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# BRITISH ASBESTOS NEWSLETTER

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## 1. The Legal Outlook in 2012 for Asbestos Claimants

by Alan McKenna<sup>1</sup>

In the previous edition of this Newsletter, Laurie Kazan-Allen highlighted how recent mesothelioma court decisions amounted to a situation of swings and roundabouts for claimants,<sup>2</sup> and it may be somewhat wishful thinking to believe that the mixed bag of 2011 for asbestos victims will not again be replicated in 2012.

When looking at what 2012 might hold for asbestos claimants, there is the possibility that the year may even be negative overall for asbestos claimants, with an already well flagged up dark cloud on the immediate horizon in the shape of the proposed changes to the civil litigation system potentially having serious implications for some claimants.<sup>3</sup> The Conditional Fee Agreement (CFA) system that was developed to supposedly help facilitate better access to justice, may for the government have possessed some detrimental features, particularly in the overall growth of legal costs, but the reforms now being proposed whilst they may address this particular perceived problem, have clearly foreseeable detrimental consequences for some groups of potential claimants, which include light exposure mesothelioma victims. The Legal Aid, Sentencing and Punishment of Offenders Bill that at the time of writing is being discussed by the House of Lords, will if passed in its current form enable the Lord Chancellor Ken Clarke to set a maximum claimable success fee, widely expected to be 25% of the damages awarded, excluding damages for future care or future losses, as recommended by the Jackson Review.<sup>4</sup> The success fee it is proposed will in future be paid out of the claimant's damages and not by the losing defendant.<sup>5</sup> In an attempt to ameliorate this substantial hit on the damages that will actually be received by a successful claimant, the Jackson Review proposed an across the board uplift in general damages for pain, suffering and loss of amenity of 10%.<sup>6</sup> It does not take a mathematical genius to work out that these changes would leave successful mesothelioma claimants with less net damages than they would receive under the current system. This hit on the net damages received will

obviously impact on all asbestos claimants who have CFA's with their solicitors, but for those whose cases are potentially complex in terms of being able to prove liability, such as light exposure claims, there are concerns that solicitors will become more reluctant to take on such cases as the changes make them less financially viable.

A further point should be made in respect to the 10% proposed uplift in general damages, and that is following the publication of the 10th edition of the JSB Guidelines in 2010, the guidance range of awards for mesothelioma was amended from the 9th edition figures of £52500 - £81500 to a new range of £35000 - £83750.<sup>7</sup> Whilst the contentious commentary guidance from the 9th edition which stated that for those who suffered unusually short periods of pain and suffering lasting three months or so, an award of £25000 might be appropriate, was removed from the 10th edition, it remains of concern that the lower end guidance figure was so heavily reduced as a consequence of the incorporation into the 10th edition Guidelines of the award figure from the case of *Margaret Cameron v Vinters*.<sup>8</sup> Thus, in respect of a 10% uplift this will still leave the lower end figure for mesothelioma over £10,000 lower than the 2008 Guidelines figure. It can therefore be envisaged that mesothelioma claimants could potentially be receiving far less compensation as a result of the influence of the 10th edition Guidelines than they might have received four years earlier, and this may be particularly likely to occur where claimant lawyers and judges who are inexperienced in asbestos cases are involved.

Following the Supreme Court decision in *Sienkiewicz v Greif*<sup>9</sup> the focus of defendants resistance to light exposure mesothelioma claims appears unsurprisingly to have begun to shift from defending claims on a causation basis to that of whether any breach of the duty of care that is owed to a claimant occurred. The Court of Appeal decision in the case of *Williams v University of Birmingham*<sup>10</sup> highlights the difficulties that can be expected to be faced by claimants in seeking to establish a breach of duty. The late Mr Williams had in 1974, whilst an undergraduate student at the University of Birmingham, carried out speed of light experiments in an unventilated service tunnel running between two of the university buildings. Over a period of 8 weeks he spent between 52 and 78 hours in the tunnel which contained asbestos lagged heating pipes. The Court of Appeal overruled a first instance decision in favour of the claimant, emphasising that the correct test to apply when considering if a breach has occurred is to ask whether the defendant should have reasonably foreseen the risk to the claimant of contracting mesothelioma in the specific circumstances; for Mr Williams such circumstances were the carrying out of the experiments in the tunnel in 1974.<sup>11</sup> In making such an assessment in Mr Williams case, the Court considered that there needed to be determined the actual level of exposure faced; what knowledge the University ought to have had in 1974 about the risks posed; and whether with that knowledge it was reasonably foreseeable to the defendant that with the level of exposure, the claimant was likely to be exposed to an asbestos injury; and in light of the exposure faced the

