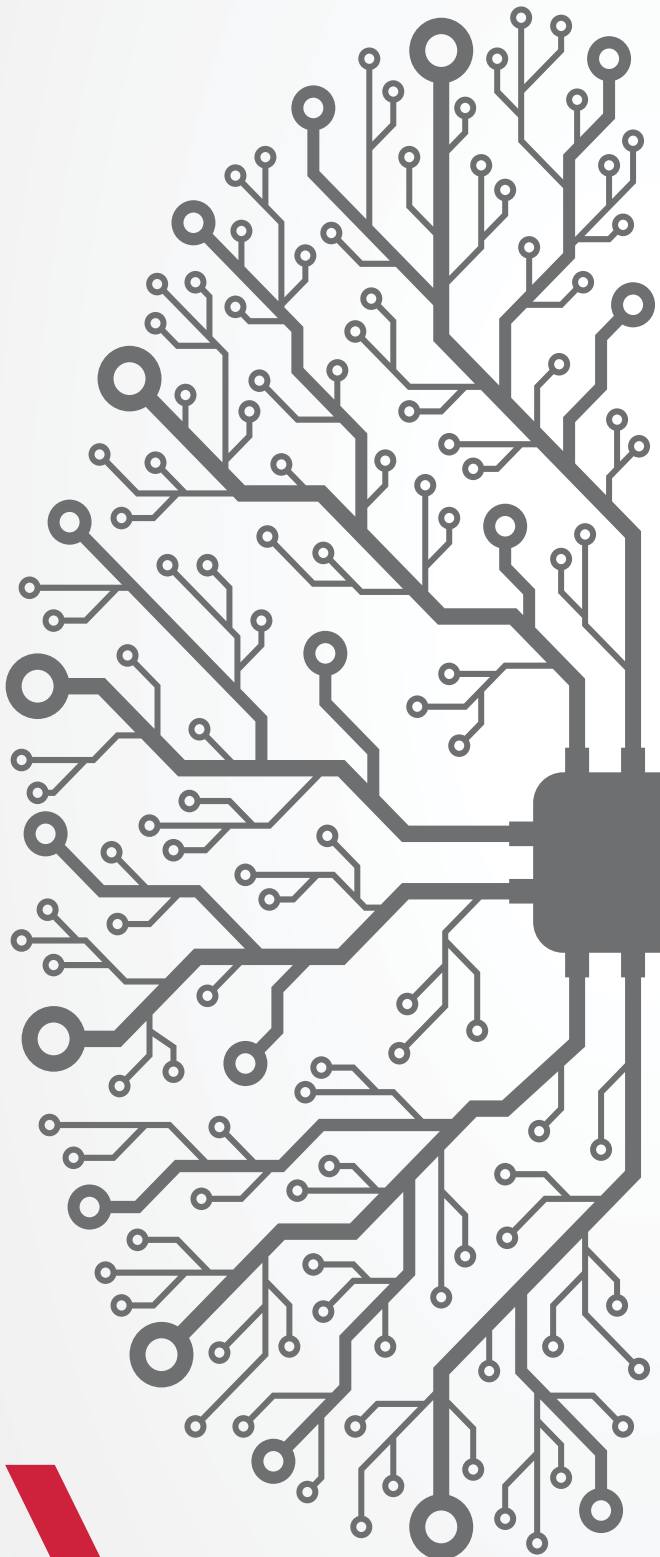


THE DISEASE TRAINING PROGRAMME



AUTUMN 2016

THE BC LEGAL AUTUMN TRAINING PROGRAMME

BC Legal is pleased to launch its Autumn Training Programme focusing on NIHL and Asbestos related disease claims.

The training is delivered in modules over a number of weeks, on a Thursday and Friday, at our Client Knowledge Hub at 20 St. Dunstan's Hill, London EC3R 8HL. Click [here](#) for directions from your location.

Each training module runs between 12.00pm-2.00pm with lunch provided.

The emphasis of the training is very much on practical claims handling. We aim to develop attendees' technical knowledge, expertise and confidence to understand how and when to repudiate claims and when to pay claims.

