:

Diffuse Mesothelioma Payment Scheme (DMPS)

The Diffuse Mesothelioma Payment Scheme (DMPS) is a fund of last resort for mesothelioma sufferers who cannot bring a civil claim because their former employers may be out of business, have no assets and where insurance cover cannot be traced. Gaps in employer liability insurance cover meant that victims of mesothelioma and other occupational illness were going uncompensated.

The DMPS was introduced in 2014 to try to address these issues but unfortunately, it did not go far enough to support victims. It only applies to mesothelioma sufferers and does not apply to other diseases. It also excludes non-occupational asbestos exposure, so victims who contract the illness due to environmental or clothing exposure are excluded.

When the Scheme was being introduced in 2013, the Government gave undertakings to monitor payment levels and ensure that they kept pace with damages in civil claims. The Government promised that they would review the Scheme if compensation levels changed. The Government also gave an undertaking to Parliament in 2013 that the level of DMPS payments would be reviewed in 2018/2019. These promises were not kept and the level of payments have not kept pace with inflation and increasing compensation levels in civil claims. This has resulted in mesothelioma sufferers being under-compensated.

In January 2023 the DWP announced that they would carry out a review of the payment levels. Leigh Day wrote to the DWP requiring an explanation and apology from the Government for their failure to honour their promises. Leigh Day also demanded that the many shortcomings of the Scheme were addressed as part of the review.

In January 2023 Kevin Johnson joined the DMPS Oversight Committee as a victim representative on behalf of APIL (the Association of Personal Injury Lawyers). Leigh Day continues to fight for reform and demand improvements to the DMPS. The outcome of the review is awaited.

Employer Liability Tracing Office (ELTO)

ELTO is a database of historic employer liability insurance policies. Whilst we support the principle of a database of policies that victims and their representatives can access, there are many shortcomings with the system. In January 2022 the Asbestos Victim Support Groups Forum wrote to ELTO setting out their concerns about the database, including the poor website, excessive personal details that were required and lack of any engagement with victim representatives, including the absence of an Oversight Committee.

Leigh Day made a subject access request in August 2022 on behalf of our client who suffers from lung cancer. Our client had made requests for help in tracing policies of his employers through ELTO. Having failed to receive a response from ELTO to our request, we raised a complaint with the Information Commissioner's Office. We heard from ELTO in May 2023 and they responded further in July 2023 after an investigation, stating that they would change how they hold and store client details.

The ELTO website has been improved, but ELTO still fails to engage with victim representatives about how to improve their system and improve results for insurance policy searches. Leigh Day continues to campaign for reform.

Award presented to Harminder for her legal work and anti-asbestos campaigning

The Asbestos Victims Support Groups Forum UK (the Forum) paid tribute to Harminder Bains as a consequence of succeeding in cases in the Supreme Court and winning several judicial reviews.

Joanne Gordon, previous chair of the Forum, presented Harminder with the award which stated “With thanks & appreciation for your hard work and dedication to anti-asbestos campaigning.”

Harminder has represented the Forum in numerous successful cases in the Supreme Court and the High Court to protect the rights of victims of asbestos disease.

Harminder also represented Dr Robin Rudd, a leading asbestos medical expert, who brought a claim against John Bridle, an asbestos lobbyist who claims chrysotile products are safe. John Bridle wrote to the General Medical Council claiming that Dr Rudd was preparing court reports deliberately claiming chrysotile was dangerous, simply for fees. The case defended the reputation of Dr Rudd, a medical professional who presents information about the health of asbestos victims when they seek compensation for their illnesses.

In light of her reputation, Harminder was spied on by the asbestos industry and alerted the Forum and other campaigners by naming the spy. In addition, she was the first claimant to start a legal case against the spy, so that the asbestos industry’s tactics could be brought to light.

Harminder Bains said:

“As a result of my own father sadly dying from mesothelioma 23 years ago, I am only too aware of the devastation that asbestos brings to victims and their families. I wholly support the work of the Forum and were it not for their determination to stand up to the asbestos industry, the legal cases above would never have been brought. Their agreement to continue the Cape case against all odds shows they are a force to be reckoned with and I for one will be proud to stand alongside them at the protests.”



