

**Unusual occupational health claims?  
Bladder/kidney cancer and multiple chemical  
sensitivity [MCS]**

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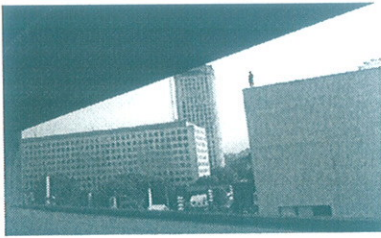
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**New horizons for PI ?**



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- ***"Causation and occupational kidney and bladder cancer claims. What do I do as a Claimant lawyer?" Alan Care.***

Submitted/accepted for publication by APIL

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- Causation for bladder cancer given exposure to industrial chemicals (including aniline dyes) has been known for as long as any other chemical or toxic substance in occupational disease history.



- Although in **1898** the HM Factory Inspector did first comment upon the "evils of asbestos".

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### Bladder cancer and work

- 1895 Dr Rehn reported three cases in the German dye industry.
- 1962 bladder cancer a Prescribed Industrial Disease.
- 1965 Dr R A Case - seminal lecture - "Tumours of the Urinary Tract as an Occupational Disease in Several Industries".
- Review article: "Epidemiology of Bladder Cancer" Silverman et al Oxford Press 1999.
- Also the "Urothelial Tumours" chapter by O'Brien and Cranston.

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### Kidney cancer

- Charles Smith (anonymised) worked for printers for 30 years. He developed kidney cancer.
- The usual "risk factors" are not present namely smoking; familial history; excess weight; abnormal drinking history including coffee consumption; use of diuretics; hypertension and diet.
- Why has Charles developed kidney cancer?

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**Bladder cancer and printing**

Amicus union website

- *"There is overwhelming evidence to show that work in the printing industry is associated with an increased risk of developing bladder cancer. It is also clear that a number of chemicals relevant to Prescribed Disease C23 have been used in the printing industry".*

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- Occupational bladder cancer claims have been litigated; settled and taken to trial for industrial workers.
- Rubber industry. ***Wright v Dunlop Rubber Co. Ltd 1971***. A leading product liability case.

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- Chemists including in power stations.
- Workers and aniline dyes/aromatic amines have been successful in recovering damages.
- There is a clinical negligence judgment as reported by Thompsons from the Birmingham County Court.

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**IARC - International Research Agency on Cancer**

- *"There is limited evidence that occupational exposure in printing processes are carcinogenic. There is inadequate evidence for carcinogenicity in humans of printing inks. There is inadequate evidence for carcinogenicity in experimental animals of printing inks. Overall Evaluation: Occupational exposures in printing processes are possibly carcinogenic to humans. Printing inks are not classifiable as to their carcinogenicity to humans".*

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**Mrs B's kidney/bladder cancer claim**

- Mrs B's claim may give heart? This is believed to be the first UK settlement for **kidney** cancer following occupational exposure to printing inks and dyes.

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- Transitional cell cancer of the kidney and ureter (T3 G2 TCC I) going down to the bladder caused by exposure to noxious fumes [including inks and their ingredients] at the Chessington Computer Centre (HMSO) and Basildon between 1974 and to 1992.

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- Yes Mrs B. was printing HMSO literature including probably publications for the HSE.

You could not make it up could you?

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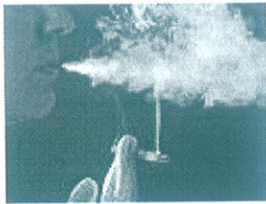
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- Smoking is always a confounding factor in proving causation

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### Kidney cancer

- Proceeding with a kidney cancer claim will be challenging.
- Review by Janout et al "Epidemiology and Risk Factors of Kidney Cancer" Biomed 2004.

