

EMPLOYERS' LIABILITY INSURANCE BUREAU BILL TO PROTECT MESOTHELIOMA SUFFERERS

Support the need for change here. Lobby your MP to sign the Early Day Motion.

When a person has been diagnosed with an asbestos related illness, particularly mesothelioma, it is extremely traumatic. There are many things to consider. The insurance position of their previous employers is rarely one of first things that springs to mind. In comparison, in a road traffic accident, one of the first questions to be asked is undoubtedly 'Are you insured?'

The principle reason employers' liability insurance is compulsory is to protect employees and also other third parties. The level of work related deaths through accident and disease is estimated at up to 7 times higher than deaths caused on Britain's roads each year.

It is impossible to ascertain the exact number of work related deaths. The connection between an injured person and their work history is not always apparent. One thing that is clear is that asbestos is the single biggest cause of occupational death.

Employers' liability insurance and motor insurance are similar in some respects, both are compulsory and it is a criminal offence not to have it. Both types of offender can be prosecuted and/or fined. Yet the consequences of an uninsured employer can be far graver. The All Party Parliamentary Group has made two recommendations to redress this imbalance.

1. Employers' Liability Insurance Bureau (ELIB)

It is a serious problem when you are injured or suffer loss as a result of an uninsured driver, however there is hope.

The Motor Insurers' Bureau (MIB) was established in 1946. The MIB aims to reduce the level of impact of uninsured driving. The Road Traffic Act 1988 stipulates that every insurer underwriting compulsory insurance must be a member.

The MIB works by imposing a levy on motor insurance policies which goes towards the cost of uninsured or untraceable drivers. The MIB pays out compensation to the victim in a similar way to that of the insurance companies.

The rationale behind the MIB is that as motor insurance has been made compulsory by legislation, the insurance providers inevitably receive an increased number of premiums. Thus, they have the requisite funds to supplement the scheme.

There is no equivalent fall back provision for asbestos victims where the employer is uninsured or untraceable. Victims (or their dependants) of asbestos disease can often go uncompensated for their injuries. This is a huge blow for victims at a time when they really need support.

The All Party Parliamentary Group on Occupational Safety and Health is recommending setting up the **Employers' Liability Insurance Bureau (ELIB)**. The ELIB will pay compensation to those injured at work where their employer's liability insurer cannot be found.

Employers' Liability Insurance has been compulsory since 1972. The insurance companies have received an increased volume of premiums as a result. Following the rationale behind the MIB, it should now follow that such a scheme for untraceable/uninsured employers be adopted.

A further benefit of the scheme is that it would be at no cost to the government.

2. National Database

The second recommendation from The All Party Parliamentary Group is to set up a **compulsory national database** that would record all employers' insurance policies.

When a person has being diagnosed with an asbestos or other work related illness the employers' liability insurance policy needs to be traced particularly for those with mesothelioma. For people suffering from a long-tail illness such as mesothelioma this can be a significant hurdle. Mesothelioma can take decades to develop. The chances of an employee having knowledge and also being able to recall the insurers at the time of employment are unrealistic at best.

The insurance companies can often not provide insurance records from such a long time ago because either the company was not insured (pre-1972 position) or the records have been destroyed. In motor claims most claims are brought within 3 years of the incident giving rise to the action so tracing the insurer is much simpler.

The inability of a person to trace an EL insurer has been made worse by the 2008 Regulations which remove the requirement to retain insurance records.

At present only a **voluntary** code set up by the Association of British Insurers exists. The Tracing Code helps claimants and defendants to find otherwise untraceable EL insurance policies, by circulating enquiries to insurers. A claimant can submit a request to the ABI. The ABI currently has a success rate of only 35%. It is estimated that as many as 1 in 10 mesothelioma victims never receive any compensation because they can not trace the insurer. We need to invest for the future by creating a compulsory national database now.

We now need a **compulsory** national database to record all employers' liability policies. A **voluntary** approach is not enough. There is no reason why a system

similar to the MIB can not be set up. A safety net is needed for those injured at work as well as those injured on our roads.

Support the campaign

Please help support this campaign by lobbying your MP. Get your MP to sign the Early Day Motion for the **EMPLOYERS' LIABILITY INSURANCE BUREAU BILL**: [Please follow this link.](#)

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[John Pickering and Partners LLP](#)- Specialist [mesothelioma compensation](#) solicitors

We are a specialist personal injury law firm. We have been handling claims for industrial disease for over 30 years. Most of our work involves acting for asbestos disease victims. We only act for the sufferers of asbestos diseases and never act for the organisations that caused the asbestos exposure or their insurers. We have an ethical approach and pledge to donate 10% of our net profits every year to good causes that help asbestos sufferers. [Click here](#) to find out about our donations to good causes. We have also been involved in most of the landmark judgments that shape this area of law. Find out more [about us](#) or find out about [our reported cases](#). We are on the panels of several asbestos support groups and are ranked highly by legal guides. [Click here](#) to find out more about what others have said about us.

[John Pickering and Partners LLP](#) is a niche legal practice that has represented Claimants in the leading asbestos "test cases" in the last ten years. The firm represented Sylvia Barker in *Barker v Corus (UK) Plc*, a case that highlighted the legal tactics of employers and insurers trying to cut back their compensation liabilities to mesothelioma sufferers, and which prompted the amendment of the Compensation Act 2006 to ensure full compensation for mesothelioma claims. The firm represented two of the three Claimants in the *Fairchild appeal*, in which the insurance industry tried unsuccessfully to block compensation altogether for mesothelioma sufferers unable to identify which of two or more sources of asbestos exposure had caused their illness.

The firm represented Alice Jefferson, a mesothelioma sufferer, whose illness and compensation claim against Cape Asbestos were featured in the important documentary "*Alice: A Fight For Life.*" Shown by Yorkshire Television in July 1982, the programme was an important catalyst for legal change and public awareness

of the plight of mesothelioma and other asbestos disease sufferers and a prompt for important legal reform.

Mesothelioma is a type of cancer that affects the lining of certain bodily organs. It most commonly affects the lining of the lungs (the pleura) but it can affect other areas including organs in the abdominal cavity (the peritoneum).

According to the [British Lung Foundation](#), more than 2,000 people are diagnosed with mesothelioma every year in the UK and there is one mesothelioma death every five hours. The number of deaths from mesothelioma increased from 153 in 1968 to 1,969 in 2004 and is expected to peak at 2,450 between 2011 and 2015.

The [British Lung Foundation](#), supported by John Pickering and Partners LLP, launched the first Action Mesothelioma Day on 27th February 2006, to raise awareness about mesothelioma, to improve the treatment and care of mesothelioma patients, and to lobby for better funding for research into mesothelioma and for the protection and education of people working with asbestos.

If you need advice about an asbestos related illness, [contact us](#) now for information about making a claim for compensation.