

Annual mesothelioma deaths predicted to peak—an in-depth look

31/07/2019

Personal Injury analysis. Asbestos is a mineral which has been used extensively in the UK for insulation on account of its fire-retardant properties. However, it was discovered later that exposure to asbestos fibres can greatly increase incidence of certain cancer types. Figures released in July 2019, by the Health and Safety Executive, suggest that asbestos-related cancer deaths peaked in 2017 with 2,523 annual deaths. Andrew Cooper, solicitor in the industrial disease team at Leigh Day, discusses the reasons for this, the legal challenges and the role the government has to play in reducing this high level of deaths.

What are the main forms of cancer which are being commonly diagnosed as a result of asbestos exposure?

Andrew Cooper (AC): The most common forms of asbestos related cancer are mesothelioma and lung cancer.

Mesothelioma usually affects the pleura, the layer of tissue which covers the lungs. It can affect certain other organs including the peritoneum. It is caused almost exclusively by exposure to asbestos dust. It is a terminal condition with poor survival rates following diagnosis (one-year survival rates from date of diagnosis are 46% for men and 51% for [women](#)).

Lung cancer is also caused by asbestos exposure. However, unlike mesothelioma, it is known to be caused by other factors, the most common cause being smoking. Lung cancer caused by asbestos exposure often has the same clinical signs as smoking induced lung cancer.

Therefore, providing an accurate figure for the number of cases of asbestos induced lung cancer is difficult. However, some commentators suggest that asbestos related lung cancer is under-diagnosed and [estimate](#) that as many deaths are caused each year by asbestos induced lung cancer as are caused by mesothelioma.

Historically, which industries were most likely to expose their employees and families to asbestos?

AC: The first wave of workers who were exposed to asbestos dust were people who worked directly with raw asbestos:

- miners of asbestos
- dockers who removed raw asbestos from ships
- ladders who applied and removed raw asbestos insulation to boilers and pipes (this commonly occurred in ship building and in power stations and factories)
- workers involved in manufacturing asbestos products

Asbestos was used to make a variety of products including insulation board, roofing, guttering and gaskets. The second wave were people who were exposed when installing, removing and repairing asbestos products, such as:

- carpenters/joiners
- fitters
- plumbers
- engineers

The third wave of people are those who do not work directly with asbestos but work in buildings which contain asbestos which is disturbed, such as schools, hospitals, banks and offices. Therefore, teachers, doctors, lawyers, bankers and office workers are among those potentially at risk.

Why are we reaching a peak level of asbestos related cancer cases in Britain?

AC: Historically, asbestos was seen as a wonder product because of its heat resistant properties. However, its use has caused one of Britain's worst industrial catastrophes.

Asbestos imports and use peaked in Britain in the 1960s and 1970s, during which time thousands of workers were exposed to asbestos dust.

The link between asbestos exposure and cancer was known for many years, particularly by government and industry, but most prominently came into the public consciousness in 1965 when the front page of the Sunday Times referred to 'killer dust'. The latency period between exposure to asbestos dust and a person developing symptoms is typically longer than 30 years and is often 40 to 50 years.

The long latency period of asbestos cancers explains why we are experiencing a high number of asbestos related cancers in the early part of the 21st century, when exposure to asbestos peaked approximately 50 years ago.

What are the main challenges for lawyers who act for claimants who have been diagnosed with asbestos related cancers?

AC: Challenges often relate to the levels of asbestos dust which a claimant was exposed to.

To prove breach of duty, it is necessary to prove that these levels were deemed dangerous at the time. In 2018 the Court of Appeal provided guidance on this issue in *Bussey (widow and executrix of the estate of Bussey, deceased) v 00654701 Ltd (formerly Anglia Heating Ltd)* [\[2018\] EWCA Civ 243](#), [\[2018\] All ER \(D\) 31 \(Mar\)](#).

Prior to this case, defendants often relied on guidance issued in 1970 by HM Factory Inspectorate (Technical Data Note 13) regarding permissible dust levels. However, the Court of Appeal found that this guidance should not be seen as a universal test of foreseeability in mesothelioma cases. Rather, it is necessary to assess in each case what risks a reasonable employer in the defendant's position should have been aware of and what steps could reasonably be taken to reduce those risks.

Asbestos dust levels are also relevant to proving causation. A claimant must prove that they were exposed to levels of asbestos which were above background levels.

As time goes on, increasing numbers of claimants present evidence of low levels of asbestos exposure, making proving a successful claim more challenging.

When do you predict a decline in the numbers of these types of cases?.

AC: It is [anticipated](#) that there will be approximately 2,500 deaths from mesothelioma each year until 2020, when the number will begin to decline.

However, whether these projections prove to be accurate remains to be seen since we are seeing increasing numbers of younger people being diagnosed as a result of exposure to asbestos in a building where they worked, such as medical professionals working in hospitals which were built with asbestos products, such as asbestos cement.

How much of a role does the government have to play in reducing the number of cases?

AC: It is entirely within the government's ambit to prevent future exposure to asbestos by ensuring that buildings where people work, live and congregate do not present a risk. People are still being exposed to asbestos at school and at work.

The government should invest resources into safely removing asbestos from all buildings, such as schools and offices, to ensure that we and future generations are protected from harm.

In addition, the government can invest sums into medical research for treatment and a cure.

Interviewed by Jake Whitaker.

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