

ASBESTOS UPDATE

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FAIRCHILD :- A VICTORY FOR COURAGE

In the first issue of Asbestos Update we reported that Mesothelioma victims were being denied the compensation they deserved through a legal judgement which was to become known as the Fairchild Judgement. This judgement affected three separate cases, that of Arthur Fairchild ; Doreen Fox and Edwin Mathews. The judgement put sufferers in the position of having to prove exactly where they breathed in a single asbestos fibre. It did not take campaigners long to work it out that this was an impossible position. The Clydebank Asbestos Group immediately moved into action, calling for support from key trades unions, supporting actions by other asbestos groups, lobbying our local politicians, gaining the support of the local council, and generally preparing for a long battle against the insurance firms who had given birth to this legal abomination.. The judgement was then upheld by the Court of Appeal on December 11th 2001 and proceeded from here to the House of Lords.

The hearing in the House of Lords was scheduled for the 22nd April 2002. At this time the Association of British Insurers (ABI) informed the Association of Personal Injuries Lawyers (APIL) that they were about to introduce a new compensation scheme which would have significantly reduced the size of awards. At the same time the insurers offered to settle the three outstanding cases of Fairchild, Mathews and Fox. This would mean that there would be no need for the Appeal to the House of Lords to go ahead, and the judgement would stand.

In the face of adversity Mrs Fox knowing what loss this would mean to thousands of mesothelioma sufferers, and at the risk of losing some £115,000 personally to herself, rejected the offer from the insurers..-The Clydebank Asbestos Group would like to take this opportunity of extending its gratitude to Mrs Fox for taking such a courageous and unselfish stance.- As the settlement was conditional on all three applicants accepting the deal, the deal was therefore withdrawn.

While this was going on, solicitors representing the insurers presented the House of Lords with an unsigned petition stating that **“The present appeals will be settled by the payment of costs and damages”** - this simply was not true.

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“Mrs Fox rejected the offer of the insurers”



(Continued from page 1)

Instead of the hearings going ahead as scheduled, a short hearing took place to discuss what had happened.

The QC representing the victims said....

“the whole object of these so –called offers and this so-called scheme is to ensure that the Court of Appeal decision remains in tact”

He went on to say that this had been a

“sordid attempt to manipulate the judicial process”

The Q.C. representing the Insurers (the ABI) said....

“The settlement proposal is to avoid the appeal being heard-it is quite obvious– and to preserve the status of the Court of Appeal judgment.”

The cases were eventually heard on the 7th 8th and 9th of May 2002 and thankfully common sense prevailed. The courage of Mrs Fox was rewarded with a victory for the applicants.

“Courage was rewarded with a victory for the applicants”

WORKING IN PARTNERSHIP

We have been working in partnership with the staff at Braidfield School on a project designed to educate local youngsters about the Clydebank Legacy of asbestos in local industries. Recently the sterling work that the staff have put in is beginning to show some excellent results. An information pack has been drafted that illuminates the different aspects of asbestos of interest to the teaching profession. This includes Historical aspects Geographical aspects Scientific and clinical aspects which enlighten the reader about a hazard which is omnipresent in our society. We hope the legacy of this work will be that young people will not only look out for asbestos hazards but also look for any future environmental hazards which may have an affect on them.

Another aspect of this project has been the making of a play by the PACE theatre company. They have recently completed a video and a play called PAY DAY. We were privileged to attend the premier of the video at the Wynd centre in Paisley. This is an excellent media to get the message across to young people and this will be showing in local schools in the near future. If you get a chance, go along and see it.

The third strand of our work at Braidfield will be an exhibition which will be taken around the schools, details have still to be revealed.

TURNER AND NEWALL - THE SAGA GOES ON

As we speak the administrators are refusing to deal with many compensation claims. One victim received a letter offering compensation and in the very next post a notice was served saying the offer was worthless because the company was in administration, that victim has since died. There have been situations where compensation cheques have bounced, court cases have stalled, and payments have stopped. Ongoing cases have been frozen.

A strange factor is that on the 26th November 1996 Turner and Newall announced that it had a structured financial package to cap their asbestos liabilities. This consisted of a provision of £373m by T&N and £500m insurance cover provided by a consortium of European Insurers.

Where has this money gone?

