

CURRENT UK ASBESTOS DEVELOPMENTS: COMPENSATION, MEDICAL TREATMENT AND POLITICAL SUPPORT

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1. Introduction

In 1899, a 33 year-old patient was admitted to a London hospital suffering from breathlessness; within 14 months he was dead. The case of the unnamed patient, reported to the British Parliament in 1906, was the world's first asbestos-related death to be officially documented. Other asbestos "firsts" which took place in Britain included:

- warnings about the hazardous conditions found in asbestos factories were issued by Factory Inspectors from the late 1890s; in 1899, the phrase, "injurious dust in asbestos works" appeared in an annual report by the Chief Inspector of Factories for the woman's branch;
- the name "pulmonary asbestosis" was given to the fatal, non-tubercular, diffuse pulmonary fibrosis disease which occurred in asbestos workers in 1927;
- the first national asbestos regulations were enacted to protect workers by minimising the production of asbestos dust in 1931;
- the recognition of asbestosis as a "prescribed disease" in 1931;
- the link between asbestos exposure, smoking and lung cancer was established by Dr. Richard Doll in 1955;
- the link between mesothelioma and environmental asbestos exposure was confirmed in Drs. Newhouse and Thompson in 1965.¹

Given the knowledge which had been amassed in Britain in the 20th century, a logical person might have expected that preventing hazardous exposures and providing medical care and financial compensation for the asbestos-injured would have been regarded as top priorities. He would have been wrong; harmful exposures continued at work, at home and in the environment. Today, asbestos remains the UK's greatest single cause of occupational death.

In the last decade, progress has been made on issues affecting the lives of those suffering from asbestos-related diseases in the UK; developments in the compensation regime, the availability of medical treatment and the building of political support for asbestos victims form the basis of this paper.

2. Compensation

In the UK, compensation for asbestos-related diseases can be claimed under state-funded and private schemes.

2.1 Government Compensation

Since asbestosis became the first asbestos-related disease to be officially recognized as an industrial disease (1931), sufferers have been able to claim government benefits.

Asbestos-Related Diseases²

Diseases	Code	Latency	Discovery	Prescribed as an Industrial Disease
Asbestosis	D1	15 years+	1924	1931
Diffuse pleural thickening	D9	10 years +	1930s	1995
Lung cancer	D8	20 years+	1955	1985
Mesothelioma	D3	30 years+	1960	1966

Adapted by L. Kazan-Allen from table by Drs. G. Tweedale & P. Hansen³

In the 1930s, benefits for asbestosis were disbursed under the Workmen's Compensation Act and it was rare for a claim to succeed. Nowadays, benefits for 5 prescribed asbestos-related diseases are awarded by the Industrial Injuries Disablement Benefit (IIDB) Scheme (Appendix 1).

Number of Cases of IIDB Assessments for Prescribed Diseases

Year	D1	D3	D8	D9	Total
2002	580	900	60	390	1930
2003	650	1170	80	400	2300
2004	760	1340	90	410	2600
2005	830	1540	80	410	2860
2006	730	1470	130	380	2710
Total	3550	6420	440	1990	12400