Wherever possible we use real case examples and encourage attendees' participation. The training will also feature demonstrations of BC Legal's unique disease claims handling tools and systems for NIHL and Asbestos related claims.

All training modules will be followed and reinforced by online webinars with Q&A sessions. Full training materials, webinars and Q&A results will all be available to access securely via the BC Legal Knowledge Hub. The training is **CPD accredited**.

Training and lunch are free.

Detailed **module content** and how to **book** your place can be found in the remainder of this document.

NOISE INDUCED HEARING LOSS (NIHL) CLAIMS

MODULE 1	INITIAL CLAIMS HANDLING	8th or 9th September 2016
MODULE 2	LIMITATION	15th or 16th September 2016
MODULE 3	BREACH OF DUTY	22nd or 23rd September 2016
MODULE 4	DIAGNOSIS and CAUSATION	29th or 30th September 2016
MODULE 5	DE MINIMIS and QUANTUM	6th or 7th October 2016
MODULE 6	THE MARKET and ABCNOISE 3	13th or 14th October 2016

ASBESTOS RELATED DISEASES

MODULE 1	INTRODUCTION TO ASBESTOS RELATED DISEASES	20th or 21st October 2016
MODULE 2	BREACH OF DUTY	27th or 28th October 2016
MODULE 3	CAUSATION	3rd or 4th November 2016
MODULE 4	QUANTUM	10th or 11th November 2016
MODULE 5	PRACTICAL HANDLING TIPS	17th or 18th November 2016

**TO REGISTER YOUR PLACE
FOR ANY/ALL OF THESE MODULES,
PLEASE CLICK THE LINKS BELOW
TO BE DIRECTED TO OUR EVENTS PAGES.**

REGISTRATION IS QUICK, EASY AND YOU WILL RECEIVE
AN E-MAIL CONFIRMATION WITHIN 24 HOURS.

NOISE INDUCED HEARING LOSS

ASBESTOS RELATED DISEASES

More information regarding our Client Knowledge Hub
and our facilities can be found [here](#)

NOISE INDUCED HEARING LOSS CLAIMS

This NIHL training programme has been divided into 5 core competencies - (i) Initial claims handling, (ii) limitation, (iii) breach, (iv) diagnosis/causation and (v) de minimis and quantum. The training concludes with a review of the current market, predictions for the future and a demo of our new and unique claims management solution and Business Intelligence Tool - ABCNoise3.

MODULE 1: INITIAL CLAIMS HANDLING

8th or 9th September 2016

- Are you the correct defendant?
 - Reviewing the HMRC schedule of employment
 - Companies House searches
 - Other sources of information
- Contributions and apportionment
 - IDCWP Guidelines and ABI Guidelines
 - ELTO and identifying/notifying co-insurers
 - Calculating contributions
- Requests for documents under the Disease PAP
 - What to do?
 - What not to do?
- The LOC
 - What should it say?
 - How to initially respond and what questions to ask?
 - Time limits under the Disease PAP
- Your Investigations
 - Questions and documents to request from claimant
 - Investigations with the insured
 - Desk top enquiries and investigations - what resources and how to use these
 - Help - there is no defendant how do I investigate?
- CRU

MODULE 2: LIMITATION

15th or 16th September 2016

- The law of limitation - a brief recap
 - The 1980 Act
 - Sections 11 and 14
 - Section 33
- Is limitation an issue?
 - Identifying the tell-tale signs
 - When does damage arise and why is there a latency?
 - Low fence threshold and subjective disability
 - The count back argument
 - Asking questions from the claimant solicitors
 - Asking questions from the claimant's medical expert
 - Reviewing the medical records
 - Obtaining and reviewing hospital and OH/employment records
- When does time start to run?
 - Actual and constructive knowledge
 - When does the limitation clock start to run?
- Prejudice from delay
 - What is prejudice?
 - How do you investigate this?
- Denying a claim on limitation
 - Concessions on breach?
 - Delay - the length and reasons
 - Evidential prejudice and cogency
 - Value of claim
 - Strength of claim
 - A fair trial?

