

*I have tabled a motion for plenary on 16 May 2012 for leave to bring the above Bill. This briefing sets out the general principles and purpose of the bill.*

## BACKGROUND

Thousands of Welsh workers suffer from asbestos related disease. Exposure to asbestos has caused thousands of deaths over the past decades. Many more suffer prolonged and often progressive ill health leading to premature death. The burden of pain, suffering and bereavement imposed on many Welsh families has been immense. It is estimated that the human cost will continue for decades with the peak in mortality not expected until at least 2015. Asbestos disease takes various forms. Around 100 cases of mesothelioma are diagnosed in Wales each year. This is a cancer of the lining of the lungs. It is caused by asbestos exposure and is invariably fatal, usually within 3-9 months from date of diagnosis. HSE estimates that for every mesothelioma case a similar number of asbestos related lung cancer cases are also diagnosed each year. In addition there are hundreds of asbestosis cases (fibrosis of the lungs) and many more cases of pleural thickening.

Most of these arise from asbestos exposure that occurred decades ago. The average latency period for mesothelioma is between 30 and 40 years and can take 50 years or more from the date of last known exposure before symptoms arise. The current annual death toll from asbestos related malignant disease in Wales is more than twice the number of people killed [on our roads in Wales].

Among the main workplaces where asbestos exposure occurred are power stations, steel works, factories, shipyards, lagging industry, boiler manufacture, engineering and construction. In fact in any occupation where asbestos was used for insulation or other purposes there is a raised incidence of mesothelioma. Increasingly we are seeing mesothelioma cases diagnosed where exposure has occurred in buildings, including public sector workplaces and schools, where asbestos materials have been used in construction or as insulation products. This list is not exhaustive.



## LEGAL LIABILITY FOR THE DISEASE

The dangers of Asbestos have been known for over a century yet until the 1970's little was done to limit or prevent its widespread use.

In many cases where asbestos disease is diagnosed, negligence and breaches of health and safety law can be established with the assistance of specialist legal support, particularly from trade union lawyers, resulting in many civil actions for compensation being brought by asbestos disease sufferers and their families.

These cases resulted in Court judgments being entered against former employers and insurers or by out of court settlement.

# ASBESTOS

## (RECOVERY OF COSTS) BILL 2012



### REASON FOR THE BILL

The social cost of asbestos disease imposes a considerable financial burden on an already financially hard pressed NHS in Wales. At commencement of diagnosis of the disease, there will be attendances on GP's, referral to consultants for radiology, biopsies, radiotherapy, chemotherapy, surgery and in many cases ultimately palliative care. It is my opinion that in cases where there is a clearly identifiable negligent employer and a civil compensation settlement is due it is only right that the negligent party (or in most cases their employers liability or public liability insurer) should reimburse the NHS for the cost of the medical treatment paid for by NHS wales. This is similar in principle to existing legislation which already enables the recovery of DWP benefits in personal injury cases and NHS medical costs in road accident cases.

### HOW WILL THE BILL ACHIEVE THIS PURPOSE?

The Bill will enable the Welsh Government to recover the cost of the medical treatment and services provided or funded by the Welsh NHS from the negligent party or their insurer. The Bill does not create any entitlement to compensation where a claim would not otherwise exist, but only triggers recovery of the cost of medical treatment by the Welsh Government once a settlement or judgment is achieved by an asbestos sufferer or their personal representatives.

### WHAT WILL THE MEDICAL COSTS BE USED FOR?

It is intended that the medical costs recovered will be allocated by the Health Minister annually for the general benefit of asbestos victims and their families including support for palliative care and other treatment..

### COMPETENCE

The Bill is brought as health legislation under Schedule 7 of the Government of Wales Act 2006



ASBESTOS FIBRES