reasonable steps that should have been taken to prevent foreseeable injury.<sup>12</sup>

With an increasing number of light exposure mesothelioma cases emerging, being able to bring a successful action and show there was a breach of duty will of course be very fact dependent on the precise circumstances in each individual case. An issue that is left open from the Williams case, and one that was not open to the Court of Appeal to decide, but which Lord Justice Patten did consider possessed respectable logic to it, was whether in the light of the change to the causation test for mesothelioma claims, this change should also be reflected in the issue of breach of duty, and by not doing so there was a danger that the “retention of a test based on the foreseeability of a risk of asbestos related injury may set an inconsistent standard of care.”<sup>13</sup> Thus, this question will remain open until a breach of duty mesothelioma case is ultimately appealed to the Supreme Court to consider the correct test to be applied. It is understood that this will not be the Williams case as there are no plans to appeal the decision.<sup>14</sup>

Two cases in which appeal judgments will be delivered in 2012, are the Trigger Litigation appeals heard by the Supreme Court at the end of last year, and the appeal of Chandler v Cape,<sup>15</sup> which is scheduled to be heard in early February by the Court of Appeal. The outcome of the Trigger Litigation appeals is of course hugely important in that it will effectively decide whether large numbers of former employees who were negligently exposed by their employers will be able to access damages from their former employers' insurers. The basic underlying issue to be decided is which insurance policy is triggered by the former employee's mesothelioma, the one at the time of fibre inhalation, or if one exists, the one at the time of tumour development. A finding based on the latter would of course lead to many former employees being left unable to obtain damages, either because the employer is no longer in business, or because there did not exist an employer's liability insurance policy at the time the tumour began growing. Whilst it can be unwise to speculate as to precisely what the Supreme Court may ultimately decide, certain factors can be pointed to that may perhaps lead to a positive outcome for claimants. The Supreme Court chose to provide a unanimous decision in respect to Sienkiewicz and Willmore, despite there being clear disquiet from some of the panel as to the development of the law in this area, and some of the factual findings made. This unanimous decision may point to a Court that was seeking as far as it could to ensure that greater overall certainty was brought to this area of the law, and thus avoid the possibility of future appeals in respect to causation matters, which a split Supreme Court perhaps might lead to. Thus, it might not be a total surprise if unlike when the Court of Appeal heard the Trigger Litigation appeal,<sup>16</sup> and the three judges to varying degrees took differing approaches that led to a somewhat complex outcome, the Supreme Court might again seek to try to achieve greater clarity and overall certainty. If the Supreme Court were to accept the defendants' arguments, a further issue of complexity that would be introduced, leading undoubtedly to greater expense and further appeals in some mesothelioma actions, is the question of

precisely when a tumour begins its growth. At first instance, Mr Justice Burton<sup>17</sup> accepted expert medical evidence suggesting a five year gap between the start of the tumour growing to actual diagnosis. If the trigger for an insurance policy were to be the tumour development then it is self evident that in certain instances it is likely that either the claimant or insurer may seek to show in a particular instance either the existence of a slower or faster growing tumour.

