

Welcome

When someone comes to us for help we make it a priority to arrange a home or hospital visit to assess how much support, following the usual benefit applications, each sufferer needs.

Without this visit it is difficult to get a true picture of each person's individual situation. Our ongoing support visits tend to mean that we can become quite close to the sufferer and their families. It is a privilege to do this.

Due to the covid pandemic it has not been possible to maintain this part of the service however it is amazing how you can build up a picture of someone that you have never met following a series of telephone conversations. We look forward to meeting you all at some point in the, hopefully, near future.

In every issue of the newsletter, we seem to be talking about a worrying trend.

Last month it was the number of people we had helped following a diagnosis of pleural plaques that have now gone on to develop a more severe asbestos-related condition - proving the value of getting good support and legal advice at an early stage.

This time it seems to be the increase in the number of women being referred to us with an often serious asbestos-related illness. The tendency is that they have had little known exposure to asbestos throughout their lives - not even due to a husband's work activity.

As well as being worrying from a health perspective it is also challenging to gather enough information to provide a case for a full benefit application.

Where mesothelioma is involved the culprit is almost definitely asbestos. It is challenging for our legal partners to obtain justice for these women through the civil courts due to this lack of knowledge of asbestos exposure. Christina, Wilma, June and all the other women your spirit and good humour is amazing.

The pandemic has been a double blow to sufferers, male and female alike when at a difficult time in your life you cannot even meet friends and family visits are curtailed. We genuinely hold you and your families in the highest regard for your stoicism and dignity. We hope that the charity's small contribution has made things just that little bit easier for you.

Our own Liz Steven, who is an ex clinical nurse specialist and supports our mesothelioma and lung cancer patients in Aberdeen and the North, has been assisting the NHS by getting involved in the vaccination programme. Liz was delighted to help the national programme and suggests that if any of our sufferers have any questions about the vaccination to give us a call on **0808 196 1861**.

Finally – a huge vote of thanks to all of you who have sent in donations to the charity over the last few months. Without this support we would not be here for the next group of asbestos victims. Thank you all!



John Fearn, Manager



AsbestosACTION

News

Helping, supporting, advising -
to keep you informed

SPRING 2021



LEGAL UPDATE

Historic asbestos claims are still possible thanks to Digby Brown winning landmark case

If you or a loved one has experienced an asbestos-related disease then, as well as the medical journey, it is possible that you will experience the legal process during a rightful claim for compensation.

Unfortunately, it also means that you will encounter the tactics of insurance companies, who will try to avoid paying you the compensation you are entitled to.

The latest ploy from insurers to try and avoid paying rightful damages to families was to try and have cases thrown out on the grounds that the insurance policyholder has now died.

Thankfully, at Digby Brown we have the expertise and resources needed to beat them at their own game.

Unsurprisingly most clients are tradespeople. Joiners, electricians, plumbers or fabricators that worked in shipyards or construction sites between the 1960s and 1980s.

However you were exposed, and whatever your diagnosis, the first aspect of making a claim for compensation is tracing the relevant employer.

It may have been a large firm or a national body like the council, a small local company or maybe you were a self-employed contractor.

To put it in the simplest possible terms – the business owner who paid your wages or hired you

for the job was also responsible for your welfare and because of that they should have had an insurance policy in place at the time of your employment with them.

Your solicitor will investigate historic records going back to that time to locate the details of this insurance policy because it is an insurance policy that pays for compensation.

This is important to note because clients are often concerned that they are suing an individual who then pays compensation out of their own personal wealth – this is not the case.

In that sense, it is the same as car insurance: if someone collides with you, then it is the insurance company for the other driver who pays for the vehicle repairs, or you injury, not the driver out of their own bank account.

What is common is that, because the business owner was likely middle-aged during the 60s and 70s, it is also likely they are no longer alive. In that situation, the claim is instead made against the executor of the deceased policyholder (whoever inherited their estate).

We are not suing the executor as an individual. It is simply a paper exercise that lets us start the court action, so you can obtain the compensation you are entitled to.

Again, the executor – whoever they may be – never faces any personal liability or cost or a black mark on their record. This is all designed to access the historic insurance policy.

This has always worked well and smoothly until 2020, when an insurance company argued that, as the death of a policyholder happened so long ago, the executor had no further part to play. A claim could not be made against them, in order to access the old insurance policy.

Thankfully, after taking the case to court, Sheriff Fife agreed with Digby Brown and dismissed the insurance company's argument. He ruled it is acceptable to start a court action against an executor, even if it has been many years since the death of the original policyholder.

