



Action Mesothelioma Day 2018

Action Mesothelioma Day is an annual and National event that has been held in the UK since 2006 on the first Friday in July. This year communities throughout the UK came together to remember and reflect on those suffering from or those who have lost their lives due to mesothelioma, a cancer caused by exposure to asbestos dust. There were a number of remembrance services, symbolic dove releases and tree planting ceremonies at events throughout the UK. In various cities and towns awareness was raised on issues of importance to mesothelioma sufferers and their families such as calling for more medical research and access to the same care and treatment no matter where you live. It is a day on which many express hope that one day this disease will be eradicated. In 2016, 2595 people lost their lives due to mesothelioma and sadly it is likely that the figure will remain at this level for the years to come.



About Us.....

- * We have built our firm on the ethos that we will act ethically, fairly and in a socially responsible way. As part of this commitment, we donate 10% of our net annual profits to good causes including the John Pickering and Partners Charitable Trust.
- * We are prepared to take the financial risk of pursuing difficult cases that help to preserve and promote the rights of asbestos sufferers.
- * Unlike many other firms, we act exclusively for asbestos sufferers. We do not act for Defendants.
- * We have over 45 years experience and all our solicitors specialise in asbestos claims including mesothelioma and have specialist asbestos accreditation from APIL.



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ALP REVIEW

The Asbestos Law Partnership Newsletter

Summer 2018

Did we learn any lessons from the Mesothelioma Audit 2018? Interview with Lorraine Crech, CNS Team Leader with Mesothelioma UK.

The latest Mesothelioma Audit was released in June 2018, produced by the Royal College of Physicians and funded by Mesothelioma UK.

The Audit provided data on 7192 patients diagnosed with mesothelioma in England and Wales during 2014-2016 including for the first time those with peritoneal mesothelioma.

Lorraine Crech explains what we learned from the survey, why it's of value to patients and what needs to improve.

What do you think were the main points in the audit?

It was good that we were able to see a national picture for England and Wales and peritoneal mesothelioma included for the first time -260 patients.

Pathological diagnosis was obtained in 88% of cases and in 64% subtypes were recorded with a variation across Cancer Networks. We need more sub-typing to enable patients to have the most appropriate treatment and entry into clinical trials.

It was good that 51% of patients received some form of anti-cancer treatment and an increase on previous audits to 40%



having chemotherapy. However, variation by Network remains.

81% were discussed at an MDT meeting.

There is a variation in access to a cancer nurse specialist, 93% seen in Wales and only 54% in England. We need to look at this.

Why do you think only 51% of patients received anti-cancer treatment

It is difficult to answer this specifically. There was a big variation by different networks. It is something to be worked on.

It's important to know whether the increasing number of diagnostic procedures would help and mean patients are more likely to go on to active treatment.

It could be related to not all patients having access to a

specialist MDT and discussion at a specialist MDT meeting.

Why do you think none of the recommendations and standards in the last audit were achieved?

Because there is still a lot of work to do. Mesothelioma is still classed as a rare disease and we are also looking back to figures from 2014 to 2016 in the latest report. I hope that if it was data from 2018 it would be improved and future audits reflect this.

Clinical trials have also improved. There has been a plethora of clinical trials which will help as will hopefully help with better treatment. The establishment of expert teams, including pleural teams and the development of specialist MDT meetings is vital and could make a difference.

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Canadian Ex-Pat Receives Compensation For Pleural Thickening.

create a smooth finish before painting.

Working at RM Smith as a young lad just out of school was the only place Dave was exposed to asbestos but that was enough.

Years later having emigrated to Canada and started a new life with his wife Shirley that exposure to asbestos was to come back to haunt him.

Dave was first told of the possibility that he had an asbestos related condition in around August 2014 but did not pursue a claim at that time. Any claim for compensation through the courts in England has to be started within 3 years of a person being diagnosed with an asbestos related condition. Dave contacted us in April 2017 and so time was of the essence and the fact he was living in Canada an added complication.

