

THE DAILY HAZARD

Robbed of health and now of compensation

Warped court judgments, sham insolvencies and other scams are cheating asbestos victims and relatives of justifiable compensation running into tens of thousands of pounds. The death toll from exposure to asbestos will hit 10,000 a year by the end of the decade.

Warped judgement

On 11 December a ruling by the Court of Appeal on the case of Arthur Fairchild, a UCATT member, and a number of linked judgements, will make it nearly impossible for those dying from the asbestos cancer mesothelioma to claim compensation. The court said one asbestos fibre can cause mesothelioma. Because Mr Fairchild had been exposed to asbestos by more than one employer; they could not identify which company caused the cancer. Therefore none of their insurers would have to pay a penny.

Not only did the judges concerned dismiss his widow's appeal, they did not give them leave to Appeal to the House of Lords; creating another legal hurdle. This decision outraged asbestos campaigners but has been overturned. There will now be an appeal on 24 April. Most mesothelioma victims, especially

those working in construction, shipyards and the docks, have been exposed to asbestos by more than one employer.

The Lords will hear the cases of *Fox v Spousal (Midland) Ltd* and *Matthews v Associated Portland Cement Manufacturers (1978) Ltd* on 22 April. Both cases relate to workers who worked for several employers. John Pickering and Partners, well-known asbestos victims' lawyers, is acting in both cases.

Sham insolvencies

The judgement is part of a string of cases all favouring the insurance industry or other multi-national corporations. Early in 2001 Chester Street Insurance Holdings claimed it

could not meet the rising numbers of asbestos claims. Chester's parent company had sold its profitable asset Iron Trades Insurance to Australian company QBE, ensuring Chester Street was unable to meet their previous commitments. After a vigorous campaign in this country a scheme was set up to pay out at least 90% of compensation due. Trade unions here were assisted by significant solidarity action in Australia, where thousands of building workers and others downed tools to march through Melbourne to the offices of QBE.

shipyard workers are that for five years in the 1970s, they were issued with insurance certificates by Royal Insurance, now part of Royal and Sun Alliance, which did not cover asbestos illness, and were therefore illegal. The lawyers are calling on Royal and Sun Alliance to compensate former employees of Turner and Newall. Royal and Sun Alliance say it is establishing the detailed facts of the case, which it describes as 'complex and serious'.

Class action succeeds

In this context 7,500 South African asbestos victims settled for £21m from Cape plc just before Christmas. It was the biggest group action to be brought in the English Courts, and it was a three year battle just to have the cases heard over here. The claims were valued at £50m, but South African government advice is that the settlement is worth having. Cape closed its British Asbestos plant in 1968 but continued to operate in South Africa until 1979.

T&N victims have been stung by another manoeuvre last October. Parent company Federal Mogul obtained a court administration order under the Insolvency Act because it wanted to address financial difficulties caused by over 365,000 asbestos claims. As it was pleading insolvency, forcing victims to abandon their claims, it was issuing press releases about winning work worth £13.9 million. Other allegations being made by lawyers acting for Clyde



Protestors outside the recent Turner and Newall (T&N) shareholders meeting.

PHOTO: MICK HOLDER/LHC

FREE ADVICE ON WORKPLACE, COMMUNITY AND ENVIRONMENTAL HEALTH AND SAFETY

London Hazards Centre operates a FREE confidential telephone advice line for people at work and in the community in the Greater London area – and our web site is available to absolutely anyone and full of useful information!

Call us today

Telephone advice line: 020 7794 5999
LHC web site www.lhc.org.uk

Dock boss cleared in Simon Jones case

The Simon Jones Memorial Campaign (SJMC) achieved its main objective – to see Simon's alleged killers tried for manslaughter for the killing of their friend. But the jury at the Old Bailey failed to convict.

Euromin Ltd, owners of the dock where Simon was killed, was found guilty of two breaches of health and safety regulations and ordered to pay just £50,000 in fines and £20,000 costs. The company and its general manager, Richard Martell, were cleared of a charge of manslaughter.

Simon Jones, a 24 year old student taking a year out from university, was 'fit and healthy' when he arrived at 8am for the first day of a holiday job at Shoreham Docks, West Sussex, on 24 April 1998. By 10.15am he was dead, his head crushed in a crane grab while working in a ship's hold.