Concerns that the Supreme Court might be influenced by the so-called "floodgates" argument, that a pro-claimant judgment may lead to a large expansion of claims and consequential severe financial burdens for insurers, should in this instance be discounted. A comprehensive decision in favour of the claimants will not introduce a new financial burden on insurers, as up until the public liability insurance case of *Bolton v MMI*,<sup>18</sup> the standard practice of insurance companies in respect to employers' liability policies was to pay out under the policy at the time of exposure. A further factor which may or may not prove positive, is that a finding for the defendants will lead to a situation in which the government will be unable to claw-back compensation paid under the statutory workers scheme<sup>19</sup> or social security payments made to claimants, and this of course needs to be viewed against an economic backdrop where the government is committed to cutting expenditure.

In *Chandler v Cape*,<sup>20</sup> Mr Chandler had been negligently exposed to asbestos whilst working for a subsidiary company of the defendant, and he subsequently contracted asbestosis. By the time of his diagnosis, however, the subsidiary was no longer in business and no insurance policy existed to claim against. At first instance he successfully showed that in the particular circumstances of his case the parent company did owe him a duty of care. Whilst this case may have only limited relevance in terms of the numbers who may be able to argue that a parent company should be responsible for the injury suffered, it is important from the perspective of being able to continue to explore fresh avenues by which a claimant may succeed in receiving compensation. It is to be hoped that the proposed funding changes do not make 2012 the year in which claims such as Mr Chandler's do not even get past the starting line.

## **2. Cutbacks + Apathy = Death**

How many deaths are too many? Is the death of one person cause for government concern? What about five deaths, 15, 1,000, 2,000? In 2009 there were 2,321 British deaths from the signature asbestos cancer, mesothelioma; when deaths from asbestosis and other asbestos-related cancers are added to this figure, annual asbestos mortality exceeds 4,000. The fact that the country banned the use of chrysotile asbestos in 1999, with amosite and crocidolite asbestos having previously been prohibited, has done nothing to eradicate the acknowledged risk posed by asbestos incorporated into the national infrastructure throughout the 20th century. Despite the presence of millions of tonnes of asbestos in workplaces, homes, public

buildings, industrial facilities, dumpsites and derelict properties, Westminster seems determined to bury the knowledge of the world's worst occupational toxin along with its victims. How else can you explain the deliberate omission of asbestos from a "comprehensive" and unprecedented audit of England's schools, the vast majority of which are known to contain asbestos?<sup>21</sup> While details such as the operational status of fire alarms and toilets will be logged during the investigations, asbestos is specifically excluded:

"An internal Department for Education email [dated September 2011], seen by the Independent on Sunday, makes it clear that pressure to include asbestos in the assessment of the state of schools, which begins in April [2012] and will be used to inform future funding, had to be resisted due to 'cost implications and the fact that asbestos management should already be carried out under existing legal requirements.'" <sup>22</sup>

Within weeks of this email being sent, Health and Safety Executive (HSE) statistics for 2010/11 confirmed the inexorable rise of asbestos mortality: "In Great Britain mesothelioma death rates for both males and females follow an upward trend over time – reaching 64.2 and 12.3 deaths per million respectively in 2007-2009 compared with 22.1 and 3.2 in 1983-1985."<sup>23</sup> The HSE document containing this analysis – Mesothelioma mortality in Great Britain 1968-2009 – predicted that asbestos deaths will peak before the end of the decade; this guesstimate is derided by civil society campaigners who cite evidence of increasing numbers of asbestos-related cases coming to their attention.<sup>24</sup> Whatever the future holds, it is clear that asbestos-related diseases in Britain are a major killer: "Twice as many die from asbestos exposure in Britain as are killed on the roads."<sup>25</sup>

In light of the gruesome price being paid by Britons for the country's love affair with asbestos, it is disheartening that the Government has slashed the budget of the Health and Safety Executive, the agency tasked with protecting occupational health, by 35%.<sup>26</sup> As a result of the cutbacks, previously infrequent workplace inspections will be eliminated altogether in the vast majority of cases; asbestos inspections of schools have now been scrapped.<sup>27</sup> In the future, it will be up to teachers and school staff to become whistle-blowers should they have concerns about the mismanagement of asbestos in their workplaces. It takes a very brave person indeed to take such action when doing so can, and often does, bring them into direct conflict with school authorities.