In that same year T&N plc acquired insurance cover of £500m for asbestos related liabilities. Under the terms of the policy this cover would be triggered once T&N paid out £690m to asbestos claimants. The irony here is, will this money be paid to victims now that the company is in administration. This also raises questions about the Government watchdog for the insurance industry.

Why was T&N allowed to go into administration before this insurance cover could be accessed?

Members of the Clydebank Asbestos Group recently attended a meeting in Manchester with regards to the Turner and Newall issue. The worrying information which came from the platform was that it looks as if it is going to be difficult for U.K. claimants-who almost entirely worked for Turner and Newall-will be dealt with after American claimants-who almost entirely were not employed directly by Turner and Newall.

The question arises "is this how the new special relationship the United Kingdom has with the United States is going to operate. When will our government stand up for the victims in this country".

Another worrying factor which was raised at the meeting was that while the company is in administration all the money which should be getting paid to victims may end up being eaten up by the legal profession.

We must remember that while this company is in administration the clock is ticking away for claimants. We must ensure that these cases are raised in court to prevent victims from being time-barred.

Lastly Nigel Bryson from the G.M.B. felt that there may be some way round the problem for victims. The government seems to find money for some projects but not for others. Why cant the government give the victims an interim payment and then claim the money back from Turner and Newall. They have a system at present where benefits are clawed back. Why cant they claw back money from the employers for a change. This would show that they were truly representing the worse off in society.

The Clydebank Asbestos Group committee members are as follows....

Secretary

Margaret Lilly

Chair

Sam Irvine

Vice Chair

Bob Dickie

Treasurer

David Colrairie

- Jimmy Cloughley
- Charles Marshall
- Colin MacQueen
- Joan Baird
- Carol Ann Wright

Monitoring Officers

- Tom Gorman
- John Hepburn

Administrator

- Janice Strain

**Asbestos Advice
Counsellor**

- Alex Cunningham

"Why cant they claw back money from the employers for a change".

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Clydebank

Asbestos

Group

Working for the Victims of
Asbestos

In April 2002 a resolution was passed at the Scottish Trades Union Congress asking for support for asbestos victims. The Composite motion was moved by the Fire Brigades Union seconded by Midlothian Trades Union Council and supported by Amicus, the T & GWU and Dumbarton Trades Union Council. It called for support for Petition 336 ; an overturn of the Fairchild decision as well as tightening up the process of removing asbestos. This resolution was passed unanimously. A further outcome of that resolution has been the formation of a Scotland wide Asbestos Campaign Group which has been called Scottish Action on Asbestos consisting of major Trades unions as well as Clydeside Action on Asbestos and the Clydebank Asbestos Group. We see the forming of this group as a progressive way forward.

OUR 10TH ANNIVERSARY

David Colraine an original member of the group explains. The group started through a mutual friend of ours David Dyball who became ill. Joe McAuley had visited Dave at his home. David Dyball had said that he was suffering from mesothelioma , a word I couldn't even pronounce at that time. I asked him what it was and he said it was related to asbestos. After consultation a group was formed, Joe McAuley, John Carney, Eddie Kelly and myself and we had a few meetings in the Hub, we then decided to contact Clydeside Action who were based in Glasgow. Soon after that we went looking for premises in Clydebank as it was agreed that travelling to Glasgow would be too much for people who were suffering from the disease. That is when the Clydebank Asbestos Group was initiated at its present site in Crown Ave.

Charlie Baird, Social Worker for Clydebank District Council, was our main contact for advice and source of funding, his efforts were a major factor in establishing the group. He taught us the "correct way of doing things".

Sam Irvine came in to do a bit of maintenance and never left. Peter O'Neal and John Henderson also joined the group at that time.

Over the years the group has gone from strength to strength with various volunteer workers.

Clydebank Asbestos Group held an Awareness Day which attracted various organisations. As a result a partnership was formed between Clydebank Asbestos Group, Clydebank Health Issues Group, Greater Glasgow Health Board and West Dunbartonshire Council .

More recently, other people have arrived on the scene such as Jimmy Cloughley who has been prominent in the excellent campaign work which he has been doing. This coupled with the work done by his colleagues David Colraine, Sam Irvine, Colin McQueen, Margaret Lilly, Bobby Dickie, Joan Baird, not to mention our full timers Alex and Janice, has helped to gel the group into a positive campaigning group that truly represents asbestos sufferers.

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