MODULE 3: BREACH OF DUTY

22nd or 23rd September 2016

- Noise - what is it?
 - How it arises
 - Frequency
 - Volume, decibel scale and measuring
 - Noise levels and daily noise dose-Leq and Lep,d
 - Typical noise levels for industries and occupations - how can I find these out?
 - Calculating the daily noise dose
- Common law negligence
 - Foreseeability and date of knowledge
 - 1963 right?
 - Actual/constructive dates of knowledge
 - Guilty date of knowledge and when breach 'bites'
 - The 'negligent threshold'
- The Noise at Work Regulations 1989

- The Action Levels
- The Duties
- Where employers can fall foul
- The Control of Noise at Work Regulations 2006
 - The exposure action values
 - The Duties
- Noise Surveys
 - How to interpret
 - Are they of use/relevance?
- Investigating historic exposures and breach
- Denying a claim on breach of duty
- Cut offs - what to do and not do?

MODULE 4: DIAGNOSIS and CAUSATION

29th or 30th September 2016

- The ear and how we hear
 - Outer, middle and inner ears
 - Sound Conducting mechanisms
 - Air conduction and bone conduction
- The types of hearing loss
 - Conductive and sensori-neural losses
- The causes of hearing loss
 - Age
 - Noise
 - Drugs
 - Constitutional/idiopathic
 - Diseases
 - Reviewing the medical records
- What is normal hearing?
 - The range
 - Percentiles
 - Data sources
- How does noise damage hearing?
- Tuning fork tests-what do they show?
- Audiometry
 - How is it performed?
 - What does it show?
 - Interpreting the audiogram
 - BSA recommended procedures
 - Audiometric variability
 - Single and repeat audiometry
- Audiometric features of NIHL
 - Frequencies affected?
 - How NIHL changes over time?
 - What noise is required to cause damage?
 - The Noise Emission Level and ISO 1999 (1990)

- Estimating the noise damage
- The CLB Guidelines 2000
 - The 3 Requirements R1-R3
 - Modifying factors
 - The notch
 - The bulge
 - The Lep,d and NIL requirements
 - Picking your age data and percentiles
 - Worked examples
- When is a CLB compliant case not NIHL?
 - Isolated 6 kHz losses
 - Constitutional losses
 - Non-organic hearing loss (NOHL)
 - Asymmetry
 - Modest noise exposures and NIL requirements
 - MF2 checks
- The LCB Guidelines 2015/2016
 - How do they affect the 2000 Guidelines?
 - So what should we use?
- Tinnitus
 - Incidence and causes
 - Severity
 - Diagnosis?
 - Is the tinnitus caused by noise?
- The use of noise tools
- Denying a claim on diagnosis/causation
- Repeat audiometry
 - Variability and causes
 - Single audiometry-how robust for diagnosis?
 - Repeat audiometry-when and why?
 - Comparing audiograms-Hospital, OH and medico-legal
 - How do we get the claimant to agree?

MODULE 5: DE MINIMIS and QUANTUM

6th or 7th October 2016

- When should compensation be paid? The principles of de minimis
- The recent cases - what not to do
- How to spot a de minimis case?
 - Speech frequencies
 - 0-3 kHz losses-importance and how to calculate
 - Conventional v LCB 2015/16
 - 4 kHz-importance and how much loss?
 - 6 kHz-importance and how much loss?
 - Age
 - Tinnitus
 - Hearing aids-now or in the future

- Running a de minimis case
 - Questions to claimant expert
 - Own evidence
- PSLA
 - JC Brackets
 - Common law awards
 - How to calculate the NIHL?
 - Tariff tables and tools
- Tinnitus
 - How does it affect damages
 - When and when not to pay?
 - Denying a tinnitus claim
- Hearing aids
 - Use in UK
 - When are they a benefit?
 - Different types and pros and cons
 - NHS v Private
 - Will claimant derive a benefit?
 - Will the claimant incur the cost?
 - Denying a hearing aids claim
 - Paying a hearing aids claim - when, why and how much?
- Apportionment and contributions
- FSCS involvements
- Making an offer

