

# Asbestos Victims Support Groups in England: A Manchester and Merseyside Perspective

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## Abstract

*Asbestos Victims Support Groups (AVSG) in the UK were formed by victims themselves and, in some cases, with help from Occupational Health organisations. Workers at these groups are often the first people a victim has contact with after diagnosis other than family members. In this paper we describe some of the work and campaigning activities of the Merseyside and Greater Manchester asbestos victims support groups. Issues such as the origin and structure of the groups are placed in regional context by the provision of background information on the history of asbestos use in the North of England. Strategies to overcome legal and bureaucratic inequities are described.*

## Introduction

In this article we describe some of the work and campaigning activities of the Merseyside and Greater Manchester asbestos victims support groups<sup>1</sup>. Our work is, in most respects, similar to that of other asbestos support groups in England. Although we do not presume to speak for any other asbestos support group, we hope that this brief account of our work, in co-operation with other groups, demonstrates the importance of all the support groups in England. From the outset we would like to acknowledge the vital influence that the Scottish support groups have had<sup>2</sup> on the development of English groups<sup>2</sup>.

## Standing on the shoulders of giants

Asbestos victims support groups in England started to spring up in the early 1990s when the true scale of human suffering from asbestos related diseases was at last accepted by the medical profession, industry, government and health and safety regulators<sup>3</sup>. Tragically, in the 1960s and 70s, at the height of asbestos manufacture and use, and when industry and government alike knew of the asbestos health hazard<sup>4</sup>, only a few small organisations and

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<sup>1</sup> The 'Merseyside' group was initially called the 'Liverpool' group. In this article we refer to the 'Manchester' group rather than the longer term 'Greater Manchester' group.

<sup>2</sup> The Scottish groups were set up before the English groups and provided a model for our work. They continue to be outstanding in the quality and quantity of their work.

<sup>3</sup> In 1995 the HSE published Professor J Peto's research revealing an alarming predicted rise in mesothelioma deaths, followed in 1999 by his further research predicting a doubling of the rate of mesothelioma deaths by the year 2020.

<sup>4</sup> Geoffrey Tweedale, "Magic Mineral to Killer Dust: Turner & Newall and the asbestos hazard" Oxford University Press ISBN 0-19-924399-9

campaigners were prepared to confront the powerful asbestos industry. Many of the current asbestos victims support groups, including the Manchester and Merseyside groups, owe their existence to the courageous and indefatigable work of those campaigners.

In 1976, Nancy Tait MBE, whose husband died of mesothelioma, published her seminal pamphlet, *Asbestos Kills*, and formed the asbestos victims support and campaigning group, SPAID (Society for the Prevention of Asbestosis and Industrial Diseases)<sup>5</sup>. In 1979 Alan Dalton, a leading member of the BSSRS (British Society for Social Responsibility in Science) published his book, *Asbestos Killer Dust*, and was successfully sued for libel in 1984 for his criticisms of the asbestos industry<sup>6</sup>. The BSSRS and its Hazards Bulletin were crippled by the legal costs of this court action, but Dalton's criticisms were later vindicated. It is with the greatest sadness that we have to report that Alan Dalton, a great health and safety and environmental campaigner, died on December 11<sup>th</sup> 2003 after a long battle against cancer.

If individual trade unionists and health and safety campaigners had been crucial to the fight for justice in the UK, so too were individual asbestos victims. In 1982 the damning Yorkshire TV documentary, *Alice – A Fight for Life*, was shown at peak viewing time. Alice Jefferson worked at Cape's Hebden Bridge factory for only nine months when she was only 17 and died from mesothelioma 30 years later, aged 48. The film shocked the public and forced the government to order a review of the asbestos control limits<sup>7</sup>. In 1995 June Hancock, suffering from mesothelioma, and Evelyn Margerson, whose husband, Arthur Margerson, died from mesothelioma, sued J.W. Roberts, a subsidiary of Turner & Newall (now known as T&N). For years, Roberts' factory contaminated the streets around Armley in Leeds with asbestos dust, in which both June Hancock and Arthur Margerson played as children. This groundbreaking test case on environmental asbestos exposure, was bitterly contested by T&N. June Hancock appeared in court each day "worn down by mesothelioma" to force T&N to accept liability in this "David and Goliath struggle"<sup>8</sup>. Those who battled for justice when all the odds were stacked against them made the work of asbestos victims support groups possible today.