Simon was sent to work there by Personnel Selection, an employment agency. The DTI have not laid any charges against Personnel Selection for their health and safety failings before putting Simon to work. The SJMC

have protested to the DTI about this failure to lay charge

Demands for change

Police, prosecuting authorities, trade unions and Mr Jones's family demanded a change in the law.

Simon's mum, Anne Jones said: 'We are very disappointed and deeply disturbed by this result as we feel this gives companies the green light to cynically disregard safety issues in the sure knowledge that they will not be held to account. We have

to accept the verdict but feel it sends a clear message to workers that nobody will protect them.'

Soon after the close of the trial 30 members of the SJMC occupied the Euromin docks again in protest at the court's decision. Five members of the SJMC have subsequently been charged under anti-trade union legislation. The occupation protest case continues.

Find out more, if you can get on the world wide web, by visiting www.simonjones.org.uk

Labour risks workers' lives

Strike Progress

Public and Commercial Service Union (PCS) Members are fighting management proposals to make them work in a dangerous environment. 45,000 workers walked out on the 28th and 29th of January. This is an increase of 40,000 more workers than were striking in December.

Chris Ford, Central and West London PCS Branch Secretary said, 'The strike sends the clearest message to managers and ministers that members think that their workplace is unsafe. Government and management are trying to sit out the problem rather than reach a solution with their workers. So much for the Labour lauded workplace partnership.'

Lobby of Parliament

29th of January saw more than three hundred PCS members outside Parliament. 200 MP's were lobbied and were told that

- Worker Safety can't be ignored. Increases in violent attacks is a reality. In the year 2000 the number of incidents in Benefit Agency and Employment Service offices doubled to over 10,000.
- Current management proposals are unreal. Staff are getting hurt on a regular basis, there are approximately three violent incidents a week. It's not a

question of 'if' somebody will be killed, it's 'when'.

- PCS has proposed solutions to resolve the problem but management are refusing to discuss them. They won't even allow the Arbitration Service (ACAS) to become involved. Government tells other unions to use ACAS and to talk but is hypocritical when talking with its own employees.

Many MPs offered to talk directly to ministers to urge that management and ministers should resume talks with the union.

More ballots on future action

PCS's next step is to ballot on an overtime ban and on withdrawal of co-operation. The collective response to being treated with contempt will be to withdraw the goodwill and commitment which they require to maintain an effective service and organization. PCS negotiators need this support from their members to keep the pressure on government.

Chris Ford said, 'If management think this issue is going away they have another think coming. When the formal dispute is

over, the injuries to our members and the claims they make against the agency for negligence will go on and on. The unsafe system of work that they are imposing on us will haunt them for years', he continued, 'ministers must remember that the people they are disrespecting are the people they will be canvassing for votes in the near future. Our members aren't stupid and they do have memories. We are looking for the support of union colleagues and if you can help, even if you are in another trade union, contact the PCS Campaigns Unit on 020 7801 2820.'



PCS members striking for a safer workplace.

SHARPS!

'Sharps' is the term for objects at work that can graze, cut or puncture the skin. Employers must have safe systems of work in place to deal with problems arising from a worker's exposure to sharps. A sharp is anything at work that can cut or deliver a puncture wound. Opened tin cans, broken glass, hypodermic needles and discarded blades are all classic examples of sources of sharps injury.

Needlestick injuries

Tidy Britain Group surveyed many UK Local Authorities in 2000. There were 226 needlestick injuries due to discarded needles and 60% were to local authority workers. Only half of all local authorities trained street sweepers and provided them equipment to deal with discarded needles, and only 64% of local authorities had an official procedure to recover discarded needles if they were found by members of staff.

Unhealthy?

Apart from the risk of laceration there is a further risk from a variety of infectious diseases (see also *Daily Hazard No. 62* factsheet on Infectious diseases in the workplace) or poisoning as they are injected directly into the blood stream from the contaminated sharp.

The most likely disease is the often fatal, tetanus (lockjaw). Immunisation is effective but temporary and must be boosted periodically. Hepatitis is contracted from blood contaminated sharps such as hypodermics and clinical waste. The risk of contracting HIV is not so great.

Those at risk?

A wide range of workers are at risk: people working in medicine, waste disposal, domestic and care assistants, public cleaning, parks and gardens are a few examples. Other workers may not face an obvious risk but must be included. An example being postal workers, the postal workers union, the CWU, found a problem for posties on estates where vandals were setting booby traps on the underside of handrails and banisters with razor blades or needles.