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### There's always COSHH

- COSHH regulations, will of course, assist a claimant - strict liability

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### Mrs B's case

Dr Cranston medical expert (now retired from medico legal work). Extract from report/statement in B v HMSO:

*"In this situation, it cannot be proved as a matter of certainty to a standard of scientific or medical proof (i.e. proof in excess of 98%) that the transitional carcinoma of the kidneys was due to industrial exposure. However, as there is no other proven cause for her disease.*

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*In view of the fact that she worked for around 30 years in the printing industry and it is a fact that certain chemicals used in the printing industry are associated with transitional cell carcinoma,*

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*it would be my opinion that on the balance of probabilities it is "more likely than not" (i.e. more than 50% likely and in this particular case say 65%+) that her transitional cell carcinoma was caused by her work."*

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### **Multiple Chemical Sensitivity**

- A few words about complex and "A sensitive subject".
- Article published in Chemistry & Industry journal April 2010.

<http://www.soci.org/Chemistry-and-Industry/Cni-Data/2010/8/Article-Listing?at=Features>

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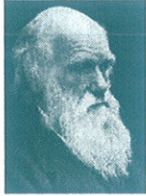
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## MCS sufferers – survival of the fittest?



Is MCS an extreme reaction to our changing environment. Maybe a new phase of evolution?

Or all part of God's ultimate plan and "intelligent design"?

Or just mad?

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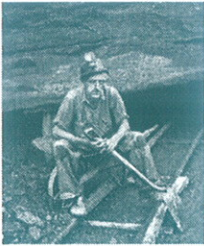
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## Canaries?



Caged canaries were taken into coal mines to detect the presence of gas. The birds died when gas was present in sufficient quantity, thereby alerting the miners to danger. Some have compared MCS sufferers to the canaries and as portents to a new age of pollution. Do the MCS sufferers provide us as a society with an early warning call?

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## Controversy and divergent views

*"... a chronic condition with symptoms that recur reproducibly in response to low levels of exposure to multiple unrelated chemicals..."*



*"The expression 'multiple chemical sensitivity' ('MCS') is used to describe people with numerous troubling symptoms attributed to environmental factors. Many such people are seeking special accommodations, applying for disability benefits, and filing lawsuits claiming that exposure to common foods and chemicals has made them ill. Their efforts are supported by a small cadre of physicians who use questionable diagnostic and treatment methods. Critics charge that these approaches are bogus and that MCS is not a valid diagnosis". Dr Stephen Barrett.*

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### MCS - a question for psychiatry?



- The psychiatric profession will no doubt say "it is all in the mind".

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- MCS a "dustbin" diagnosis?



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### Historical diagnoses

- **Female hysteria**
- From Victorian era. Women considered to be suffering from it exhibited a wide array of symptoms including faintness, nervousness, insomnia...and "a tendency to cause trouble".

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• **Neurasthenia**

- "A psycho-pathological term first used by George Miller Beard in 1869 to denote a condition with symptoms of fatigue, anxiety, headache, impotence, neuralgia and depressed mood..."

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**Today**

**ME** ["Yuppie Flu"].

See [www.meassociation.org.uk](http://www.meassociation.org.uk)

**CFS** [Chronic Fatigue Syndrome].

- **Fibromyalgia.** Fibromyalgia (previously called fibrositis) is a common 'rheumatic' disorder.

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**Other names for MCS**

- cerebral allergy
- chemical sensitivity
- ecologic illness
- environmental illness (EI)
- immune system dysregulation
- allergic toxemia

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- *total allergy syndrome*
- *total environmental allergy*
- *total immune disorder syndrome*
- *toxic response syndrome*
- *20th century disease*
- *universal allergy*

Source: Dr S Barrett.

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### Very current

- *TILT - Toxicant-Induced Loss of Tolerance.*

*Toxicant-Induced Loss of Tolerance – An Emerging Theory of Disease?*

Claudia S. Miller or "*Low-Level Chemical Exposures. Also A Challenge for Science and Policy* Environmental Science & Technology 1998. Ashford and Miller.