### **Birth of the Manchester and Merseyside Support Groups**

The libel action did not kill off the work of the Hazards Groups formed by the BSSRS. A new pamphlet, *Hazards*, replaced the Hazards Bulletin and a loose network of health and safety campaigners, the Hazards Campaign, continued the campaign to work for justice for asbestos victims and to ban asbestos. Following the successful work of the victims support group in Scotland, the Hazards Groups and Hazards Conferences encouraged the development of asbestos victims support groups in England. Early in 1993 the Merseyside Asbestos Victims Support Group was set up by local health and safety campaigners following the Hazards Conference in 1990. Later in 1994 the Greater Manchester Asbestos Victims

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<sup>5</sup> Nancy Tait's current organisation is OEDA (Occupational and Environmental Disease Association).

<sup>6</sup> Tony O'Brien (Construction Safety Campaign) pamphlet "The Fight to Ban Asbestos 1995-2000".

<sup>7</sup> supra n4 chapter 10

<sup>8</sup> supra n4 page 272

Support group was set up at a public meeting called by the Greater Manchester Hazards Centre.

### **Structure and work of the support groups**

The strength and defining character of both groups is founded upon the commitment, experience and voluntary work of asbestos victims themselves, in both management committees and in day-to-day work. However, volunteers with failing health, cannot by themselves, provide the continuity the groups need. To support asbestos victims, both groups have endeavoured to fund paid support workers, providing essential skills and continuity for the groups' work.

Our groups provide advice and support to asbestos victims and their families and campaign for justice for all asbestos victims. We provide information and advice on benefits and civil and state compensation. We assist asbestos victims at Medical Appeal Tribunals, attend inquests and provide information on access to expert legal advice.

Crucially, we operate within a network of other asbestos support groups<sup>9</sup>, solicitors, MPs, trade unions and campaigning organisations. We have international links through the International Ban Asbestos Secretariat, whose membership includes Laurie Kazan-Allen, editor of the British Asbestos Newsletter.

### **Manchester and Merseyside**

Manchester and Merseyside are both situated in the North West of England, some 40 miles apart. They are joined by a "giant seaway"<sup>10</sup>, the Manchester Ship Canal, which was opened for traffic in 1894. While one impetus to the building of this great canal was the historic animosity between Liverpool and Manchester over the 'excessive' dock dues levied by the Liverpool Corporation<sup>11</sup>, they were to be joined in their common struggle against the legacy of the import of thousands of tons of asbestos, through Liverpool into Manchester. In answer to a Parliamentary question<sup>12</sup> on the 8<sup>th</sup> March 1976 concerning the amount of asbestos imported into Great Britain in the previous five years, the Secretary of State for Trade gave the following figures:

Imports of Asbestos to the United Kingdom		Figures for principal ports 1975	
<i>Year</i>	<i>Thousand metric tons</i>	<i>Port</i>	<i>Thousand metric tons</i>
1971	167.8	Manchester	53.7
1972	150.3	Liverpool	25.3
1973	198.1	Southampton	12.9
1974	153.0	Avonmouth	9.9
1975	139.2	Tilbury	9.8
		Lowestoft	8.2
		Other ports	19.4

<sup>9</sup> Asbestos victims support groups in: Bradford; Cheshire; Rotherham & Sheffield; East Ridings.

<sup>10</sup> Ian Harford, 'Manchester and its Ship Canal Movement: class, work and politics in late Victorian England'

<sup>11</sup> supra n 10

<sup>12</sup> Hansard, House of Commons written answer to question from Mrs. Bain.