Compiled from data on IIDB website

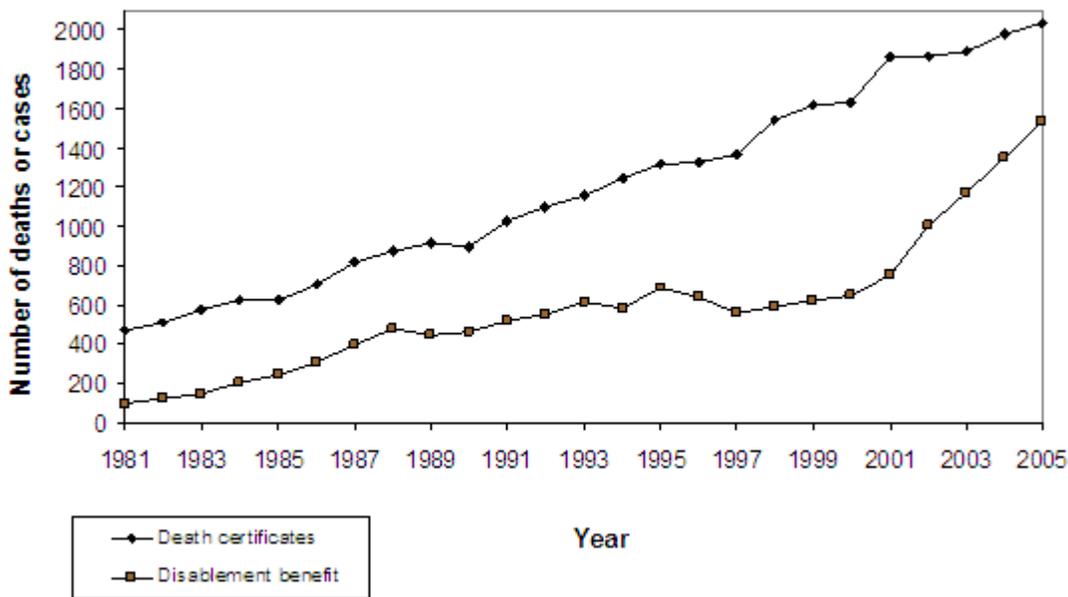
While the number of assessments for asbestosis (D1) and mesothelioma (D3) have increased substantially in the last 5 years (25% and 63% respectively), there has been little variation in the number of cases of diffuse pleural thickening (D9). During this period, thousands of cases of asbestos-related lung cancer have gone unrecognized.⁴ The 6,420 mesothelioma assessments should have been accompanied by, at the very least, an equal number of lung cancer assessments; the fact that there were only 440, means that 6,000+ cases of lung cancer are missing from the system.⁵

In April 2006, legislation was enacted by Parliament to address the under-recognition of asbestos-related lung cancer as an industrial disease. Even in the absence of asbestosis, asbestos-related lung cancer is now deemed to be a prescribed industrial disease in specified categories of at-risk workers where there is evidence of substantial occupational exposure. All asbestos-related lung cancer claimants are now assessed at 100% disablement.⁶ Cases of asbestosis with clinical evidence of interstitial pulmonary fibrosis

and a history of substantial asbestos exposure are now recognized even if there is a low lung burden of asbestos fibers.

The 1,540 mesotheliomas registered as prescribed diseases by the IIDB in 2005 does not accurately reflect the true national incidence of this disease. Data from Cancer Research UK and the HSE for the same period state there were 1,928 and 2,037 mesothelioma fatalities.⁷ Although there are multiple factors which could explain this discrepancy, at least some of the under-reporting could be accounted for by those mesothelioma claimants who are ineligible for IIDB compensation such as the self-employed or people with non-occupational exposure to asbestos. Judging by these figures, there could be 388-497 of them every year.

Figure 1: Mesothelioma deaths and disablement benefit cases 1981-2005



Source: HSE website: <http://www.hse.gov.uk/statistics/causdis/mesothelioma/scale.htm>

Under proposals contained in the Child Maintenance and Other Payments Bill which is now going through Parliament, all sufferers of diffuse mesothelioma will receive compensation from the state. A lump sum, amount as yet unknown, will be paid to them within six weeks. There are concerns that the payments will be insufficient to meet victims' needs but until we know the exact size and scope of the government provisions, further comment is just speculation.⁸

2.2 Civil Litigation

Suing former employers for asbestos-related injuries is a relatively new phenomenon in the UK; in 1994, researcher Tom Durkin identified a vast pool of uncompensated asbestos victims. Since then, many things have changed. Asbestos victims and their families are now more inclined to resort to civil litigation to obtain compensation for

asbestos diseases. There are many reasons why the number of asbestos personal injury cases has risen:

1. there are more asbestos victims in the UK;
2. more patients with asbestos-related diseases are being accurately diagnosed;
3. doctors, nurses and social workers are becoming aware that these patients have the right to claim compensation and are passing this information on;
4. the removal of restrictions on solicitors' advertising and the advent of 'no win-no fee' increases access to legal representation;
5. the adoption of a more proactive attitude by some UK solicitors is stimulating the filing of legitimate claims;
6. public awareness of the link between asbestos exposure and the incidence of disease has been increased through media campaigns and educational seminars run by the Health and Safety Executive and trade unions;
7. the number of regional asbestos victim support groups increased dramatically during the 1990s with lottery money and donations being used to hire full-time workers at several groups;
8. telephone help-lines run by victim support groups, trade unions, solicitors and cancer charities such as Mesothelioma UK have raised awareness of legal redress for asbestos injury cases.

The aim of English law is to replace the financial loss experienced by a claimant due to his illness. Added to these sums is payment to claimants for pain, suffering and loss of amenity. The latest Judicial Studies Board Guideline rates for pain and suffering alone are:

	Sterling	US Dollars	Japanese Yen
Mesothelioma	£47,850-£74,300	97,474-151,356	11.4m-17.8m
Lung cancer	£45,800-£58,500	93,300-119,165	11m-14m
Asbestosis	£28,000-£61,500	57,045-125,296	6.7-14.7m
Pleural thickening	£22,400-£45,800	45,638-93,313	5.3m-11m

The variations are affected by factors such as the duration of the illness, severity of symptoms and age of the sufferer. The total size of court-awarded compensation packages is largely dependent on the age and financial circumstances of claimants with asbestos-related diseases. For mesothelioma and lung cancer plaintiffs over retirement age and who are in receipt of average pensions, awards can range from £70,000-£150,000 (\$142,818/ 16.6m JPY- \$306,203/ 35.6m JPY) with £100,000 (\$204,135/ 23.7m JPY) being the average. However, for younger victims, who are still in full time employment and with private or occupational pension schemes awards routinely exceed £200,000 (\$408,270/ 47.4m JPY).

Although the sizes of asbestos settlements do not seem to have risen appreciably in the last 10 years, the speed with which cases are processed has improved dramatically. Many mesothelioma cases are now settled within five to six months; it is rare, but possible, for cases to settle sooner. While the vast majority of cases settle out of court, some defendants persist in waiting until the last minute before making reasonable offers.

Since 2006, measures to remove procedural blockages which delayed cases being resolved have been adopted; these include the:

- enactment of the Compensation Act 2006, which holds all negligent employers jointly and severally liable;
- implementation in July 2006 of a new protocol by HM Revenue and Customs for tracing employers' records in 10 working days as compared to up to 30 days previously;
- Compensation Act (Contribution for Mesothelioma Claims) Regulations 2006 under which the Financial Services Compensation Scheme will repay sums advanced by a company or insurer to a mesothelioma claimant in circumstances where contributions from other guilty parties is not forthcoming;
- implementation of an improved insurance tracing scheme; since February 2007, a dedicated member of the Association of British Insurers has been dealing with enquiries under a more stringent timetable;
- introduction of a new pre-action mesothelioma protocol for civil actions to speed up claims handling through faster information exchange, earlier admissions of liability, strict deadlines, expedited payment of compensation awards and interim payments once liability and causation have been established.

SPECIALIST COURT

Since 2002, the Queen's Bench Division's "fast track" asbestos disease list, mainly used for mesothelioma cases, has transformed the process of bringing a personal injury claim for fatal asbestos diseases in England. Under the guidance of Master Steven Whitaker, the London-based judicial service at the Royal Courts of Justice (RCJ) is currently dealing with 600 cases a year from all over England and Wales. Early admission of liability and the use of joint expert witnesses have reduced litigation costs and expedited the settlement of cases. "Defendants are expected," Master Whitaker says "to demonstrate to me that they have a real prospect of success on at least one liability issue before I will allow a liability trial." Tightly timetabled procedures, the use of telephone and email for case management conferences and applications have increased the certainty of results and cut costs for both sides.