Despite being an expat, Dave was entitled to claim Industrial Injuries Disablement Benefit and a lump sum payment from the UK Government under the Pneumoconiosis Act 1979. We took immediate action to secure these benefits

We then set about his civil claim. We tracked down the company quickly from papers Dave was able to provide. It was a company

and provides the opportunity for those attending to meet, speak to and share with others affected by this disease. Simon Bolton who set up and facilitates the meetings said "The group has flourished over the last 18 months with many more mesothelioma patients, their families and carers

still in existence but dormant with no money other than money owed by a parent company. Would the parent company pay?

An initial search with ELTO came back with employers liability insurers for the period after Dave worked there. We persevered and advised Dave to start court proceedings without delay or he may be too late.

A doctor confirmed Dave's diagnosis of pleural thickening with a 10% disability.

Court proceedings were started at the Royal Courts of Justice which has a specialist system for asbestos claims and we traced the insurers.

The companies solicitors made various arguments on their clients behalf and a date was set by the court for a hearing. At the hearing the judge was not persuaded that RM Smith had a defence and judgment was entered. This effectively meant Dave's case was won and all that was left was to decide how much he should receive.

Dave's case settled for £30,000. More importantly Dave was worried about the future if his condition should get worse or if he developed mesothelioma. The award we negotiated on his behalf allows him to come back to court in the future if his condition de-

attending the meetings. The donation will enable the group to have 12 meetings which will bring together those affected by mesothelioma in around Yorkshire and provide an infor-

riorates or if he develop a different asbestos condition.

Helen Wilson, Solicitor for Mr Coombs said of the case "Time was of the essence in Dave's case and the time for pursuing a claim could easily expire. Dave's case is a prime example of why it is important that people go to a specialist asbestos solicitor."

Dave said "As a young 16 year old lad starting out in life, getting an apprenticeship was like a lottery win, a job with a trade which would see me through the rest of my life. Little did I know that at 17 years old I would be handed what I feel is a death sentence, a silent killer which would surface in my late 50's and hit me like a ton of bricks. So my future is uncertain and I try to live my life to the fullest on a day to day basis. Me and my beautiful Canadian wife are moving to a small acreage with our 2 German Shepherd dogs We would like to thank Helen for all the hard work she put into our case and for her patience and expertise in dealing with my frustration and anger at the company that did this to me. Helen goes over and beyond what's expected and I would not hesitate in recommending her to anyone who has the misfortune to be diagnosed with this horrendous and life altering disease."

mal learning and sharing environment."



David Coombs was employed by RM Smith Ltd as an apprentice painter and decorator between 1974 and 1980. As part of his job he worked on the flats in a building known as the Hobbyhorse Inn, in Minehead, Somerset.

The flat doors needed to be made fireproof using asbestos. Dave's job was to paint the doors once they had been lined with asbestos. Before he could do this he had to make the surfaces smooth, screw holes had to be filled and sanded. As he sanded the sheets he created asbestos dust.

When he didn't have enough painting to do, he was involved in fireproofing the doors. He sawed asbestos sheets, drilled holes in them and screwed them on to doors. The sheets were then planed at the edges.

He worked on pipework which had been lagged with asbestos. He painted the pipes where lagging had been removed, removing any bits of lagging which was stuck to the pipework using sandpaper and then using a filler to

The John Pickering and Partners Charity

The Charity has donated £1200 to Leeds based Mesothelioma Support Yorkshire. MESSY is a vital information resource for those affected by mesothelioma living in West and North Yorkshire



Legal Round Up

In the Court of Appeal decision in Bussey v Anglia Heating Ltd in February this year the Court provided helpful guidance for deciding mesothelioma cases involving exposure to low quantities of asbestos dust but sent the case back to the trial judge to consider the actual facts of that case. We are pleased to report that the Defendants have now, somewhat belatedly, 3 months after the decision, finally agreed to settle the case and pay compensation to the Claimant.