What does the law say?

There is no specific law on sharps. The diseases associated with sharps are covered by the biological agents

section of COSHH, the Control of Substances Hazardous to Health Regulations.

There is a general duty for safe systems of work to be put in place by employers in Section 2 of the Health and Safety of Work Act.

The problem should be risk assessed as required under S 3 of the Management of Health and Safety at Work Regulations.

Safe systems of work

Where there is a recognised sharps problem formal safe systems of work (ssow) should be implemented. Employers are required to consult with Safety Representatives, in good time, BEFORE they implement any ssow.

Infection policy

There should be an infection control policy covering prevention of wounds, basic hygiene procedures, containment and disinfection to reduce the risk of contamination with blood and body fluids, and the safe disposal of contaminated waste. The policy should include matters such as:

Vaccinations

There are vaccinations for many of the common diseases carried on sharps, although not for HIV. Some vaccinations can take place after an incident (tetanus and some forms of hepatitis for instance).

Where there is a clear risk, employers should ensure employees are vaccinated (although there is no direct legal requirement) and that the booster vaccinations are kept up. Any vaccination system put in place should be voluntary and free with employers explaining the need clearly to their employees and promoting it as a sensible precaution.

Syringes

Syringes which protect workers from puncture wounds by the needle are readily available but are not in common use. Unison has campaigned for their universal introduction which is slowly producing change. The HSE are looking at this issue with the Department of Health, although from a consensus position rather than compulsory one. Employers can, however, buy and use these safer hypodermics.

High pressure air syringes which can be used to push drugs through the skin will hopefully replace the use of needles. However such equipment

doesn't currently perform well enough to penetrate deep under the skin.

Sharps boxes

Sealed boxes where used hypodermics and other sharps such as blades and broken glass are placed. A system should be in place where they are regularly replaced and the used ones are removed and burned in an incinerator.

Clinical and other waste separation

Hospitals and some refuse collection agencies, separate different types of waste. In hospitals general waste is systematically separated from waste which might be contaminated with blood or other body fluids. Some local authority waste recycling schemes separate paper and plastics from other waste which may contain sharps. They may also organise special collection of garden or larger domestic waste. These work systems reduce the risk of exposure to sharps.

Safer work equipment

Waste collection tools such as grippers and or pickers should be used to avoid the need for the hands to be used. The strength of disposal bags and containers should be strong enough to protect against the risk. Where possible, wheelie bins and paladin bins should be used for the storage of waste until collection for disposal rather than just in bags. Bags likely to be used for general waste collection should be of a suitable strength to give some protection against sharps if there is a possibility of them being used for disposal.

Safer working methods

The way work is done may contribute to the risk of injury from sharps. The GMB recognised this with refuse workers who disposed of plastic sacks. While the sacks appeared strong enough to offer protection if carried, some employees were swinging the bags over their shoulder and receiving sharps injuries when the bag impacted with their body or legs.

Personal protective equipment (PPE)

In general terms PPE can help protect against the risk of sharps injury but in certain circumstances, such as those with needlestick injuries it may not offer complete protection. GMB found ballistic nylon clothing protected well against cuts but not against all puncture injuries. In construction and manufacturing it may be necessary to have steel soled footwear to protect against possible nail penetration. In other industries it may be necessary to wear leg or body protection against sharps (such as in waste disposal).

First aid

Under the Health and Safety (First Aid) Regulations, employers are required to assess their first aid needs and ensure adequate numbers of First Aiders are trained and in place with suitable first aid facilities and equipment. Where there are significant risks such as sharps injuries and diseases, First Aiders will need special training in agreed procedures.

Reporting, recording and reviewing

All sharps incidents should be recorded in the accident book and by any other formal reporting system put in place by the employer. In jobs of high sharps injury risk it is recommended a formal reporting and recording system is put in place. Any instances of disease should also be recorded. This information should be reviewed and acted upon regularly, say at quarterly Safety Committees or at least at annually.

There may be a need for employers to report some of the injuries under RIDDOR (Reporting of Incidents, Diseases and Dangerous Occurrence Regulations).

