Asbestos compensation

Mesothelioma claims targeted by 'disgraceful and perverse' Court of Appeal ruling

by Neil Hodge

A Court of Appeal decision last month will make it more difficult for mesothelioma sufferers to claim compensation from their employers' insurers. Judges ruled that some employers' liability policies – a mandatory insurance cover that all companies must buy to protect their workers – may only apply once employees have developed the deadly disease rather than when they were exposed to asbestos, depending on the policy's wording.

Until 2006, it was common practice for insurers to pay out on mesothelioma claims if they were the insurer on cover when the exposure to asbestos occurred. But over the past two years insurers have challenged this concept after finding that some employers' liability policies are worded differently – so some only accept liability when symptoms occur.

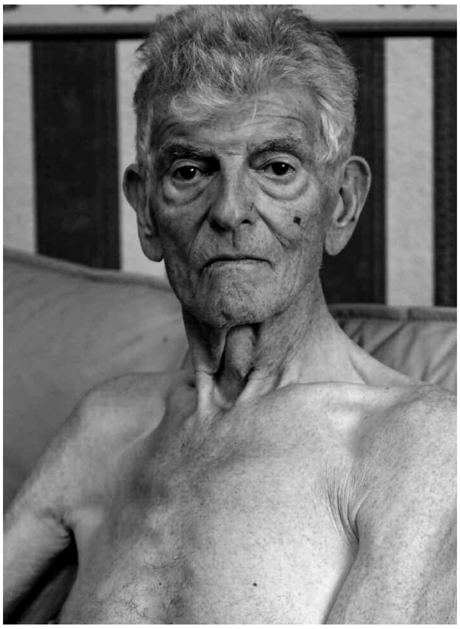
On October 8, the Court of Appeal ruled that if a policy was only "triggered" when injury was "sustained" – meaning the period when the tumour develops – then the insurers that provided cover at the time the inhalation occurred would not be liable to pay out. Alternatively, if the policy said it would pay out once an illness was "contracted", the claim would be triggered from when the asbestos was inhaled, potentially 50 or 60 years after working for the company.

Those insurers who have lost on this point will be challenging the decision at the Supreme Court, though it will take at least 12 months for the case to be heard.

In the meantime, mesothelioma victims – who typically die within a year of diagnosis – will remain uncompensated while the decision is awaited and insurers argue over the technicalities of the wording of their insurance policies.

Sara Hunt, an associate at Shoosmiths solicitors who leads the personal injury team, says the judgment is unsatisfactory. "If the company where a claimant worked is no longer trading, mesothelioma sufferers can still pursue their claim if they can identify an insurer to pay out. In the past, they would need to find the insurer who was on cover at the time of their exposure. However, in light of the trigger litigation, if that insurer issued a 'sustained' policy, they will not pay out. Depending when the company stopped trading, the claimant may then be left with no one to pursue a claim against."

The decision is seen as a catastrophe for sufferers and their families. Alan Ritchie, general secretary of the Union of Construction, Allied Trades and Technicians, said: "This decision is disgraceful and perverse. This is not justice. Victims who were needlessly exposed to asbestos will be prevented from claiming compensation, leaving the victim and their family destitute." ●



Mesothelioma sufferer Leonard Eyre hopes his compensation claim will not be affected by the Court of Appeal's decision. Photo: Neil Hodge

Vodafone

Protestors force phone giant to shut up shop in tax dodge row

by Keith Richmond

Activists forced mobile phone giant Vodafone to close stores around the country after a carefully co-ordinated Twitter campaign. The company shut its shops when demonstrators turned up en masse to protest at what they claim is the firm's failure to pay its proper tax.

Shops in Glasgow, Edinburgh, Brighton, Bristol, Birmingham, Liverpool, Leeds, Manchester and York – as well as the firm's flagship store in London's Oxford Street – were closed after campaigners turned up shouting: "Tax dodgers go to hell! Take your Tory mates as well!"

Activists say the company has "dodged" a £6 billion tax bill, but the firm rejects this. A spokesperson said: "Reports suggesting we have an outstanding tax bill for £6 billion are incorrect, as this was never the case. It is an urban myth." In July, Vodafone agreed to pay HM Revenue and Customs £1.25 billion to settle a long-running dispute over a tax assessment, although the company confirms it put aside £2.2 billion to cover the problem. The assessment relates to Controlled Foreign Companies liabilities, which apply to firms controlled by British residents but which pay tax on their earnings abroad at a lower rate.

Private Eye, which ran the original investigation into Vodafone's tax affairs, estimated the bill for CFC liabilities and other arrangements as "at least £6 billion", and the magazine quotes a senior figure at HMRC describing the deal as "an unbelievable cave in" by Revenue and Customs.

But a Vodafone spokesperson said: "We pay our taxes in the UK and all the other countries in which we operate." Companies – and the coalition Government – are vulnerable to charges of tax dodging, as the Chancellor has embarked on a savage round of spending cuts and the Prime Minister is claiming that "we are all in this together."

Schools

Governor's warning over school quango cut

By René Lavanchy

School teaching assistants could be at increased risk of working unpaid overtime as a result of the Government's decision to scrap the body that was preparing to negotiate pay and conditions for teaching support staff, according to the leader of Britain's school governors.

Education secretary Michael Gove announced last week that the School Support Staff Negotiating Body, set up earlier this year, will be abolished, saying it did not fit with coalition plans to deregulate pay bargaining. Clare Collins, chair of the National Governors' Association, told *Tribune*: "We would be concerned that there isn't proper recognition for the role that support staff play in schools," adding: "It would be the expectation of working additional hours outside contact time."

Unison, the major union for some 500,000 support staff, said it would consult its members over possible industrial action, calling the move "a bitter blow" to low paid and mainly female staff. ●