

Asbestos and dust diseases



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The sad legacy of years of exposure to asbestos, both in commercial and industrial situations, and at home, has left a terrible number of South Australians either with a disease attributable to asbestos or with the real potential for a currently benign condition to develop into something more sinister.

In the matter of obtaining fair and reasonable compensation for sufferers, experience in dealing with similar cases is invaluable. Andersons Solicitors has the experience to assist South Australians who need help.

Asbestos used to be a commonly used material - particularly in the building, rail and related industrial before 1985.

Sadly, time has revealed it as the cause of a number of serious diseases - and the death of hundreds of Australians each year.

We pursue claims for compensation for people whose health has been damaged by asbestos and have established a register for people who have been exposed but have not experienced ill effects - just in case things change.

This brochure provides some information about asbestos, and how we can help you if you, or someone close to you, is affected.

Asbestos - a little history

Asbestos was commonly used in the building and construction industry from the 1950's to the 1980's. It was strong and heat resistant - which is why it was used in more than 3,000 different asbestos products. Most Australian buildings built before 1985 contain asbestos, which means most people have had contact with it without being aware of it.

Asbestos can still be found in homes built throughout the 1950's, 1960's, 1970's and 1980's, in many public buildings including hospitals, schools, libraries, office blocks and factories.

Some common uses or products which contained asbestos included:

- ◆ cement sheeting for walls
- ◆ cement corrugated sheeting for roofing
- ◆ lagging for insulation

- ◆ Ceilings and eaves
- ◆ pipes, such as sewerage irrigation pipes
- ◆ Fireproofing and as insulation
- ◆ vinyl floor tiles
- ◆ lining behind stoves, heaters and radiators
- ◆ brake and clutch linings, and
- ◆ as spackle in plaster and paints.

Who's at risk?

People at highest risk of asbestos exposure include those who worked in mining and manufacturing asbestos, but also those involved in construction of buildings, shipbuilding, railway carriage building and power industries - that is, those who used asbestos and asbestos products.

Trades people and in particular boilermakers, carpenters and electricians involved in the building industry, wharf workers and people who worked on ships, amongst other workers are also at risk.

The families of workers who worked with asbestos have been shown to be at high risk because of asbestos fibres brought home on workers' clothing.

Asbestos-caused diseases

Mesothelioma is a universally fatal disease caused by past asbestos exposure. The asbestos exposure need not have been frequent, may have occurred up to 50 years before and may not even be remembered. Mesothelioma can affect the lining of the chest (pleura) and the lining of the stomach (peritoneum). Smoking is not associated with mesothelioma.

Compensation is commonly paid in cases where mesothelioma is diagnosed.

Lung cancer is associated with asbestos exposure. It is also associated with cigarette smoking. Smokers who have also been exposed to asbestos increase their risk of developing lung cancer by at least 50 times, when compared to non-smokers. Where medical tests indicate a past exposure to asbestos and lung cancer has been diagnosed, a successful claim for compensation can be made, even if there is a history of smoking.

Asbestosis is scarring (fibrosis) of the lungs which often causes increasing and progressive breathlessness and decreased lung function. Asbestosis usually develops following significant exposure to asbestos dust and fibres. Compensation is generally payable after asbestosis is diagnosed. The amount of the compensation depends upon the severity of the asbestosis.

Pleural plaques are markings on the lining of the lung which act as indicators of past asbestos exposure. Pleural plaques do not always produce symptoms. For this reason, Australian courts only award compensation for pleural plaques if there is evidence that they are the cause of some symptoms.

Gastro-intestinal cancers may have an association with heavy asbestos exposure. If you have been exposed to asbestos and have been diagnosed with cancer of the gastro-intestinal tract, you may wish to ask your doctor whether your asbestos exposure contributed to its development.

Who can make a claim?

If you have been diagnosed with an asbestos related disease, your first priority must be to take care of your health.

However, financial compensation may relieve some of the burden for you and your family. Our professional team understands the impact of a life threatening illness, and will work with you to minimise inconvenience and stress.

You may be legally entitled to claim compensation if you are suffering from:

- ◆ asbestosis
- ◆ asbestos-related pleural diseases
- ◆ pleural mesothelioma
- ◆ lung cancer or,
- ◆ peritoneal mesothelioma.

