

# MESOTHELIOMA



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## AN INTRODUCTION TO CLAIMING COMPENSATION: MESOTHELIOMA

## ABOUT THIS BOOKLET

Workers who have been exposed to asbestos at work may develop **mesothelioma**, a serious and often life-limiting cancer affecting the lining of the lungs or abdomen.

Unlike pleural plaques, which are usually harmless, mesothelioma is a progressive disease directly caused by asbestos exposure, and it is the basis of significant legal claims.

This booklet provides a basic outline of:

- What mesothelioma is
- Who may be affected
- The legal duties of employers
- What steps individuals should take



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## WHO CAN BE AFFECTED BY MESOTHELIOMA?

Mesothelioma can affect anyone who has been exposed to asbestos, particularly through their work.

Workers most at risk include:

- Construction and demolition workers
- Shipyard and engineering workers
- Electricians, plumbers, and joiners
- Factory workers and machinists
- Individuals exposed indirectly (e.g. through contaminated clothing brought home)

Exposure often occurred decades ago, sometimes before strict health and safety laws were in place.

Importantly, individuals previously diagnosed with pleural plaques or other asbestos-related conditions may later develop mesothelioma.

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## WHAT CAUSES PLEURAL MESOTHELIOMA?

Mesothelioma is caused by inhalation of asbestos fibres.

- Fibres are breathed into the lungs and become lodged in the lining
- Over time, they cause inflammation and cellular damage
- This damage can eventually lead to cancer

Key features:

- Typically develops 20–60 years after exposure
- Can result from even relatively low or short-term exposure
- Is strongly associated with occupational exposure to asbestos

Mesothelioma is therefore a direct consequence of asbestos exposure, rather than simply a marker of it.

## WHICH PART OF THE BODY DOES IT AFFECT?

Mesothelioma affects the mesothelium, a thin membrane lining certain parts of the body.

Types include:

- Pleural mesothelioma – affecting the lining of the lungs (most common)
- Peritoneal mesothelioma – affecting the lining of the abdomen
- (More rarely) lining of the heart or testes

Unlike pleural plaques:

- Mesothelioma is cancerous
- It can spread and worsen over time
- It requires ongoing medical treatment

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## WHAT ARE THE SYMPTOMS?

Symptoms of mesothelioma may not appear for many years after exposure but can include:

- Persistent cough
- Shortness of breath (breathlessness)
- Chest pain
- Fatigue
- Unexplained weight loss

In some cases:

- Fluid build-up around the lungs (pleural effusion)
- Abdominal pain or swelling

These symptoms can sometimes initially be mistaken for less serious conditions, so **early medical investigation is important.**

## LEGAL POSITION IN SCOTLAND

Mesothelioma claims are fully recognised in Scotland.

- The disease is treated as a serious actionable injury
- Individuals diagnosed can pursue substantial compensation
- Claims may also be brought on behalf of a deceased person's estate

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## WHAT SHOULD EMPLOYERS DO?

Employers have a duty to protect workers from asbestos exposure under health and safety law.

This includes:

- Identifying asbestos risks in the workplace
- Conducting proper risk assessments
- Providing appropriate training and protective equipment
- Ensuring safe systems of work
- Preventing exposure to asbestos dust and fibres

Where exposure has occurred in the past, employers (or their insurers) may still be held liable if their negligence caused or contributed to the development of mesothelioma.

## WHAT SHOULD YOU DO?

If diagnosed with mesothelioma, you should:

- Seek urgent medical advice and specialist treatment
- Gather information about past asbestos exposure and employment history
- Seek legal advice as soon as possible

It is also important to note:

- Family members may be entitled to bring claims in certain circumstances
- Compensation can help provide financial security and support access to care

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## **FAMILY CLAIMS IN MESOTHELIOMA CASES**

Mesothelioma claims are unique because the condition is often serious and may unfortunately lead to death. As a result, family members may also have important legal rights.

### **WHO CAN BRING A CLAIM?**

In Scotland, claims can be brought by:

- The individual diagnosed with mesothelioma (during their lifetime)
- The executor of the deceased's estate
- Certain family members (relatives) in their own right

Family members who may be entitled to claim include:

- Spouses or civil partners
- Cohabiting partners
- Children and stepchildren
- Other relatives who had a close relationship with the deceased

### **TYPES OF FAMILY CLAIMS**

Family members may be entitled to claim compensation for:

- Loss of society – for the loss of the deceased's care, companionship, and guidance
- Grief and distress caused by the illness and death
- Services the deceased would have provided (e.g. care, household tasks)
- Financial loss or dependency, where applicable

These claims are separate from any claim brought by the injured person during their lifetime.

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## THE SIGNIFICANCE OF THE CROZIER CASE

The Scottish case of *Elaine Crozier or Veale and others v Scottish Power UK PLC* is an important authority in mesothelioma litigation.

The case centred on a former Scottish Power employee who settled a claim in 2014 for asbestos-related conditions he had at that time. Years later he tragically developed mesothelioma, a cancer caused solely by asbestos exposure and died in 2018. His family brought a separate claim for damages arising from his mesothelioma-related death.

Scottish Power argued that because he had previously settled a “full and final” claim, his family could not raise a new action.

The Supreme Court rejected that argument.

The Court confirmed that the Damages (Scotland) Act 2011 clearly intended to ensure that families retain the right to claim where mesothelioma develops after an earlier settlement for a different asbestos-related injury. Mesothelioma is a distinct disease, with devastating consequences, and the law recognises that its late onset should not unfairly prevent families from obtaining justice.

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## TIME LIMITS

In Scotland, strict time limits apply:

- A claim must generally be raised within 3 years of diagnosis or awareness

Important points:

- If the time limit is missed, the claim may be time-barred
- This may also affect claims brought by family members
- Early legal advice is essential

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