Streamlined judicial procedures combined with an increase in early diagnosis of asbestos-related disease have led to more live claims being issued. Ninety-seven per cent of mesothelioma claims are settled before they reach trial at the RCJ; only 1% of these cases require assessment hearings. The head of asbestos policy for one major UK law firm with offices throughout the country confirms that all its mesothelioma claims are sent to the RCJ; he reports:

"A significant number of mesothelioma cases settle within a matter of weeks of commencement of proceedings at the Royal Courts of Justice. The show cause hearing before Master Whitaker is a strong incentive to many experienced

defendants’ solicitors to focus on the need to settle cases quickly on reasonable terms.”

The court is on target to achieve its goals of settling claims for living plaintiffs within four months from issue of the claim form and for their surviving relatives within seven months.

From proceedings being issued, defendants have four weeks to submit their defence; the first case management conference takes place two weeks later. An order for an interim payment of £47,000 (\$95,815/ \$11.2m) is usually made by Master Whitaker once judgment is entered against a defendant;⁹ this usually happens at the first case management conference, 6 weeks after proceedings begin.

A selection of recent and test cases involving mesothelioma are discussed in Appendix 3.

2.3 Retaliation by Asbestos Defendants

As the asbestos epidemic has escalated, UK plc has taken evasive action to escape mounting liabilities. A coordinated strategy was developed by asbestos defendants and their insurers to challenge judicial precedents:

1. **Mesothelioma:** Fairchild v. Glenhaven Funeral Services, defendants argued successfully at the High Court and Court of Appeal that in cases where a mesothelioma plaintiff had experienced multiple hazardous exposures the source of the fiber or fibers responsible for the malignant transformation of the pleural cell could not be proved. On June 22, 2002, the House of Lords reversed these judgments and awarded full compensation to each of the 3 claimants.
2. **Mesothelioma:** Barker v. Corus, the House of Lords (2006) ruled that damages for mesothelioma were to be apportioned among those guilty of hazardous exposures. This decision was reversed within two months by an Act of Parliament which re-established the concept of joint and several liability for mesothelioma litigants. Had Parliament not acted, asbestos victims would have been deprived of up to £15 million/year.
3. **Mesothelioma:** in Maguire v. Harland & Wolff, the Court of Appeal (2005) reversed the High Court decision (2004) and found that a wife who was exposed to asbestos on her husband’s work clothes could not claim compensation from his former employer. Had shipyard worker Mr. Maguire gotten ill, his claim would have succeeded as the company had a duty of care to its workers; during the early 1960s, this duty did not extend to wives who washed their work clothes.
4. **Pleural plaques:** Rothwell v. Chemical & Insulating Co. Ltd. Unless reversed by the House of Lords, the decision handed down by the Court of Appeal on January 26, 2006 could end compensation for pleural plaques thereby preventing up to 100,000 claims and saving defendants such as Norwich Union, Zurich Financial Services, Royal & SunAlliance and Lloyd’s of London £1-£1.4 billion.

5. **Lung cancer:** Beryl Badger v. the Ministry of Defence, High Court verdict (2005), damages reduced by 20% due to deceased's smoking habit which constituted, so the judge decided, contributory negligence.

3. Medical Treatment

In the UK, mesothelioma is the most rapidly increasing of all cancers in women and the 3rd highest in men. In 2005, the latest year for which data is available, there were 2,037 mesothelioma deaths. As bad as things are now, they will get worse. Epidemiologists predict that by 2050, the cumulative British mesothelioma death toll will reach 90,000; 65,000 of these fatalities will occur after 2001. The political establishment and the medical community were slow to react to the emergence of this national epidemic. Reflecting the almost universal unwillingness to engage with this issue, mesothelioma was nicknamed the "Cinderella cancer."