In early February 2012, asbestos contamination of UK schools was termed a "national scandal"<sup>28</sup> upon the release of a report entitled Asbestos in Schools - The need for action by a Parliamentary body.<sup>29</sup> Amongst the salient facts highlighted by MPs in the fifteen-page publication were:

- More than 75% of Britain's state schools contain asbestos, much of which is badly maintained;
- Background asbestos fiber levels in schools are 5-500 times higher than outdoor levels;
- Since 1980, more than 228 school teachers have died of mesothelioma, with 140 dying in the last ten years; "it has been estimated that a child of five is 5.3 times more likely to develop mesothelioma by the age of 80 than their teacher aged 30;"
- Only 28% of school safety representatives participating in a national survey in 2010 reported that asbestos-containing materials were clearly marked in their workplaces;<sup>[30](#)</sup>
- In the last five years, HSE asbestos inspections found significant deficiencies in the implementation of asbestos management plans in a number of schools;
- There are no centralized data on the extent, type and condition of asbestos in UK schools.

MP Jim Sheridan, Chair of the All Party Parliamentary Group (APPG) on Occupational Health and Safety, which distributed this publication to MPs and Peers on February 1, called for urgent action: "to prevent pupils, teachers and other staff being exposed to this deadly killer dust." He told journalists that: "We need both far greater awareness of the risks that this material poses and a programme for its phased removal." Commenting on the APPG briefing, the GMB trade union pointed out that as more schools opt out of local authority control, the in-house expertise for dealing effectively with the imminent threat posed by asbestos will almost certainly decrease.<sup>[31](#)</sup>

The release of the Parliamentary report was timely coming just days after the Independent on Sunday's damning indictment of the Government's "don't know, don't care" attitude towards the asbestos hazard in schools:

"The Government argues a national audit is unnecessary as the [asbestos] problem is dealt with locally. Despite this, it spent £4.5m on an audit of asbestos in Northern Ireland schools in 2003/04. The following year, £3.8m was allocated to pay for its removal in 'top priority' cases. England has 19 times as many schools, meaning a similar exercise would cost at least £153m...

Documents obtained under the Freedom of Information Act reveal how cost has been cited for years by government officials advising against a national audit of schools. In 1993, a ministerial briefing stated that an audit would 'lead to further demands for additional public expenditure on school buildings, at a time of increase resource squeeze.' Another briefing in 1994 warned of a 'panic reaction' and 'significant cost implications.'



And correspondence from an education official to the HSE in 1997 said: 'Like you, we would not be very keen on the idea of surveying all the schools. The cost of survey and removal and reinstatement would be prohibitive.'

That two such high-profile and critical reports – the Independent on Sunday article (January 29) and the APPG briefing (February 1) – appeared almost simultaneously might be dismissed as coincidental; however, the interjection made on this subject in a House of Lords debate the very same week makes it clear that this issue has achieved national prominence.<sup>32</sup> Criticizing the deliberate omission of asbestos from the 2012 schools' survey, Lord Avebury said:

“As a result of this possibly illegal exclusion from the survey, compounded by the stripping of funding needed by local authorities to carry out their survey responsibilities under the Control of Asbestos Regulations, instead of the decline in mesothelioma deaths – the noble Lord, Lord Alton, said that that decline was expected to occur from 2012 onwards – as they tail off over the next 40 years, they may continue for the rest of the century.”

The issue of who would compensate those who might become ill after hazardous exposures in schools is problematic. According to information from one legal source:

“Most local authorities cannot obtain insurance cover for claims relating to asbestos exposure of pupils and non-employees. Employer's liability insurance should cover the claims relating to the employees at the school but what about pupils and visitors at the school? Because the local authorities are self-insured they would be able to pay compensation, although this would obviously put a strain on taxpayer's money.

