



**SIMPSON  
MILLAR**  
The open lawyers

# Occupational Asthma

Support for those diagnosed with Asthma  
as a result of their employment



# Occupational Asthma

**With around 5.4 million people in the UK receiving treatment for asthma, it's understandable that diagnosing, reviewing and managing asthma patients takes up a significant amount of resources.**

A structured clinical assessment, leading to an asthma diagnosis and evidence-based management, can lead to good day-to-day control of symptoms, and reduce the risk of asthma attacks. This can then help patients lead a life where they're in control of their asthma.

**Around 20% of asthma cases among adults are caused by exposure to substances at work.**

Failing to establish if workplace exposures are causing symptoms can result in prolonged or exacerbated symptoms, ineffective treatment and poorer outcomes.

Some asthma sufferers may not be able to work again, and many will be worried about their financial and employment positions. So confirming a work related asthma diagnosis is important not only to help with the management of their symptoms, but also to make sure they get the right advice on issues such as whether they're eligible for state benefits and can claim compensation including for future lost earnings.

## **A Diagnosis of Work Related Asthma**

Work related asthma is caused by breathing in substances at work. But it's not always obvious that symptoms such as a cough, shortness of breath and a tight chest are due to workplace exposures, and it can take several months of exposure before symptoms arise.

That means patients may not make the connection unless they are asked specific questions about their job and their workplace, not only about what they are exposed to but also the pattern of their symptoms and how this relates to their working week.

If the cause is identified quickly and the exposures to the triggers are removed, then this can only help in the future management of their asthma.



# Occupational Asthma



## What is Occupational Asthma?

Occupational Asthma, that is asthma caused directly by work, is an allergic reaction that may occur when exposed to asthmagens in the workplace.

There are two types of occupational asthma - allergic occupational asthma and irritant induced occupational asthma.

## Allergic Occupational Asthma

Allergic occupational asthma is more common and is caused by a reaction to allergens in the workplace.

Jobs with the highest rates of allergic occupational asthma include:

- ▶ Vehicle spray painting - isocyanates
- ▶ Baking - flour dust
- ▶ Woodwork - sanded or machined wood dust
- ▶ Soldering - rosin-based fumes
- ▶ Working with Animals - animal fur, feathers, dried urine, saliva dusts, animal faeces
- ▶ Agriculture - grain dust, bacteria, endotoxins, mites, animal faeces, plant dust, soil, feed, chemicals
- ▶ Engineering - metal working fluids



Simpson Millar is proud to support  
and work alongside the Primary Care  
Respiratory Society.

# Occupational Asthma

## Irritant Induced Occupational Asthma

Irritant induced occupational asthmas is less comon, but has the same outcome as allergic occupational asthma. This sort of asthma usually develops after an accidental chemical spillage in the workplace.

The types of irritant chemicals that can cause irritant-induced occupational asthma may include:

- ▶ Chlorine
- ▶ Ammonia
- ▶ Formaldehyde

It may be that a patient with constitutional asthma presents with a worsening of their symptoms, and although the asthma may not have been caused directly by their work, it is possible that exposures in the workplace have made pre-existing symptoms worse.



It's important that patients are asked to give as much information as they can about the substances at work if a work related asthma is suspected. This correct diagnosis in their medical records becomes valuable evidence should a claim for benefits or compensation be advanced.

# Benefits and Compensation

It is understandable that an occupational asthma diagnosis can lead to financial worries for the patient, particularly if this leads to a change of job role, or worse, if the individual loses their job or cannot work at all.

But it's important that financial or employment fears don't stop people from getting help with their symptoms, and that they also know there is help and support available on financial and legal matters. But if a patient is thinking of making a compensation claim, it's crucial they get legal advice quickly, as there are time limits to claiming.

## Benefits

If a patient becomes ill or disabled because of a work related disease, they may be entitled to claim a form of government benefit called Industrial Injuries Disablement Benefit (IIDB). The amount a person receives will depend on their individual circumstances.