Medical treatment for mesothelioma developed in an ad hoc way throughout the country. In 2003, UK medical specialists detailed the inadequacy of current diagnostic and treatment protocols at a meeting in the House of Commons; they reported that:

- most mesothelioma patients never saw a mesothelioma specialist doctor;
- mesothelioma patients were frequently told: "there's nothing we can do for you;"
- few patients were offered chemotherapy even though new protocols have been effective at relieving symptoms and prolonging life;
- although surgery to remove the affected lung could sometimes prolong life and improve the quality of life, there were only ten thoracic surgeons in the UK who could perform this operation; these operations were further hindered by a lack of NHS surgical beds, operating time, equipment and nurses;
- there was little funding for mesothelioma research in the UK.

After a nationwide campaign by asbestos victims groups, trade unions, non-governmental organizations, cancer charities, public health campaigners and politicians, the government adopted a National Mesothelioma Framework earlier this year (2007). This voluntary service guidance for the National Health Service (NHS) covers a range of issues including early diagnosis, treatment options, supportive and palliative care, the role of clinical nurse specialists, research, information, benefits and compensation. The overriding purpose of this initiative is to improve the quality of care and outcomes for all UK patients with malignant pleural mesothelioma.

CASE STUDY

Clinical trials have shown that Alimta (Pemetrexed disodium) is effective in prolonging life and alleviating distressing symptoms in people suffering from malignant pleural mesothelioma. Treatment with Alimta and Cisplatin is regarded as the "gold-standard" with a significantly better response rate than chemotherapy with Gemcitabine and Cisplatin or Cisplatin on its own.

For three years, patients and their families have remained in limbo as Alimta, the only licensed chemotherapy for treatment of malignant mesothelioma under the National Health Service, has been under review by the National Institute for Clinical Excellence (NICE).¹⁰ During this time, a postcode lottery has existed with mesothelioma patients in London and Norwich being denied treatment while those in Manchester and Swansea have been prescribed the drug; in Scotland all suitable patients are treated with Alimta. A resolution of this situation is not expected for some months. While NICE has been considering this issue, thousands of mesothelioma patients have died.

4. Agents for Change

4.1 Asbestos Victim Support Groups, Asbestos Forum

During the 1990s, social mobilization of asbestos victims increased in England; groups were started in Cheshire, Clydebank, Liverpool, Manchester, Nottingham, Plymouth and Sheffield; other groups operate in Scotland and Wales. In July 2005, nine asbestos victims' groups from the North of England and Wales formed a campaigning body called The Asbestos Victims Support Groups Forum (the Forum). Forum members work to improve the range of services and advice available to victims and offer victims and their relatives the opportunity to share their experiences and provide mutual support. This umbrella group is now widely regarded by the media as the national body speaking on behalf of asbestos victims.

4.2 Asbestos Sub-Committee of The All Party Parliamentary Occupational Safety and Health Group

In 2000, asbestos victims' groups initiated discussions with trade unions and Members of Parliament (MPs) about the possibility of forming an Asbestos Sub-Committee of an established Parliamentary Group which would raise the profile of issues affecting the daily lives of asbestos victims and their families.

Since its formation in 2000, the sub-committee has, on average, had 3 working meetings a year; at these sessions procedural issues such as double diagnosis of mesothelioma victims, delays in obtaining state benefits, inequitable government regulations and lack of funding for the research and treatment of asbestos-related diseases are raised. MPs discuss ways to address these grievances, often deciding to bring the issue up with relevant Ministers or civil servants. Through this process many issues have been resolved. The sub-committee was pivotal in raising awareness of the potential impact of the inequitable decision by the House of Lords decision in the Fairchild case. Working closely with the Asbestos Forum, trade unions, NGOs and others a nationwide campaign was spectacularly successful when, within less than 8 weeks, Parliament acted to restore victims' rights. Such a quick response by Parliament to a Law Lords' decision was virtually unheard of.

