

● **If I do have a legal case how will I pay for it?**

If you are a union member, your case may be funded through the union's legal service. If you are not a union member then it may be possible to fund the case through a 'no win no fee' agreement. Under such an agreement you will not normally be expected to pay legal costs in the event that you lose your case but there are some costs that cannot be recovered that will be explained to you at the start.

● **If I do have a claim will my employers fight it?**

Most employers will. An employer's decision to fight a claim will normally depend on the strength of the case against them i.e. whether they are advised that they will lose.

● **Will taking legal action against employers mean that insurance premiums will rise and their businesses will be at risk?**

Insurance premiums are linked to claims. If employers comply with the law and their responsibilities to their employees then they are unlikely to receive claims against them.

● **Is this initiative just a gravy train for lawyers who want more cases?**

No. ASH and Thompsons are campaigning to eradicate the danger of exposure to protect workers from secondhand smoke at work by ensuring that employers are aware of and fulfil their responsibilities. We both believe that recourse to law should be the last resort. It is only possible to take a legal case when it can be proved that an employee has been made ill by the employer's negligence in exposing them to secondhand smoke and that can be difficult.



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action on smoking and health

ASH is a campaigning charity working to reduce the harm done by tobacco. We are not anti-smoker nor do we condemn smoking. ASH is working to increase provision of smokefree workplaces, with a view to eliminating all involuntary tobacco smoke exposure.

For further information on passive smoking:  
[www.ash.org.uk](http://www.ash.org.uk)  
[enquiries@ash.org.uk](mailto:enquiries@ash.org.uk)

To find out about making a claim:  
**FREEPHONE 0800 587 1270**  
[www.thompsons.law.co.uk](http://www.thompsons.law.co.uk)

Thompsons is the UK's largest personal injury and trade union law firm, with a network of 18 regional offices across the UK. Thompsons only ever works on behalf of injured people, never for employers or insurance companies.

Thompsons brought the first ever successful cases for passive smoking. It is also the firm which established the legal liability of employers for asbestos-related illness and recovered the first compensation for asbestosis contracted by a bystander.

We secure an average of £140,000,000 a year for clients injured in accidents.

# secondhand smoker?

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action on smoking and health



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## Do you suffer from secondhand smoke?

Smoking kills 114,000 people a year and ruins the health of many thousands more through strokes, heart attacks, lung disease and other smoking-related conditions.

But while the dangers of smoking are well documented, the risks from inhaling other people's smoke are less well known. Passive smoking – exposure to secondhand smoke – can do serious damage to health. The immediate effects include eye-irritation, headaches, sore throats, nausea and asthma attacks. Exposure for just 30 minutes has been shown to reduce coronary blood flow, increasing the risk of angina, heart attacks and strokes. The longer the exposure, the higher the risk of developing smoking-related diseases.

People exposed to secondhand smoke in their workplace have the right to ask their employer to take measures to protect them from risk to their health. ASH believes that prevention rather than legal action is always best but it may be necessary to take an employer to court if they do not take reasonable steps to eliminate the exposure. That is why ASH has teamed up with Thompsons Solicitors, the leading personal injury and trades union law firm, to offer legal advice and assistance to the victims of tobacco smoke pollution.

This leaflet answers frequently asked questions about the rights of workers who are exposed to cigarette smoke at work. More information is available on the ASH website at [www.ash.org.uk](http://www.ash.org.uk) and by calling the Thompsons national helpline on

**Freephone 0800 587 1270**

## Frequently Asked Questions

### ● **I am regularly exposed to other people's cigarette smoke at my place of work. What can I do about it?**

You should raise your concerns with your employers, (your Human Resources Department if you have one and your immediate boss if you do not). If your employers are not prepared to do anything about it you may need to seek legal advice. If you are a member of a trade union you should speak with your shop steward.

### ● **What are my employer's legal duties to me?**

S2 (ii) Health and Safety at Work Act 1974 establishes that employers are expected to know of the health effects of exposing employees and others to secondhand smoke and to take reasonable care to eliminate it.

### ● **What evidence is there that secondhand smoke causes smoking-related illnesses?**

The Chief Medical Officer of England and the Presidents of the Royal Colleges have all confirmed that there is scientific evidence that secondhand smoke causes premature death and serious illness.

### ● **What do I do if I think I have become ill as a result of passive smoking at work?**

Your employers are under a duty to protect your health and safety when you are at work and you may need to seek legal advice, as well as medical assistance. If you are a member of a trade union you should ask your shop steward to help you contact the union's legal advice service.

### ● **Do I have to be ill before I can take a legal claim for compensation for personal injuries against my employers?**

Yes. For a compensation claim to go ahead you must be able to show that you are ill and that the illness is due, at least in part, to your employers' failure to take reasonable care for your safety. Alternatively you need to show that you have an underlying condition, such as angina or asthma, that is being worsened by your exposure.

### ● **Have there been many successful personal injury cases against employers?**

No, but each case is considered on its facts. Now that employers have been made aware of their duties of care regarding secondhand smoke, there is, arguably, more scope for such cases to succeed.

### ● **Are there time limits for making a claim against my employers?**

Yes, you need to issue court proceedings against your employers within three years from the date on which you first considered that your illness was related to your exposure to secondhand smoke at work. Unless you do this it is unlikely that the court would allow you to pursue a claim.

### ● **If I contact Thompsons' helpline does it commit me to anything?**

No. You will be advised concerning the prospects of your case succeeding free of charge. There will be no obligation on you to take the case any further.