In 1896, two years after the opening of the Canal, Trafford Park, the world's first purpose-built industrial estate was developed to take advantage of the opportunities afforded by the Canal<sup>13</sup>. In 1913, Turner Brothers opened its second asbestos factory in Trafford Park, producing asbestos-cement building materials<sup>14</sup>. Much of the huge tonnage of raw asbestos was destined for the many factories opened by the asbestos giant, Turner Brothers, later to be named T&N. Manchester docks received by far the largest tonnage of asbestos. Kevin Lynch, a docker and founder member of the Manchester group, is regularly contacted by ex-dock workers, including friends and colleagues, who are diagnosed with asbestos related diseases. He also acts as an expert witness for many dockers, recalling the appalling working conditions on the docks, where asbestos floated in the tea dock workers drank: they not only breathed asbestos without protection they drank and ate it too.

Liverpool not only imported asbestos through its port, it was also the home of Cammel Laird, the shipbuilding company, which used thousands of tons of asbestos fitting out its ships and insulating their engine rooms. This industry, as on the Clyde in Scotland, has been the source of thousands of asbestos related deaths.

While the principal sources of asbestos exposure have been the docks in Manchester and Liverpool, shipbuilding in Liverpool and T&N factories in Greater Manchester, there were many other sources of exposure. For example, in recent years, we have recorded increasing numbers of construction workers affected by asbestos related diseases, reflecting Department for Works and Pensions (DWP) statistics which show that the industry group with the highest incidence rates of assessments for asbestosis and mesothelioma, based on 1999-2001 figures, was construction<sup>15</sup>.

### **Manchester and Merseyside – the work of the groups**

#### *Asbestos disease in Manchester and Merseyside*

The Merseyside group developed at a faster pace than the Manchester group, employing a full time worker much earlier. From end of November 1997 to end of November 2002 the Merseyside group assisted 1,080 asbestos victims. The group is currently seeing approximately 20 asbestos victims per month. In Manchester we helped just over 170 asbestos victims between October 2002 and October 2003. Both groups have seen an increase in asbestos victims suffering from mesothelioma in the last few years. In Greater Manchester, of the 114 sufferers we saw in 2001, 42 (37%), were diagnosed with mesothelioma.

The TUC highlighted the growing asbestos problem in 2001 by producing estimates for Workers Memorial Day<sup>16</sup> of the numbers of deaths due to asbestos related diseases in the period 1997-2001. There were an estimated 732 deaths in Greater Manchester compared with 372 in Merseyside and 382 in Cheshire.

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<sup>13</sup> supra n10

<sup>14</sup> supra n 4

<sup>15</sup> Health and Safety Executive (HSE) statistics 2000/2001.

<sup>16</sup> Workers Memorial Day is held on the 28 April each year to commemorate all those killed by work

### *All Party Parliamentary Group on Occupational Health and Safety Asbestos Sub-Group*

The Merseyside group played a key role in setting up the All Party Parliamentary Group on Occupational Health and Safety: Asbestos Sub-Group, chaired by Michael Clapham MP. The Merseyside group consulted with asbestos support groups and others to put forward an agenda for action, aimed at eradicating the many injustices asbestos victims face. A few examples below show how important this initiative has been.

#### *Action for Mesothelioma sufferers*

In our work with asbestos victims, we are painfully aware of the many indignities and bureaucratic hurdles they have to face. Mesothelioma sufferers, with little time to live, have had to wait for months to see a Medical Services doctor to confirm their diagnoses in order to qualify for Industrial Injuries Disablement Benefit<sup>17</sup>. This time wasting and unnecessary requirement was highlighted by support groups in cases submitted to the All Party Group, including examples of sufferers dying before a doctor's visit could be arranged. On the 29<sup>th</sup> July 2002, a statutory instrument was laid before Parliament removing the requirement for mesothelioma sufferers to see a Medical Services doctor and providing an automatic 100% disability award to all mesothelioma sufferers.