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- Guys and St Thomas' Toxicology unit

**...there is a link between exposures and symptoms...idiopathic chemical intolerance...significant secondary psychological component**

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### Some case histories

- Ms C used a recommended "green product" to carry out a pesticide wood treatment at her home. The chemical treatment apparently leached into the family home. Ms C, already an MCS sufferer, found this so debilitating that she sought advice from the USA. She was told the only way to improve matters was to tear down the wall. The wall was taken down and replaced at a cost of over £30,000

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- Ms B has been an MCS sufferer and campaigner since being exposed by a pesticide wood treatment and now suffers numerous adverse reactions, including to new furniture and bedding (including a duvet).
- Ms E was so severely affected by MCS that her local council and a multi-disciplinary team of medical advisors agreed plans to build an "eco" house for her as she could not tolerate any other accommodation because of chemicals used in the construction of the building. At one stage she lived in a Yurt [tepee] in a field to avoid contact with all the chemicals she could.

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### Electrosensitivity

- Ms A was exposed to an unknown chemical [possibly a biocide?] developed "electrical hyper-sensitivity" as well as MCS.
- Her reaction has been so extreme that she is now virtually housebound.
- She cannot tolerate being within 50 feet of street lighting or within 12 feet of electrical wiring and appliances in her home. Cannot use a telephone or a computer; thus, her social isolation is severe. She is adversely affected by her telephone unless she is 12 feet away from it.
- An NHS GP suggested psychological help and the psychologist said Ms A's failure to use the telephone was an attempt to "avoid intimacy".
- Ms A also is intolerant of certain foods, most chemical-based cosmetics and household products

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**Susceptibility and “Egg Shell Skull”.**

- Leading case? House of Lords *Page v. Smith* [1996] A.C. 155

“...recrudescence” of ME brought on by a **very minor impact** RTA was enough to found a claim ie “*you must take your victim as you find him/her*”.

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**MCS judgment**

- *Lorraine Taylor v Airport Transport and Warehouse Services Limited* [24 10 1991].

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A US lawyer’s experience in court!

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***“uncertainty and loss of control”.***

*“Unlike the damage and injuries caused by natural disaster, many toxic substances are invisible to the senses. This invisibility results in feelings of uncertainty.*

*People cannot be sure without instrumentation if they have been exposed to a toxin and how much they have been exposed....*

*Two areas where people have the most difficulty coping are uncertainty and loss of control”.*

US Diseases Registry CDC Atlanta [2000]

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**Developments**

- Germany and Austria now recognise MCS as a physical illness while Italian MPs debate a “social disease”

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- MCS sufferers are in desperate need of help.
- Are they deluded/hyper-sensitive?
- Do they deserve special recognition by the medical and legal professions?

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Your choice?

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### Selected reading

- 1991. Ashford and Miller "*Chemical exposures - low levels and high stakes*". Van Nostrand Reinhold. NY
- 1998. "*Multiple Chemical Sensitivity - a spurious diagnosis*". Dr S Barrett. Article adapted from "*A Close Look at Multiple Chemical Sensitivity*". <http://www.quackwatch.org/01QuackeryRelatedTopics/mcs.pdf>
- "*Chemical Sensitivity*" Barrett/Gots Prometheus Books
- "*Phantom risk. Scientific Inference and the law*". Foster et al. MIT Press 1994.

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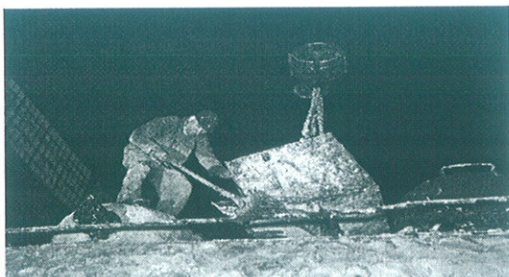
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Photo from internet (1942).  
Worker spreading asbestos on the boiler of a locomotive



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Do visit: **ASBESTOSUK.org.uk**

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