But what about schools outside local authority control such as independent schools and academies? Assuming they too will have difficulty obtaining insurance against the risk of asbestos exposure, any future claim for injuries and illnesses arising out of asbestos exposure at these schools may not be possible, if for example the school has closed down...With councils being self-insured, there would still be someone to foot the bill where asbestos exposure at British State schools subsequently caused illness or death of its victim. However, this is not the case with an independent school.”<sup>33</sup>

The prospect of another 90 years of asbestos deaths as Lord Avebury predicted is truly appalling. Using the current economic crisis as an excuse for ignoring this long-standing and life-threatening problem is disingenuous as well as cowardly. Even as Italian, French and Belgian courts<sup>34</sup> gear up to prosecute those who have caused asbestos epidemics on the Continent, British justice may one day seek to hold to account those executives and politicians whose actions led to this country's deadly

asbestos epidemic. It behoves the Prime Minister and the coalition government to take this problem seriously.

### 3. News Round-up

#### Developments

##### Legal Aid, Sentencing and Punishment of Offenders Bill

On January 30, 2012, members of the House of Lords weighed into the debate over proposals in The Legal Aid, Sentencing and Punishment of Offenders Bill (the LASPO bill) which could impact on the rights of asbestos sufferers and threaten the viability of asbestos victims' groups throughout the country. Support for exempting claims for occupational respiratory diseases from the new legislation was voiced by, among others, Lord Newton of Braintree, Baroness Butler-Sloss, Lord Alton of Liverpool and Lord Avebury, who highlighted the pioneering efforts of Nancy Tait, the work of the Asbestos Victims Support Groups Forum and Mesothelioma UK in his plea on behalf of "these forgotten victims."<sup>35</sup>

##### Northern Ireland Reinstates Pleural Plaques Compensation

On December 5, 2011, the Finance Minister of Northern Ireland (NI), Sammy Wilson, announced that as of December 14, pleural plaques and certain other asbestos-related conditions will be compensable in NI under The Damages (Asbestos-related Conditions) Act (Northern Ireland) 2011.<sup>36</sup> The new law reversed the 2007 House of Lords decision in *Johnston v NEI International Combustion Ltd* and conjoined cases which had found that symptomless pleural plaques did not constitute actionable or compensable damage. The NI Executive has set £2.5 million aside to meet expected claims.

#### Literature

In the article *Sienkiewicz v Greif (UK) Ltd. and Willmore v Knowsley Metropolitan Borough Council: A Material Contribution to Uncertainty?: A response*, author Alan McKenna challenges conclusions drawn in a paper previously published by the *Modern Law Review*.<sup>37</sup> Author McKenna disagrees with Per Laleng's interpretation of the *Sienkiewicz* judgment as it pertains to the usefulness and validity of scientific and epidemiological evidence in mesothelioma cases writing that: "... the relevance and reliability of such [epidemiological] evidence will remain paramount in deciding the weight that may be placed upon it."<sup>38</sup>

Having investigated a cohort of 6,136 workers, the authors of the paper: *Lung Cancer Mortality in North Carolina and South Carolina chrysotile asbestos textile workers*, published online in January 2012, concluded that "increasing rates of lung cancer were significantly associated with cumulative fibre exposure overall and in both the Carolina asbestos-textile cohorts."<sup>39</sup>



At the beginning of the year (2012), the paper: Ban Asbestos Phenomenon: the Winds of Change<sup>40</sup> was published in the journal New Solutions. The paper details ten historical developments over the last fifty years which signposted trends in ban asbestos mobilization and highlights the efforts of Mrs. Nancy Tait, the founder of the Society for the Prevention of Asbestosis and Industrial Diseases (SPAID) which was the world's first asbestos victims support group.

The commercial, diplomatic and political strategies which have been used by the Canadian asbestos lobby to manipulate Mexico's asbestos agenda are discussed in the paper published in December 2011 entitled: Who is Driving Mexico's Asbestos Policy?<sup>41</sup> Using documents obtained from Canadian government sources, the author names Canadian diplomats, civil servants and industry lobbyists who have participated in an orchestrated attempt to preserve the status quo. The interactions witnessed in the exchange of emails analysed by the author reveal why industry interests continue to trounce concern for public and occupational health in Mexico.