#### *Action on Government information for asbestos victims*

Another bureaucratic nonsense was the replacement of a Department of Social Security (DSS)<sup>18</sup> leaflet, NI 272, 'Disablement Benefit for Asbestos Related Prescribed Diseases', with a booklet omitting essential information contained in the leaflet. This issue was raised with the All Party Asbestos Sub-Group by Nancy Tait (OEDA). On the 29 March 2001, the DSS agreed to re-issue the leaflet containing all the required information in a new leaflet, SD8.

#### *Action at Medical Appeal Tribunals and Inquests*

Asbestos victims face injustices at every step of the way, from diagnosis to death. The Benefits Agency and Coroners Courts are reluctant to accept that many people exposed to large amounts of asbestos over many years suffer from asbestos related lung cancer and asbestosis. In one case we represented an asbestos victim at a Medical Appeal tribunal who worked for T&N for 18 years in one of their dustiest factories in the 1950s and 60s. The Decision Maker had denied his claim for asbestosis, preferring instead the diagnosis of cryptogenic fibrosing alveolitis, fibrosis of 'unknown' (sic) origin. In another case a widow of an asbestos lagger who had worked in the trade for over 40 years was told that her late husband's lung cancer was not caused by asbestos, despite the fact that his x rays showed interstitial fibrosis and pleural thickening. Nancy Tait (OEDA) who has a long and distinguished<sup>19</sup> history of investigating these injustices has been asked by the All Party

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<sup>17</sup> Industrial Injuries Disablement Benefit is awarded according to the level of disability caused by the disease. Mesothelioma victims were often diagnosed at a level as low as 40% despite suffering from a terminal disease. Such a low award reduced compensation from the government scheme, Pneumoconiosis etc. (Workers Compensation) Act '79.

<sup>18</sup> This department is now the Department for Works and Pensions.

<sup>19</sup> Nancy Tait received an honorary doctorate from the University of Southampton and an MBE through the Honours List.

Asbestos Sub-Group to present a submission to the Industrial Advisory Committee for a change in the prescription of asbestos related lung cancer. We hope that at long last UK asbestos victims who have lung cancer will receive benefits and compensation in line with that provided in Germany<sup>20</sup>.

### **Campaigning**

Asbestos support groups play a vital, if not unique, role, along with welfare rights organisations, Citizens Advice Bureaux, doctors and respiratory specialist nurses<sup>21</sup>, in providing advice to asbestos victims on their rights to benefits and compensation. Asbestos support groups, however, play a unique role in campaigning on asbestos related issues and in providing support to asbestos victims and their families.

In the last two years, asbestos victims have had to face one blow after another: the collapse of Chester Street Insurance on Jan 1<sup>st</sup> 2001<sup>22</sup>; the High Court judgment against mesothelioma claimants (Fairchild case) Feb 2001<sup>23</sup> and the insolvency of T&N October 2001<sup>24</sup>. The asbestos support groups in England worked with other groups, including the All Party Asbestos Sub-Group, trade unions and specialist solicitors, to publicise the injustices caused by each of the above events.

Chester Street Insurance collapse. We organised a public meeting in Manchester to protest the denial of compensation to asbestos victims affected by the Chester Street collapse and attended the superb demonstration organised by asbestos groups in Clydeside and the Scottish Trade Union Council. A largely successful agreement was reached with the Treasury and the insurance industry to pay compensation to asbestos victims.

The Fairchild case. For a year the courts upheld a decision in the Fairchild case which refused compensation to mesothelioma victims who were exposed to asbestos by more than one employer. We organised a public meeting in Manchester, attended by 350 people, to protest at the Fairchild decision and a demonstration outside the offices of Halliwell Landau, the Manchester firm of solicitors advising the defendants in the Fairchild case. We organised written protests to MPs, published letters in national newspapers and attracted wide publicity for mesothelioma sufferers. None of this could have been done without the support of asbestos victims, many of them very ill, and their families.