MODULE 6: THE MARKET and ABCNOISE 3

13th or 14th October 2016

- An overview of the current market
 - Claimant solicitors
 - Claimant medical experts and audiologists
 - Volumes
 - Repudiation Rates
 - Average cost per claim
 - Types of claims and heads of loss
- Predictions for the future
 - Claimant solicitors
 - Fixed fees
 - Volumes
 - Repudiation Rates
 - Types of claims and heads of loss
 - Insurer and Run Off Markets
- ABCNOISE 3
 - What is it?
 - What does it do?
 - What savings can it deliver?
 - Technical Handling Algorithms

- Strategic use of the system
- Audiometry functionality
- Business Intelligence
 - Predictive analytics
 - Monitoring current performance v predicted
 - KPI function and improving claims handling efficiencies
 - Concluded claims data-analysis and interrogation
 - Market Analysis Dashboard
 - Training and Support
 - Data Migration, compatibility and integration with other IT systems

ASBESTOS RELATED DISEASES

The asbestos training programme has been divided into 5 core competencies - (i) An introduction to asbestos and asbestos- related diseases (ii) date of knowledge / breach, (iii) diagnosis/causation (iv) quantum and (v) practical handling tips.

The training starts with an introduction to asbestos and its different fibre types, their historical use and exposures, different types of asbestos related diseases, latency and biological growth periods, the potency of asbestos types to cause disease and whether exposures continue today.

Interwoven with these training modules we will be demoing our new and unique asbestos and quantum tools - ABCAsbestos and ABCQuantum.

MODULE 1: INTRODUCTION TO ASBESTOS RELATED DISEASES 20th or 21st October 2016

- Asbestos
 - What is asbestos?
 - Types of fibre and potency for disease
 - Asbestos imports, uses, industries, volumes and historic exposures
 - Who historically was at risk?
 - Current exposures and occupations / industries at risk?
- Asbestos related diseases
 - Mesothelioma
 - Lung Cancer
 - Asbestosis
 - Pleural Thickening
 - Pleural Plaques
 - Incidence of disease/incidence of claims/injury to claim ratios
 - Latency and biological growth periods

- Dose Related?
- Compensable?

MODULE 2: BREACH OF DUTY

27th or 28rd October 2016

- Common law negligence and foreseeability
- Developing knowledge and when does it arise?
 - 1898 – Annual report
 - 1930 – Merewether and Price report
 - 01 March 1932 – The Asbestos Industry Regulations 1931
 - 01 July 1938 – The Factories Act 1937
 - 1955 – Doll – ‘Mortality from Lung Cancer in Asbestos Workers’
 - 1960 – Wagner – ‘Diffuse Pleural Mesothelioma and Asbestos Exposure in North-Western Cape Province’
 - March 1960 – Toxic Substances in Factory Atmospheres (Ministry of Labour)
 - 1965 – Newhouse and Thompson – ‘Epidemiology of Mesothelial Tumours...’
 - 31 October 1965 – Sunday Times – ‘Scientist Track Down Killer Disease’
 - 14 May 1970 - Asbestos Regulations 1969 – TDN 13
 - December 1976 – Guidance Note EH10
 - 1983 – EH10 (Revised)
 - 1984 – EH10 (Revised)
- A Closer look at Asbestos Legislation / Regulations
 - The Asbestos Industry Regulations 1931
 - Factories Act 1937 and 1961
 - Asbestos Regulation 1969 and Technical Data Note 13
 - The Health and Safety at Work Act 1974
 - The Control of Asbestos at Work Regulation 1984
 - The Control of Asbestos at Work (Amendment) Regulations 1992
 - The Control of Asbestos at Work Regulations 2002
 - The Control of Asbestos Regulations 2006
 - The Control of Asbestos Regulations 2012
 - Which regulations add to common law duties of care and how?
- A Safe level of exposure?
 - March 1960 – Toxic Substances in Factory Atmospheres (Ministry of Labour) – equivalent of 30 fibres/ml²
 - March 1970 – Technical Data Note 13 (HM Factory Inspectorate) - Made a distinction between the different types of asbestos for the first time – 0.2 fibres/ml² for crocidolite (blue); 2 fibres/ml² for amosite (brown) and chrysotile (white)
 - December 1976 – Guidance Note EH10 (Health and Safety Executive) – set the same standards as TDN 13 above. Also mandated – that exposure to all forms of asbestos should be reduced to the minimum that is reasonably practicable
 - Calculating fibre/ml exposure
 - Defending low level exposure cases
 - ABCAsbestos-when and how to use and how it can help?