The case of Heynike (executor of the Estate of David Hill, deceased) v (1) 00222648 Limited (formerly Birlec Limited), (2) Ministry of Defence, (3) Special Metals Wiggan Limited [2018] is a timely reminder for Claimant lawyers of the need to cast the net wide and consider all potential Defendants when looking for someone to bring an action against. It is often important to look beyond the employer and also consider those responsible for the workplace where the exposure took place or those responsible for manufacturing the asbestos product that the Claimant has been exposed to.

In the US there have been a large number of claims against Johnson and Johnson for exposure to asbestos dust in their talcum powder. In the latest claims a St Louis jury has ordered that the company pay \$4.69 billion to 22 women who have suffered ovarian cancer as a result of using asbestos contaminated talcum powder. In the all too familiar story it was argued that Johnson and Johnson had known that their 'Baby Powder' and 'Shower to Shower' products contained asbestos since at least the 1970s but failed to disclose this. There are another 9,000 cases currently being pursued where it is alleged that asbestos contaminated talc has caused either ovarian cancer or mesothelioma. Johnson & Johnson have said that they will appeal this judgment.

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Why do you think sub-typing was so low in Greater Manchester, Lancashire and South Cumbria area (37.1%) ?

It surprised me and I don't know why it is as low as it is. It was poor in this Network. It was better in all other Cancer Networks. I don't know if it's the recording of the data. The specialist MDT meeting at Wythenshawe Hospital was set up in 2015/16, halfway through the audit period so I hope it has been improved since then.

Why do you think 70.7% in the same area with performance status 0 or 1 get chemotherapy, yet in most other areas it's a lot lower.

Historically, it has been the case that patients accessing chemotherapy in this area is higher. I think it is because of the excellent thoracic oncology service at Wythenshawe Hospital. Having specialist treatment centers helps.

How important do you think the MDT is? In 2014-16, 81% were discussed.

The MDT is extremely important. In my opinion as with previous audits, the data demonstrated a clear need for the setting up of Regional MPM MDT meetings in order to drive forward improved diagnosis, treatment, care and clinical trials for patients.

Why do you think only 54% of patients in England were seen by a Cancer Nurse Specialist?

Only 54% of patients were seen in England, but it was much higher, 93% in Wales.

Hospitals do have Lung CNS's so I'm not sure why they're not seen. There is also a regional variation. For example, in the Greater Manchester, Lancashire and South Cumbria Network which includes Mid-Cheshire, the Mid Cheshire CNS saw 87.8% of patients. This variation needs to be addressed to meet the recommendation of 90% being assessed and 80% having a nurse present at diagnosis.

Mesothelioma UK is helping by having a greater number of nurses and not only by them being in centers but also by providing outreach to other CNS, including liaison and education. Mesothelioma UK has a vision to have a nurse in every Strategic Clinical Network as soon as feasible. It is also funding a peritoneal nurse specialist at Basingstoke where there is a specialist peritoneal MDT and it is the host for the National Peritoneal Mesothelioma MDT Meeting

What changes would you hope to see in the next audit?

A move towards all recommendations of the 2018 audit being met and definitely improved.

I would like organisations to look at their own data and liaise within their MDT and see where they can make a marked difference. We must all make a difference and strive to improve care.

There should be access to standard treatment with a focus on the importance of clinical trials. At some Trusts patients are provided access to clinical trials. This is not always the case nationally and there is inequity of access to clinical trials and second opinions. If trials are not available locally patients may choose to travel and be referred to main treating centers.

I hope people will be better informed, provided with resources and be signposted to Mesothelioma UK to find out what is available for patients, carers and professionals.

Lorraine covers the North of England, Scotland and Wales. Mesothelioma UK is a national specialist charity dedicated to providing specialist information, support and education and improving care and treatment for all affected by mesothelioma. There is a longer version of this article on our website.