It is likely this will not be the last attempt of insurers to dodge liability in such claims but along with Asbestos Action we will continue to seek justice for all those affected by asbestos diseases – taking it all the way to court if necessary.



*Euan Love, Partner
Digby Brown*

Protecting the Scottish workforce



We have always known that corporate irresponsibility has resulted in the deaths and illness of many workers involved with asbestos and been told *'yes, mistakes were made but that sort of thing couldn't happen today'*.

In Scotland we have an organisation whose sole aim is to protect the workforce, the community and also campaign for better legislation.

Scottish Hazards is a registered charity whose aim is to reduce injury, ill health and death caused by work/workplaces in Scotland. This includes the impact of workplaces on the local community and environment.

The Scottish Hazards Centre provides free information, advice, support and training to (mainly non-unionised) individual employees and groups of employees, with an emphasis on those workers who are known to be most at risk.

From April 2020 the service has heavily concentrated on assisting those with Covid-19 related health

and safety concerns around both physical and mental health. This has resulted in a 10-fold increase in the demands being placed on their advice workers.

The TUC estimates that over 20,000 UK British workers die each year through work related injury and ill health, the vast majority through occupational ill health. The Health and Safety Executive estimate that 12,000 die from occupational lung disease alone, and that 1.4 million workers suffered from work related ill health in 2017/18. (HSE, 2018). This translates into at least 2000 deaths per year in Scotland. Yet, it is now estimated that only 1/3 of Scottish workers have any access to Occupational Health Services.

Scottish Hazards has consistently argued that the Corporate Manslaughter and Corporate Homicide Act 2007 is not fit for purpose. In their evidence to the Scottish Government Expert Panel on Corporate Homicide in 2005 they feared that the proposals being put forward by the United

Kingdom Government at that time would be largely ineffectual.

In Scotland, the fact that we have not had one charge laid for Corporate Homicide in the 12+ years since that legislation came into effect, never mind anything approaching a successful prosecution, would indicate that the existing legislation is failing to punish offenders.

If it is failing to punish those who cause the deaths, then the deterrent effect is lost, as is the opportunity to encourage employers to take their health and safety obligations seriously.

Further details on the work of Scottish Hazards can be found on their website -

www.scottishhazards.org.uk.



SCOTTISH HAZARDS

The Scottish Mesothelioma Network (SMN)

The Scottish Mesothelioma Network (SMN) was established in April 2019 and comprises of a team of clinicians from across Scotland dedicated to transforming diagnosis and treatment for mesothelioma patients. The team collaborate to share best practice and provide high quality clinical care, information and support to all patients, wherever they live in Scotland. The SMN also ensures all patients have equitable access to potentially life-changing clinical trials and new treatment developments.

Macmillan Cancer Support and Mesothelioma UK have worked with local NHS boards across Scotland to pump prime and deliver this service for the last 2 years, which optimises care and support provided to people affected by mesothelioma. Scotland has some of the highest incidence of mesothelioma in the world – a legacy of the country's industrial past and use of asbestos - so the service is having great impact.

The SMN provides patients with a dedicated Mesothelioma Clinical Nurse Specialist (CNS) funded by Meso UK, who provides enhanced support in each region for patients and carers. Patients also have a dedicated Mesothelioma Lead Clinician to optimise clinical care and access to clinical trials.

SMN teams, based in Glasgow, Edinburgh, Inverness, Dundee and Aberdeen join a weekly virtual MDT meeting to represent the patients and feedback clear, high-quality management plans and clinical trial information to local teams. This approach aims to speed up diagnosis and treatment of patients

wherever they live and to ensure that optimal care is delivered as close to home as possible.

Kevin Blyth, Professor of Respiratory Medicine, SMN Founder and Director, comments: *"The service provides a weekly forum for clinical teams from across Scotland to share expertise, develop high quality care plans, and provide increased access to potentially life-changing clinical trials to patients wherever they live in the country. It also means that all Scottish patients with Mesothelioma now get access to a dedicated Mesothelioma Clinical Nurse Specialist and dedicated pathways developed by Mesothelioma Lead Clinicians in each region."*

"The network was launched in parallel with Mesothelioma Quality Performance Indicators. The SMN gathers mesothelioma specific patient information which will be used to audit the care provided so that continuous improvements can be made with the aim of speeding up diagnosis as well as improving outcomes and the quality of life of our patients."