A claim for IIDB for occupational asthma is a claim for benefits to the Department of Work and Pensions (DWP) and is separate from any civil (personal injury) claim pursued against the employer.

A claim form can be obtained from Barnsley Industrial Injuries Disablement Benefit Centre or can be downloaded from the Industrial Injuries Disablement Benefit guide found on the [Government website](#).

It is important to apply as soon as possible so as not to lose any benefits. IIDB cannot be paid for a period more than 3 months before the date of the claim.

Once an IIDB application is submitted, a DWP medical advisor will assess the level of disability on a scale of 1 to 100%, and a medical examination may be required. Usually, a person will receive IIDB if they are assessed as having a 14% disability (or above) resulting from a disease caused by work.

However, the amount received will vary depending on the level of disability that's determined at assessment.

# Benefits and Compensation

Industrial Injuries Disablement Benefit does not affect any other National Insurance Benefits such as:

- ▶ Incapacity Benefit
- ▶ Employment and Support Allowance (contribution-based)
- ▶ Contribution-based Jobseeker's Allowance
- ▶ Retirement Pension

But Industrial Injuries Disablement Benefit may affect income-related benefits such as:

- ▶ Income Support
- ▶ Employment and Support Allowance (income-related)
- ▶ Income-based Jobseeker's Allowance
- ▶ Pension Credit
- ▶ Housing Benefit
- ▶ Working Tax Credit
- ▶ Child Tax Credit
- ▶ Universal Credit

**If a claim for benefits is unsuccessful, it doesn't mean that the individual doesn't have occupational asthma, but that the criteria laid down for receiving that benefit haven't been met.**

If help is needed, then the Industrial Disease team at Simpson Millar can offer further information and advice on benefits and the application process, as well as help with filling in the application forms.

Although individuals can complete the benefits forms themselves, the application forms can become disclosable in a subsequent compensation claim. It is therefore advisable to have a solicitor draft the forms for the patient to avoid errors that could affect a later compensation claim.

Although separate from the compensation claim, Simpson Millar will help individuals complete the forms on a pro-bono basis and will not charge any fees or make deductions in respect of the IIDB claim.

# Making a Civil Claim

As with an application for benefits, it's important to seek legal advice on a claim for compensation for work related asthma as soon as possible. There is a time limit of three years from the date that a person knew or ought to have known they had work related asthma in which to begin legal action.

That means the sooner expert advice is sought from a Solicitor with experience in occupational disease claims, the better.

It is the employer's responsibility to carry out regular risk assessments of their premises and act on their findings. Positive steps they should take may include:

- ▶ Carrying out risk assessments
- ▶ Protect employees from processes linked to the risk of asthma
- ▶ Provide respiratory protective equipment where necessary, along with training on the use of the equipment
- ▶ Providing extraction and ventilation in the workplace
- ▶ Making staff aware of potential workplace hazards and how to manage them
- ▶ Limiting exposure to allergens and irritants, perhaps through regular job rotation



If an employer hasn't done enough to safeguard health and safety at work, they could be held responsible, and so be expected to pay compensation to someone who suffers from work related asthma.



# Compensation

## There are two elements to compensation:

### General Damages

General Damages reflect the individual's pain and suffering, the severity of symptoms and the lasting impact on a person's health. The GP's diagnosis and help in the management of the symptoms therefore plays a part in determining this.



### Special Damages

Special Damages cover financial losses, putting an individual back in the financial position they would have been in had they not developed the disease. This would include a claim for loss of earnings resulting from a change or loss of employment.

There is a significant overlap and continuation in the care, support and advice that can be offered from GP's and nurses and that from lawyers to someone with a work related asthma. From assessing and providing that critical diagnosis, to managing the symptoms and then giving financial and legal advice and support.

The combined effect is to improve the quality of life of these patients, allowing them to make informed choices based on all the available information and advice.



# Meet Our Team



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