Harminder Bains and Joanne Gordon

Appointments

Daniel Easton was previously co-ordinator of APIL's occupational health special interest group and in 2023 was voted onto the Executive Committee of APIL

Kevin Johnson is the joint co-ordinator of APIL's occupational health special interest group. He also sits on the Diffuse Mesothelioma Payment Scheme Oversight Committee as a victim representative.

Steven Dickens sits on the Trustee Advisory Committee of the T&N Asbestos Trust which represents the best interests of Trust claimants eligible to bring a claim against the largest asbestos Trust in the UK.

We won UK Law Firm of the Year at the Chambers Europe Awards 2023 at a ceremony in Milan on 25 May 2023



We won Personal Injury Team of the Year at the Manchester Legal Awards 2023



Our Asbestos Team in the Media

- Listen to Harminder Bains on the podcast called “Into the Dirt”, available on Tortoise Media (www.tortoisemedia.com) or for free on Spotify, regarding the spy sent in by the asbestos industry to spy on anti-asbestos campaigners.



- Read Daniel Easton’s article regarding people who develop lung cancer because they were exposed to asbestos at work are being denied full and fair compensation because they are unable to trace their former responsible employers.

Trade Voice: Apil’s Daniel Easton on cancer sufferers’ fight for parity



- Read the Guardian article regarding Steven Dickens' client who succeeding in obtaining compensation after being exposed to asbestos whilst working as a teacher at St Gabriel’s School in Rochdale.



Cancer

Family wins settlement in claim over teacher’s asbestos cancer death

- Read the Sunday Times campaign featuring a number of articles on Harminder Bains’ clients, such as Mr Ghoorah, a nurse who died at the age of 45 after being exposed to asbestos in hospitals, Janice Allen, a sales assistant exposed at Marks & Spencer and Julia Browne, a PE teacher exposed at school.

Act Now on Asbestos: pupils and teachers being killed years after exposure

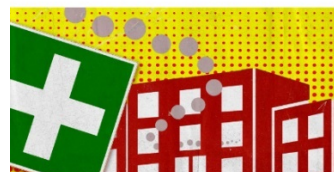
It is the invisible killer lurking in 21,500 schools. It causes the deaths of more than 5,000 people a year — yet there is no plan for its removal. Today, The Sunday Times launches a campaign calling on the government to take action



ACT NOW ON ASBESTOS

The hospitals my husband worked in were full of asbestos. It killed him at 45

Years after his exposure to the toxic material, Guru Ghoorah, a nurse, reported weight loss and chest pain. Six months later he was dead



ACT NOW ON ASBESTOS

Asbestos in M&S killed my wife - Gove’s ruling is a disgrace



- Read the Guardian's article on Altrad's sponsorship of the New Zealand All Blacks, featuring Harminder Bains and Rob Rayner, chair of the Forum



Cancer
UK asbestos firm owners 'whitewashing reputation' with All Blacks sponsorship

Altrad, parent company of Cape Asbestos, faces accusation as it rejects call for £10m cancer donation

- Read the Daily Mail article about three of Harminder's clients who were exposed at the BBC's Maida Vale studios and one on Dr Who sets

BBC 'Asbestos Alley' timebomb: Esther Rantzen asks if her stage four lung cancer was caused by crumbling corridor at broadcaster's studios after deaths of eleven former staff members

• [READ MORE: Did asbestos-filled BBC studios cause Esther Rantzen's cancer?](#)

- Read the legal articles Vijay Ganapathy writes every quarter published in the New Law Journal.

NewLawJournal

- Harminder has been instructed by the National Education Union (the NEU) to consider a legal action against the bodies which have responsibilities in relation to asbestos in schools, including asbestolux.
- In light of her work, Harminder has been on the BBC London Politics show, ITV News and TalkTV's First Edition show regarding the campaign to remove asbestos from schools, hospitals and other public buildings.



Leigh Day

Justice for asbestos victims

Leigh Day is a specialist law firm with some of 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 other law firms, we act exclusively for claimants, we never act for employers or insurance companies.

Contact us for a free, no obligation and confidential discussion:

Birmingham	0121 728 5909
Chesterfield	0124 638 6388
Liverpool	0151 305 2760
London	020 7650 1200
Manchester	0161 393 3530
Newcastle	0191 933 9104
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