## Events

### Mesothelioma in the Midlands – Experiences and Assessments of Support and Treatment

The April 16th conference for patients and carers aims to learn from the personal experiences of those living with mesothelioma and their carers. It is being organized by the Derbyshire Asbestos Support Team and Asbestos Support West Midlands, and is the second such conference to be hosted by these groups. Speakers on the day will include Liz Darlison, Consultant Nurse, Mesothelioma UK, Natascha Engel, MP for North East Derbyshire, and Jason Addy, Researcher at the MMU School of Law. The conference will take place at The Spot Centre, Wilmot Street West, Derby, DE1 2JW. For more details contact Joanne Gordon on 01246 380415 or Doug Jewell on 0121 678853.

### Reflection and Celebration of Life

On February 29, 2012 at 7 p.m. Derby Cathedral will be illuminated with the names of one hundred local people whose lives have been lost to the asbestos cancer mesothelioma, as part of a week-long "Reflection and Celebration of Life" ceremony mounted by the Derbyshire Asbestos Support Team. After the launch of this initiative on February 29th, participants will adjourn to the Cathedral to hear speakers address the continuing need to raise awareness of the asbestos hazard; prayers will be said to remember the asbestos dead. For more information contact Joanne Gordon at [mail@asbestossupport.co.uk](mailto:mail@asbestossupport.co.uk) or phone: 01246 380415.

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<sup>1</sup> Email: [A.V.McKenna@kent.ac.uk](mailto:A.V.McKenna@kent.ac.uk)

<sup>2</sup> Kazan-Allen L. Swings and Roundabouts for UK Mesothelioma Claimants. British Asbestos Newsletter. Issue 84, Autumn 2011.

- <sup>3</sup> Whitston T. Cuts – We're all in this Together, including the Terminally Ill. British Asbestos Newsletter. Issue 81, Winter 2010-11.  
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- <sup>4</sup> Ministry of Justice. Review of Civil Litigation Costs. December 2009, para. 2.4.
- <sup>5</sup> Ibid. para. 2.3.
- <sup>6</sup> Ibid. para. 2.4.
- <sup>7</sup> Judicial Studies Board, Guidelines for the Assessment of General Damages in Personal Injury Cases (Oxford: OUP, 10th ed., 2010).  
Judicial Studies Board, Guidelines for the Assessment of General Damages in Personal Injury Cases (Oxford: OUP, 9th ed., 2008).
- <sup>8</sup> Margaret Cameron v Vinters Defence Systems Ltd [2007] EWHC 2267 (QB).
- <sup>9</sup> Sienkiewicz v Greif (UK) Ltd [2011] UKSC 10.
- <sup>10</sup> Williams v University of Birmingham [2011] EWCA Civ 1242.
- <sup>11</sup> Ibid. para. 35.
- <sup>12</sup> Ibid. para. 44.
- <sup>13</sup> Ibid. para. 81.
- <sup>14</sup> Email received by the author from Stephen Hattersley (Ison Harrison) on the 17th January 2012.
- <sup>15</sup> Chandler v Cape PLC [2011] EWHC 951(QB).
- <sup>16</sup> Employers' Liability Insurance Trigger Litigation [2010] EWCA Civ 1096.
- <sup>17</sup> Durham v BAI [2008] EWHC 2692 (QB).
- <sup>18</sup> Bolton MBC v Municipal Mutual Insurance Ltd [2006] EWCA Civ 50.
- <sup>19</sup> Pneumoconiosis etc. (Workers Compensation) Act 1979.
- <sup>20</sup> Chandler v Cape PLC [2011] EWHC 951(QB).
- <sup>21</sup> Of the 33,600 schools in Britain, more than 75 per cent contain asbestos.  
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<http://www.asbestosexposureschools.co.uk/pdfnewslinks/APPG%20report%202012.pdf>
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Independent on Sunday. <http://www.independent.co.uk/life-style/health-and-families/features/asbestos-new-blow-to-victims-of-a-shameful-legacy-6296347.html>
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<http://www.hse.gov.uk/statistics/causdis/mesothelioma/mesothelioma.pdf>
- <sup>24</sup> See also: HSE. The burden of occupational cancer in Great Britain. Predicting the future burden of occupational cancer. Methodology. Research Report 849. 2011.