The case eventually reached the House of Lords (court of final appeal in the UK) as the conjoined appeals of Mrs Fairchild and Mrs Fox for their deceased husbands and Mr. Matthews who was suffering from mesothelioma. Despite attempts to 'buy off' the three claimants, to prevent the appeal hearing, Mrs Fox steadfastly refused substantial payment of

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<sup>20</sup> Professor Nick Whitley, statistics provided at the COSLA conference, Stirling University, 12 December 2002, described the German prescription based on 25 fibre years.

<sup>21</sup> Mavis Robinson OBE, architect and manager of the mesothelioma helpline, has done an enormous amount to promote the work of asbestos support groups among specialist nurses.

<sup>22</sup> Chester Street was part of Iron Trades, the insurance company that provided insurance to heavy industry. The collapse of Chester Street left hundreds of claimants exposed to asbestos pre 1969 with no compensation.

<sup>23</sup> The Fairchild decision deprived mesothelioma victims of compensation where there was more than one negligent employer because no one could say which employer provided the 'guilty' asbestos fibre.

<sup>24</sup> T&N was taken over by Federal Mogul in 1998. Facing large numbers of asbestos claims in the US, Federal Mogul sought Chapter 11 Bankruptcy, forcing T&N into Administration in the UK.

damages. Her insistence on fighting for other mesothelioma victims was vindicated by the House of Lords decision in favour of the claimants.

Federal Mogul Chp. 11 Bankruptcy and T&N Administration. On the 25<sup>th</sup> October 2002 we organised a public meeting in Manchester, attended by around 100 T&N asbestos victims and their families and their supporters to protest at the cessation of compensation payments to T&N asbestos victims. On the 12<sup>th</sup> December 2002 we organised a protest outside the High Court hearing in Manchester at which the Royal & SunAlliance (RSA) tried to delay further the court case to decide their liability for the insurance they wrote for T&N and on the 23<sup>rd</sup> January 03, the date for the court case, we organised a mass protest outside the RSA head office in Liverpool. On May 9<sup>th</sup> 2003, Justice Collins ruled that the insurers', RSA and Lloyds, exclusion of asbestos related diseases from the insurance they wrote for T&N was illegal.

To add insult to injury, we found that the Administrators in the UK and the US and their lawyers are making huge profits by charging extortionate fees for their services. In the UK, the Administrators, Kroll, have charged more than £17m and their lawyers £6m since T&N became insolvent two years ago. The charge for a senior partner at Kroll is \$465 per hour. In the US, fees have reached \$75m each year. On Thursday, 27<sup>th</sup> November 2003, T&N claimants and supporters protested outside Kroll's offices. A delegation of T&N claimants, whose family members had died from mesothelioma, including June Hancock's son, Russell Hancock, met with the Administrators. They reiterated a demand made by their solicitors on the Creditors Committee, who give their services pro bono, that Kroll donate some of their excessive fees to an asbestos charity. Unsurprisingly, the delegation had to report to the protestors that Kroll were unable to give an answer to the demand. Their refusal earned them widespread TV and radio coverage that evening and over the next few days.

## **Conclusion**

Asbestos victims support groups throughout England are generally poorly funded and live a precarious existence but, nevertheless, provide an important service to asbestos victims. They attain their strength and legitimacy through their close association with asbestos victims and their ability to provide expert advocacy.

Most importantly, asbestos victims support groups are best placed to campaign with asbestos victims for justice. Campaigns, including protests, are not just important in raising public awareness and forcing the pace of change. They give asbestos victims and bereaved families an opportunity to voice their anger at the appalling loss of life and health caused by asbestos in the workplace and the community. As more and more people present with asbestos diseases from past exposure to asbestos and a desperate and criminal asbestos industry floods markets in the developing world with their poisonous product, it was never more important to raise our voices in protest.