The sub-committee holds an annual asbestos seminar during which MPs are updated on medical, legal, environmental, corporate and political news from around the world.

4.3 Mesothelioma UK

In May 2004, a new charity was set up called: Mesothelioma UK. Its free telephone helpline has dealt with a total of 2,200 calls and its user-friendly website receives 1,000 hits a month.¹¹ Mesothelioma UK, headed by Consultant Nurse Liz Darlison, provides access to timely, accurate and relevant advice for patients, carers and health care professionals. Mesothelioma UK has held annual Patient/Carer Days in 2006 & 2007, both of which were well-attended. As well as hearing presentations from leading medical experts, delegates are able to engage in one to one discussions with experts on a range of issues.

4.4 Mesothelioma Charities

The June Hancock Mesothelioma Research Fund¹² and the Mick Knighton Mesothelioma Research Fund¹³ are charities set up in memory of mesothelioma victims. Between them, they have raised hundreds of thousands of pounds for UK research projects. Both groups take an active role in lobbying for improvements to the UK mesothelioma regime.

4.5 Action Mesothelioma Day

The first Action Mesothelioma Day (AMD) was held on February 27, 2006 to raise awareness of the mesothelioma epidemic; asbestos victims' groups, trade unions and NGOs in Scotland and England coordinated a range of events including conferences, workshops, memorial services, balloon rallies and demonstrations. A Charter of Rights for Mesothelioma Victims was one of the main demands made; the Charter was included on a petition signed by 14,000 people which was delivered by MPs to 10 Downing Street. Other events on the day included a reception at Westminster for MPs and the tabling of Early Day Motion 1696: *Action Mesothelioma Day*.

On the second AMD (February 27, 2007), meetings, rallies, balloon releases and memorial services took place in regional asbestos hotspots;¹⁴ a Parliamentary event was hosted in Westminster by MP David Hamilton, a member of the House of Commons All Party Asbestos Sub-Committee.¹⁵ To compliment these activities, an 8 minute video clip entitled *Mesothelioma – The Human Face of an Asbestos Epidemic* was shown on BBC city-center TV screens throughout February 27.¹⁶ To mark Action Mesothelioma Day, Health Minister Rosie Winterton announced the publication of a National Mesothelioma Framework¹⁷ at an event held on Gateshead Millennium Bridge organized by the Mick Knighton Mesothelioma Research Fund, an asbestos victims' support group in Newcastle.

5. Concluding Thoughts

Despite a hostile campaign by asbestos defendants and their insurers, improvements have been achieved for thousands of UK asbestos victims. Coordinated initiatives by asbestos victims' groups, trade unions, campaigners, plaintiffs' law firms, politicians, NGOs and charities have raised the profile of the asbestos epidemic and brought pressure to bear on politicians to take steps to ensure that up-to-date medical treatment and equitable financial compensation are to the injured.

The Industrial Injuries Disablement Benefit (IIDB) Scheme

The Industrial Injuries Disablement Benefit (IIDB) Scheme provides non-contributory, no-fault weekly benefits for disablement due to prescribed asbestos diseases that arise during employment (not self-employment); victims of take-home exposure (such as children exposed to asbestos dust on their Father's work clothes), para-occupational exposure (such as wives who washed asbestos-contaminated clothing) or environmental exposure are not eligible. Unlike state compensation schemes in most other countries, IIDB payments are not related to earnings; awards are made according to a scale of disablement of 1-100% with a maximum weekly payment of £131.10 (\$267.60/ 30,973 JPY).

IIDB is tax-free and is administered by the Department of Work and Pensions (DWP). Recipients of IIDB may also be eligible for special tax-free allowances:

- Constant Attendance Allowance (CAA)
- Exceptionally Severe Disablement Allowance (ESDA)
- Reduced Earnings Allowance (only for disablement prior to 1.10.1990).