<http://www.hse.gov.uk/research/rrpdf/rr849.pdf>

HSE. The burden of occupational cancer in Great Britain. Research Report 800. 2011.

<http://www.hse.gov.uk/research/rrpdf/rr800.pdf>

<sup>25</sup> Asbestos in Schools - The need for action (cited above).

<sup>26</sup> Is HSE Finished? Hazards Issue 113, January-March 2011.

<http://www.hazards.org/votetodie/ishsefinished.htm>

<sup>27</sup> The termination of proactive HSE inspections in "low-risk" workplaces such as offices, shops and schools was announced in March 2011.

<sup>28</sup> BBC News. Asbestos in schools 'a national scandal' – MPs. February 2, 2012.

<http://www.bbc.co.uk/news/uk-16847575>

<sup>29</sup> This report stimulated widespread media coverage with more than a dozen articles appearing within days of its release. See:

<http://www.educationbusinessuk.net/eb-news/2878-mps-calling-asbestos-in-schools-a-national-scandal>

<http://www.theconstructionindex.co.uk/news/view/mps-condemn-scandal-of-asbestos-in-schools>

[http://www.huffingtonpost.co.uk/2012/02/02/asbestos-in-schools-a-national-scandal-say-mps\\_n\\_1248964.html?ref=uk](http://www.huffingtonpost.co.uk/2012/02/02/asbestos-in-schools-a-national-scandal-say-mps_n_1248964.html?ref=uk)

<sup>30</sup> The accuracy of this figure was validated by research undertaken by academics at Imperial College who found that only about 30% of employers comply with current government workplace regulations.

TUC. Occupational Cancers – the figures. February 2012.

<http://www.tuc.org.uk/workplace/tuc-20569-f0.cfm>

<sup>31</sup> GMB Warns of Dangers from Asbestos in Schools. February 2, 2011.

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<sup>32</sup> House of Lords Debate. January 30, 2012.

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<sup>33</sup> Holdsworth M. Asbestos in schools – Are they insured? February 3, 2012.

<http://blog.pannone.com/personal-injury-listing/personal-injury-blog/asbestos-in-schools-are-they-insured>

<sup>34</sup> See articles on the website: <http://www.ibasecretariat.org>

<sup>35</sup> <http://www.publications.parliament.uk/pa/ld201212/dhansrd/index/120130.html>

<sup>36</sup> NI Executive Press Release. Wilson Announces Start of Legislation for Pleural Plaques Claims. December 5, 2011.

<http://www.northernireland.gov.uk/index/media-centre/news-departments/news-dfp/news-dfp-051211-wilson-announces-start-of.htm>

<sup>37</sup> Laleng P. 'Sienkiewicz v Greif (UK) Ltd. and Willmore v Knowsley Metropolitan Borough Council: A Material contribution to Uncertainty?' Modern Law Review (2011) 74(5), 779

<sup>38</sup> McKenna A. Sienkiewicz v Greif (UK) Ltd. and Willmore v Knowsley Metropolitan Borough Council: A Material Contribution to Uncertainty?: A response. January 21, 2012.

[http://papers.ssrn.com/sol3/papers.cfm?abstract\\_id=1989470](http://papers.ssrn.com/sol3/papers.cfm?abstract_id=1989470)

<sup>39</sup> Elliott L, Loomis D. et al. Lung Cancer Mortality in North Carolina and South Carolina chrysotile asbestos textile workers. Occupational Environmental Medicine. January 20, 2012.

<sup>40</sup> Kazan-Allen L. Ban asbestos phenomenon: the winds of change. *New Solutions* 2012; Jan 1;21(4):629-36.

<sup>41</sup> Kazan-Allen L. Who is Driving Mexico's Asbestos Policy? *International Journal of Health Services* 2012; 42(1):109-118.

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