"Since launching the MDT in April 19 we have had over 500 referrals to the weekly multidisciplinary team meeting from over 25 hospitals across Scotland. In 2019 Clinical trials, including MARS2, CONFIRM, ATOMIC-Meso, INFINITE, SYSTEMS2, TRIZELL, MESO-Trap were recommended in 46% of patients."

The SMN has launched a website packed full of information for patients and professionals www.scottishmesotheliomanetwork.scot.nhs.uk. As well as a virtual support group on the first Friday of every month in partnership with Maggie's Inverness which the SMN CNSs attend. The group is attended by patients and carers from across Scotland and topics covered include benefits and support, information for carers, peer support, as well as information on treatments, trials, and new developments. Please call **Eilidh** at **Maggie's** on **01463 706 306** or email **highlands@maggiescentres.org**.

There will also be a Virtual Patients and Carers Event held on 29th April 2021 from 1-4pm covering new treatment developments, trials, managing breathlessness, patient experience and more. All welcome! <https://www.eventbrite.co.uk/e/scottish-mesothelioma-network-patientcarers-virtual-event-29-april-21-tickets-139925431733>



QEUH Glasgow Clinical Team on Action Meso Day

Meet the specialists



Clinical Nurse Specialist **Susan Smyth**, who many of you will know, is based at Ninewells Hospital covering Tayside.

Susan has been caring for patients with mesothelioma within her Lung Cancer Clinical Nurse Specialist role for the last 14 years. For the past 18 months she has been the mesothelioma UK specialist for Tayside.

We asked Susan

Q. What do you like most about your job?

A. I enjoy being able to support and advise my patients. I also enjoy being part of the mesothelioma UK nursing team, which enables me to keep up to date with all the new developments in treatments for mesothelioma.

Q. Biggest work challenge?

A. Finding enough time in the day to do everything I want to.

Q. How do you like to relax away from work?

A. I enjoy going for walks along the beach and reading a good book.

Q. Your ideal holiday?

A. I would love to go to Thailand and see the beautiful tropical beaches, the royal palaces and the ancient temples.

Q. Favourite film?

A. I absolutely loved *Les Misérables* and have watched it a few times.

Q. Favourite meal?

A. It is definitely a roast chicken dinner with lots of gravy.

Q. Person you would most like to meet?

A. It would be great to meet Billy Connolly and listen to him telling lots of stories. He makes me laugh so much.

Q. Your favourite guilty pleasure?

A. I like to volunteer to go to the shops for something we need and buy a bar of Cadbury dairy milk and eat it on the way home (getting rid of the wrapper before I get home!)

Meet the board

As a charity Asbestos Action is run by a volunteer board of Directors. It is important that the board comprises as wide a set of skills and experience as possible.

The current chairman is semi-retired Health Safety & Training consultant Iain Murray MBE.

Iain keeps his hand in by looking after a couple of clients, visiting their contracts, advising on safety matters, providing

safety policies, risk assessments and method statements all required now in the working environment.

He is also involved with Perthshire Woodcrafters, where they turn and make items from all sorts of woods.

Iain is a member of the Scottish Kit Car Club, which he attends in his Veranti Spyder Kit car, when its good weather of course. In

addition he also, when requested, carries out asbestos awareness training for construction companies and others.



Iain Murray (Chairman)

How you can help - donations:

How to donate

- Complete the **form below** and send cheque to "Asbestos Action"
- JustGiving - www.justgiving.com
- **Standing order** (contact us for information)

Your details

NAME:

ADDRESS:

POSTCODE:

TELEPHONE:

EMAIL:

Donation amount - I wish to donate (please tick):

£10 £20 £30

OTHER £:

GIFT AID – important (please tick):

Boost your donation by 25p for every £1 you donate

I want to Gift Aid my donation and any donations I make in the future or have in the past four years, to Asbestos Action. I understand that I must pay an equal amount of UK income tax at least equal to the tax that Asbestos Action will claim in my donations in each year (*currently 25p for every £1*).



SIGNATURE:

DATE:



About Asbestos Action

Asbestos Action is a charity that relies almost entirely on donations from appreciative sufferers and their families.

The charity was founded in 2002 by a small group of sufferers to assist those diagnosed with an asbestos-related condition.

We are committed to helping anyone affected by an asbestos-related condition, from supporting sufferers and their families after diagnosis to home visits to help fill in complicated benefits forms.

With a small staff of five the charity punches well above its weight in providing this emotional and practical support.

You're the reason we can keep providing our vital service, so no one has to face asbestos-related disease alone.

Donating can help us to support more sufferers and their families who have been affected through no fault of their own.

Contact details

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Asbestos-Action-Tayside