Other income-related state benefits which might be claimed in some circumstances are:

- Statutory Sick Pay
- Incapacity Benefit
- Disability Allowance
- Attendance Allowance
- Carers Allowance
- Pension Credit
- Income Support
- Housing Benefit
- Council Tax Benefit
- Bereavement Benefits.

Eligible sufferers can also apply for tax-free payments under other headings: (1) Disability and Living Allowance (2) Attendance Allowance; these awards overlap with CAA and ESDA respectively.

For exposure to asbestos prior to July 5, 1948 other schemes under which asbestos sufferers might claim are: the Workers' Compensation (Supplementation) Scheme and the Pneumoconiosis, Byssinosis and Miscellaneous Diseases Scheme. Some asbestos-related disease sufferers may also qualify for a lump sum payment £17,000 (\$34,704/ 4,017,885 JPY) on average under the Pneumoconiosis etc. (Workers' Compensation) Act 1979. Applicants with prescribed diseases whose asbestos exposure took place in the Armed Forces may make a claim for a war pension.

Typical Timetable for a Hypothetical Mesothelioma Case

Activity	Date
Interview with new client	September 3, 2006
Request medical reports / employment history	September 17-October 1
Receive employment history / write to known defendants	September 17-October 1
Receive medical reports / instruct medical experts	October 3-17
In the meantime gather financial Information / pension or income details	by November 1
Receive medical report	October 17-31
Complete schedule and serve	November 12-26
If no offer received in 21 days, serve proceedings	December 19
Defence arrives	January 16, 2007
Expedited fast-track hearing (case management conference) before Master Steven Whitaker 18 weeks into the case	January 16, 2007
Judgement entered, interim payment of £47,000	January 30, 2007

Comments:

The five month timeline projected for this case is about average in the experience of UK asbestos practitioners. Some cases settle in 3 months but that is rare; these would usually be cases with only one defendant and in industries, such as the power and shipbuilding industries, where there are well-known histories of hazardous exposure. The vast majority of cases settle out of court.

Recent and Landmark Mesothelioma Cases

Occupational Exposure

Mr. P. closely supervised the dumping of waste at a tip (1984-1994); up to 400 lorry loads of asbestos-containing waste were dumped here every month. The case settled within 10 months for £200,000 (\$408,000/ 47.4m JPY); the final award included financial provision for caring for Mr. P's 31 year old disabled daughter).

Mr. R. worked as an electrician for 2 construction companies; he experienced various hazardous exposures in the south east of England at MoD buildings and a hospital. He was diagnosed aged 49. The claim settled for £269,000 (\$548,825/ 63.8m JPY) two weeks before trial.

Mr. A worked as a plumber from 1961-2000; he died in 2003. As his former employer denied negligence, the case proceeded to trial despite evidence from experts and witnesses. After a day's court hearing, the company settled the case for £171,000 (\$348,910/ 40.5m JPY).

Mr. M died at 58 in 2002 having worked in the Belfast shipyard for Harland and Wolff from 1959-64. After denying liability, Harland & Wolff agreed to pay £375,000 (\$765,090/ 88.9m JPY) on May 23, 2007; this is thought to be the highest mesothelioma settlement ever reached in Northern Ireland.

Para-occupational Exposure

Mrs. C, in her 60s, was exposed to asbestos brought home on her son's overalls; he had worked for Newham Borough Council as an apprentice plumber from 1980-85. During his employment, he had stripped asbestos from pipe work and crawled along spaces which contained asbestos-covered pipe work. The case settled in 2007 for an undisclosed sum.

Take-home Exposure

Barry Welch died at 32 years old in April 2005; his step-father's former employer was sued for having allowed their employee to take home asbestos on his work clothes. In February 2007, insurers agreed to pay £201,000 (\$410,131/ 47.6m JPY).