Instruction and training

Once a ssow has been agreed then all parties – including management – need to be instructed in how it is to work and that they are trained to the level of being competent. All staff should be instructed in the importance of reporting all sharps incident so any ssow can be reviewed and quickly improved.

Useful contacts:

Training for Development of Innovative Control Technologies Project (TDICT) has lots of information on disease prevention from sharps at www.tdict.org

Hazards magazine's web site has lots of links on needlesticks at www.hazards.org/campaigns/needlestickseiu.htm

Further reading:

GMB leaflets:
NHS ancillary staff (2.22)
Refuse collectors (2.30)
Available GMB Health Safety and Environment Dept.
Tel: 020 8947 3131

Unison: Needlestick injuries in Local Government information sheet. Available Unison Health and Safety Dept.
Tel: 020 7388 2366

A NEW HEALTH AND SAFETY TRAINING INITIATIVE



PHOTO: MICK HOLDER/LHC

In September 2001, the London Hazards Centre (LHC) was awarded a grant from the Community Fund to run a free health and safety training project in London for black and minority ethnic voluntary sector organisations (BME-VST2).

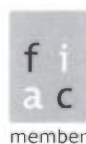
The need for our current offering developed from LHC's last initiative known as the Voluntary Sector Training Project. Over 550 voluntary organisations from Greater London took part in training which they identified as needing in order to make their workplaces safer.

The concluding evaluation of the project revealed that:

- The needs of black and minority ethnic organisations are different in terms of requiring closer support / language and cultural requirements.
- Stress is the greatest hazard amongst the workforce.
- Lone working poses a substantial hazard to workers.



Hampstead Town Hall Centre
213 Haverstock Hill
London NW3 4QP
Tel: 020 7794 5999
Fax: 020 7794 4702
Email: mail@lhc.org.uk
Website: www.lhc.org.uk



member



Registered Charity No: 293677

Two full-time staff, Mumtaz Mahmood & Angie Birtill, will be working on the new training initiative.

The new workers have started the initial work of identifying 300 black and minority ethnic organisations London-wide who want to develop workplace health and safety training. The project expects to generate a number of post training support facilities.

The training and support will be local to all boroughs and cover the development of workplace health and safety systems which will keep workers free from harm at work. Language interpreters and other assistance may be available on request.

Interested organisations should contact us by writing to BME-VST2 at the London Hazards Centre at the address below.

ORGANISE TODAY FOR WORKERS MEMORIAL DAY - 28 APRIL 2002

Remember the dead and fight for the living

April 28th is International Workers Memorial Day (WMD), a day to remember those killed, disabled, injured or made unwell by their work. Events are to be held around the globe.

For further information and ideas for organising events see our fact sheet available at our web site on <http://www.lhc.org.uk/members/pubs/factsht/68fact.htm> or call us at the Centre for copies.

Also available from us is the Hazards Campaign WMD poster.

TRAINING COURSES PROVIDED BY LHC

In the spring/summer period the following courses will be held at IVAC, 322 Upper Street, London N1 2XQ

- **Tuesday, 14 May**
Asbestos awareness
- **Thursday, 23 May**
Introduction to workplace safety management
- **Tuesday, 11 June**
Risk assessment of health hazards at work
- **Thursday, 20 June**
Tackling stress at work

Cost £40 per person per course.

To book call 020 7794 5999 or e-mail mail@lhc.org.uk

The enforcers

The Health and Safety Commission published its new enforcement policy statement in January this year; as with current health and safety law the policy is prescriptive in that it defines the circumstances in which investigations and prosecutions may take place.

The policy outlines the factors to be considered for investigating workplace incidents, by the Health and Safety Executive (HSE) they are:

- The severity and scale of potential – as well as actual – harm.
- The offender's previous health and safety record.
- The wider relevance of the incident, including the public concern it causes.

When one of the following circumstances is present then, normally, a prosecution will ensue:

- When a workplace death is caused by a breach of the law.
- If there is a reckless disregard of health and safety requirements.
- If the offender's health and safety management is far below what is required.

Bill Callaghan said when launching the new policy, 'Now, more than ever, there is no excuse for those at the top (directors and managers) to be ignorant of their responsibilities or to fail to take effective action. If you cannot manage health and safety, then you cannot manage.'

This policy will be tested by a number of management positions on safe systems of work. Unions, no doubt, will be quick to apply national pressure on the HSE wherever unsafe working systems put their members at risk of severe injury.