You may be able to claim even if you:

- ◆ left the employment where the exposure occurred
- ◆ were exposed to asbestos 50 years ago, or more
- ◆ had an employer who has since gone out of business
- ◆ were exposed to asbestos with different employers
- ◆ were self-employed or a contractor
- ◆ were not exposed to asbestos at work (but elsewhere)
- ◆ are not sure where your exposure to asbestos occurred
- ◆ smoked cigarettes, and
- ◆ had exposure from more than one source.

We understand that asbestos related illness already causes a great deal of emotional strain on you and your family, and there can be additional physical difficulties related to the illness.

That is why we will visit you free of charge

and without obligation, at home or in hospital, to discuss your entitlements and the claims process - and to help work out if this is a path for you.

Can my family bring a claim?

If your family can show they were financially dependent on your earnings, they could bring a claim for the loss of financial dependency.

However, only you can claim for pain and suffering. For this reason, it is best to get legal advice and act as soon as possible.

Provided that you initiate the claim, the claim will continue even if you die before it is finalised.

What's involved in making a claim?

We try to make it as straightforward as possible for you - but we can't do it without your involvement.

As your lawyers, our job is to work through

medical and legal issues and worry about how best to formulate your claim. We understand that asbestos related claims are complicated - but our experience means less involvement for you and the quickest possible resolution.

There is a number of things you will need to do, or provide, to help us make a claim for you and your spouse if applicable.

- ◆ Speak to one of our lawyers about your work and what you know about your asbestos exposure. This can take place in your home, in hospital or our office and usually takes about an hour.
- ◆ Provide us with your authority to access medical records and reports.
- ◆ Provide all documentation relevant to the claim - this can include items relevant to your work and pay and so on.
- ◆ Answer a series of written questions with our assistance, and

- ◆ Provide instructions (via telephone) as the matter progresses - for example, regarding any offers made.

While those who currently provide your medical care will be important, a necessary and important part of the process will be visiting independent doctors for medico-legal opinions and reports to support your claim. The doctors will ask you questions and review the tests or treatments already performed.

If you prefer help from people close to you and who you trust - particularly if you are in ill health - you can give someone your Power of Attorney to run the claim and make decisions on your behalf. We can help you with further information about how that works if you need it.

How much compensation?

It is impossible to provide that information without details specific to your claim.

However, where there is good evidence to support your claim, it is likely that you could win compensation between tens and hundreds of thousands of dollars.

Provisional damages

In South Australia, victims of asbestos related diseases are able to bring a claim for an asbestos related condition such as asbestosis or asbestos related pleural disease and in the unlikely circumstances that they develop a mesothelioma later, they are able to bring a further claim.

How long will it take?

The average time frame for an asbestos malignancy claim is between three and six months from the time you instruct us to proceed until the claim is settled. Claims

can proceed faster where there is medical evidence that you are very unwell. Some claims are resolved within weeks. For claims where a person's life expectancy is not short, (ie. mild asbestosis) a claim may take up to 18 months.

How much will my legal fees be?

Your first consultation is free and without obligation. If you decide to proceed, and we believe you have a viable claim, we will act on a 'No Win No Fee" basis.

Some examples of claims

We mentioned earlier that experience is all important in pursuing clients' right in asbestosis and related claims. Below is a brief list of recent claims in which we have successfully acted.

Asbestos compensation claims are usually based in negligence. The basis of a claim is that an employer, occupier of premises or manufacturer of asbestos products failed to warn or take steps to protect you against the known risk of asbestos related diseases.

Robert was aged 70 when he was diagnosed with mesothelioma and passed away two weeks later in hospital. His wife continued on with his claim and was awarded damages of \$235,000. He had worked as a boilermaker all his working life.

John aged 77 was a plumber and was exposed to asbestos in houses during the course of his work. He suffered from pleural plaques and mild asbestosis and recovered damages of \$70,000.

Michael is aged 67 and had a long history of working as a carpenter. He developed pleural plaques and mild asbestosis. He received \$80,000 compensation after 22 months.

Brian aged 75 worked as a boilermaker for a hospital for many years. He was diagnosed with mesothelioma and after 7 months received a settlement of \$380,000. His wife was able to also bring a claim and received a further \$115,000 for the loss of the normal relationship with her husband.the future.



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