Michelle Campbell, who was diagnosed in January 2006, was exposed to asbestos on her grandfather's work clothes when she was a child. In September 2006, she became the first grandchild to obtain compensation for an asbestos-related disease in England. As her grandfather worked at the Portsmouth dockyard, the case was brought against the Ministry of Defence (MoD) which made an out-of-court offer of £145,000 (\$295,860/ 34.4m JPY).

Debbie Brewer, age 47 years, claimed compensation from the MoD for exposure to asbestos brought home on her father's work clothes. Philip Northmore worked as an asbestos lagger on Royal Navy ships during the 1960s at Devonport dockyard. The case was settled in 2007 by a payment of £75,000 (\$153,034/ 17.8m JPY).

Environmental/Neighborhood Exposure

The landmark decision for this type of exposure was handed down in October, 1995 in the case of Hancock and Margereson vs. J.W. Roberts Ltd., a fully-owned subsidiary of the UK's major asbestos group: T&N plc. June Hancock, who contracted mesothelioma having lived and played near the asbestos textile factory in Armley, Leeds, received damages of £65,000 (\$132,621/ 15.4m JPY); the widow of mesothelioma victim Eric Margereson received £50,000 (\$102,016/ 11.9m JPY).

¹ The 1965 paper by Newhouse and Thompson appeared in the British Journal of Industrial Medicine; it stated that: "among those with no evidence of occupational or domestic exposure, 30.6% of the mesothelioma patients...lived within half a mile of an industry factory." The authors concluded that "there seems little doubt that the risk of mesothelioma may arise from both occupational and domestic exposure to asbestos."

² <http://www.dwp.gov.uk/advisers/db1/appendix/appendix1.asp>

³ Tweedale G, Hansen P. *Protecting the Workers: The Medical Board and the Asbestos Industry, 1930s-1960s*. Medical History 1998. 42; 439-457

⁴ <http://www.hse.gov.uk/statistics/causdis/lungcan.htm>

⁵ According to government sources, there is 1:1 or 1:2 cases of mesothelioma for each lung cancer (D8); the 6,420 mesotheliomas assessed over this period should be accompanied by 6,420-12,840 assessments for asbestos-related lung cancer.

⁶ Kazan-Allen L. *Recognition of Asbestos-Related Lung Cancer*. British Asbestos Newsletter. Issue 59, Summer 2005. Weblink: <http://www.lkaz.demon.co.uk>

⁷ <http://info.cancerresearchuk.org/cancerstats/incidence/trends/>
<http://www.hse.gov.uk/statistics/tables/meso01.htm>

⁸ <http://www.dwp.gov.uk/mediacentre/pressreleases/2007/mar/hsc023-130307.asp>

⁹ If, at the first case management conference, the defendants admit negligent exposure and causation in their defence or, as happens more often, are instructed not to resist judgement being entered against them by Master Whitaker, they are ordered to make an interim payment. If the defendants complain that they should be allowed to defend the claim (e.g. if there is some dispute over the correct defendant's identity or if evidence on exposure is slight), then they will occasionally be given more time to "show cause" why judgment should not be entered. If they then do nothing, judgement is deemed to have been entered after that later date. If they do respond, then the case management conference is relisted to hear full arguments on liability or alternatively directions are given to deal with the issue at trial (along with quantum).

¹⁰ <http://www.nice.org.uk/>

¹¹ www.mesothelioma.uk.com

¹² <http://www.junehancockfund.org/>

¹³ <http://mickknightonmesorf.mysite.wanadoo-members.co.uk/>

¹⁴ AMD events took place in: Barking, Chesterfield, Crewe, Doncaster, Leeds, Leicester, Liverpool, London, Manchester, Newcastle, Rochester, Rotherham and Sheffield.

¹⁵ http://www.ibas.btinternet.co.uk/Frames/f_lka_uk_asb_plague.htm

¹⁶ <http://www.youtube.com/watch?v=gLTDknLVm4A>