- Contributory negligence and other exposures
 - Smoking
 - Self employment and exposure
 - Other exposures
- Expert evidence - when and why?
- Can a parent company be responsible for a subsidiary?

MODULE 3: CAUSATION

3rd or 4th November 2016

- Mesothelioma
 - Incidence, trends and causes
 - Background risk
 - The 'but for' and material contribution tests
 - The rock of uncertainty
 - The relaxed '*Fairchild*' test
 - *Barker* and apportionment
 - Compensation Act 2006
 - De minimis and contributory negligence
- Lung Cancer
 - Incidence, trends and causes
 - The Helsinki Criteria
 - *Heneghan*-the 'what' and 'who' questions and apportionment
- Pleural Thickening
 - Incidence and trends
 - Clinical features & diagnosis
 - Blunting-what is it & why important?
 - Grading, severity & disability
 - Alternative causes % diagnosis
- Asbestosis
 - Incidence and trends
 - Clinical features & diagnosis
 - Helsinki Criteria
 - Grading, severity & disability
 - Alternative causes & diagnosis
- Expert evidence-what type and when?

MODULE 4: QUANTUM

10th or 11th November 2016

- Provisional or full and final damages?
- General Damages PSLA
 - Mesothelioma
 - Lung cancer
 - Asbestosis
 - Pleural thickening
 - Case law, JC Brackets and BC Legal PSLA calculator
- 'Lost Years' and Fatal Claims-comparison and contrast

- Law Reform (Miscellaneous Provisions) Act 1934 (LRMPA)
- Fatal Accidents Act 1976 (FAA)
- Loss of earnings
- Nursing expenses/Gratuitous care
- Hospice costs
- DIY/Services
- Increased utility costs/chairs/adaptions at home
- Cost of private medical care
- Loss of care and attention of spouse/parent
- Statutory Bereavement award
- Funeral expenses
- Dependency claims
 - Class of dependents
 - Single Dependent
 - Multiple dependents
 - Multiplicand formulae
- The Multipliers
- Multiplier from death or trial? *Knauer v Ministry of Justice* [2016] UKSC 9
- Pre-*Knauer* examples
- Post-*Knauer* examples
- ABCQuantum
- PL Claims
- Diffuse Mesothelioma Payment Scheme

MODULE 5: PRACTICAL HANDLING TIPS

17th or 18th November 2016

- IDCWP Guidelines
 - EL Claims
 - PL Claims
- Pre-Action Protocol
 - Pre-Action Protocol for Disease and Illness
 - Early notification letter in mesothelioma claims
 - Letter of Claim
- Are you the correct defendant?
 - Reviewing the HMRC schedule of employment
 - Companies House searches
 - Other sources of information
- Contributions and apportionment
 - IDCWP Guidelines and ABI Guidelines
 - ELTO and identifying/notifying co-insurers
 - Calculating contributions
- Requests for documents under the Disease PAP
 - What to do?
 - What not to do?
- The LOC
 - What should it provide?

- How to initially respond and what questions to ask?
 - Time limits under the Disease PAP
- Your Investigations
 - Questions and documents
 - Investigations with the insured
 - Desk top enquiries and investigations-what resources and how to use these
 - Help - there is no defendant how do I investigate?
 - Expert evidence - is it needed and if so why and when?
 - ABCAbestos-how it can help?
- CRU and offsetting benefits
- Making an offer - how much and how?
- ABCQuantum - how it can help?
- Leakage into litigation - putting the claimant at costs risk?
- Practice Direction 3D – ‘Show Cause’ Procedure
 - Burden and standard of proof
 - Preparation
 - Key evidence

Disclaimer

This newsletter does not present a complete or comprehensive statement of the law, nor does it constitute legal advice. It is intended only to provide an update on issues that may be of interest to those handling occupational disease claims. Specialist legal advice should always be sought in any particular case.

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