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## Update on HSE Activities on Asbestos

### Purpose of paper

1. This paper provides an update on HSE's work to tackle occupational exposure to asbestos. It includes some brief background material and summarises recent and current HSE activity. It also provides information on a variety of issues that may impact HSE's work in the future.

### Background

2. Due to its physical properties, asbestos was extensively used in the construction of commercial and domestic buildings (and in machinery and other articles) from the 1950s through to the end of 1999, when the use of chrysotile (white asbestos) was prohibited in Great Britain (other forms of asbestos were prohibited before this). Although no longer used as a building material, asbestos is still found in many homes and public and commercial buildings built before 2000. Further background is provided in Annex 1.

### HSE Activity

#### Licensing and enforcement

3. While so many buildings in the UK still contain asbestos, it is important that those with responsibility for their maintenance and repair take the necessary measures to protect others who work in such premises, or use them in other ways, from the risks to ill health that exposure to asbestos causes. Key to this is the duty to manage asbestos laid down in Regulation 4 of the Control of Asbestos Regulations 2012 (CAR 2012). This requires the owner (or person responsible for maintenance) of non-domestic premises to identify the location and condition of any asbestos that may be present. The duty holder must then prepare and implement a plan to manage the risk from exposure to asbestos, and make information available to those workers who may disturb it.

4. Regulation 4 does not require all asbestos to be removed. HSE's policy is that, provided it is in good condition and not likely to be disturbed, it is better to leave asbestos in place, and manage the risk, rather than proactively remove it.

5. Asbestos is the single greatest cause of work related deaths in the UK. Today the greatest risk of exposure is to those working on buildings that

contain asbestos. CAR 2012 requires employers carrying out higher-risk work with asbestos (such as demolition, large scale removal work, etc) to be licensed by HSE (as was the case in previous versions of the Regulations). Licensed contractors are required to notify HSE of work activities 14 days before they begin, to allow HSE to target its inspection interventions and seek assurance of controls. Licensing provides HSE with the means of ensuring that higher-risk work is only undertaken by those who can demonstrate a high level of knowledge and competence to work with asbestos.

6. In March 2013 there were 485 contractors licensed by HSE to undertake higher-risk work with asbestos, and in the 2012/13 financial year more than 1500 inspection visits were carried out to these contractors. The number of notifications of work with asbestos by licensed contractors continues to average around 30,000 – 35,000 per year.

7. This licensing and inspection activity is supported by enforcement action (taken in relation to both licensable and non-licensable work). Since the introduction of the Control of Asbestos Regulations 2006, HSE has issued more than 1,500 enforcement notices. HSE has also taken some high profile prosecution cases which have resulted in guilty verdicts for breaches of the Regulations. HSE currently takes around 20 successful prosecutions per year.

### **Communications, awareness raising, training and guidance**

8. While many of the asbestos related current deaths arise from exposures many years ago, in industries and work activities that no longer exist, around a quarter of all deaths are amongst trades people (such as carpenters, electricians, plumbers etc.) and maintenance workers. These people, often working for SMEs or as sole traders, will potentially be exposed to asbestos in their everyday work whilst carrying out activities that do not require an asbestos licence. For these workers, who are often difficult to reach, HSE's approach is to focus its interventions on raising their awareness of the risks and the steps they can take to protect themselves. In recent years, HSE has carried out a number of initiatives to improve communications and raise awareness of the risks from asbestos.

#### Communications Campaigns

9. Evaluation of the various phases of the "Hidden Killer" campaign showed that they were very successful in raising awareness of asbestos risks. However, HSE has not run any communications campaigns since 2010. A number of groups and organisations, including trade unions and the Asbestos Subcommittee of the All Party Parliamentary Group on Occupational Safety and Health have called for further campaign activity on the dangers of asbestos for workers.

10. HSE is currently working closely with Cabinet Office to develop proposals for a new communications campaign, aimed at:

- a) Making at-risk workers aware of the dangers posed by asbestos.

- b) Helping them understand how they can change their work behaviours to protect themselves.
- c) Encouraging them to take action to protect themselves.

11. New insight research was commissioned to gather up-to-date information about the audience for the campaign and to help HSE develop a plan that utilises the most appropriate and effective methods of communication for that audience. The research included exploration of their attitudes and awareness of the risks, and of ways in which HSE could most effectively 'reach' them with important information, driving them towards behaviour change to reduce the numbers of workers exposed to asbestos.

#### Asbestos 'Training Pledge'

12. In 2011, HSE worked with asbestos training organisations to develop an initiative to offer and deliver free asbestos awareness training to trades people. Over 7900 hours of free classroom-based and 5500 hours of free online training were pledged by training associations (easily exceeding the original target of 4000 hours of training). This represented a commitment to deliver free asbestos awareness training for around 4020 trades people. Subsequent evaluation and feedback indicates that the take up of this training by workers was around 70%.

#### Asbestos vocational learning pack

13. HSE worked with external groups to develop an asbestos vocational learning package aimed at helping further education and vocational training colleges raise awareness of the asbestos risks amongst young apprentices. The launch of the pack was supported by a number of events and activities, organised by FOD during 2011 and 2012. The pack is available free of charge on the HSE website at <http://www.hse.gov.uk/asbestos/learning-package/index.htm>

#### Codes of Practice and guidance

14. As part of the response to the Lofstedt report, the two existing Approved Codes of Practice (ACOPs) that support the Control of Asbestos Regulations (L127 "*The management of asbestos in non-domestic premises*" and L143 "*Work with materials containing asbestos*") are being reviewed and revised. They will be consolidated into a single document and L127 will be withdrawn when the new ACOP is published.

15. The new ACOP will make clearer what duty holders should do to comply with legal requirements and will reflect the recent introduction of the CAR 2012. Consultation is running for 12 weeks from 8 July to 30 September and the finalised ACOP will be available at the end of 2013.

16. HSE guidance documents on asbestos (including the "Surveyors' Guide" and "Licensed Contractor's Guide") and the dedicated asbestos web

pages will also be reviewed and updated to ensure consistency with the new ACOP.

17. HSE is also working with a number of external organisations to help them develop guidance for their particular industry or area of interest. This includes:

- a) The Association of British Insurers - to develop guidelines for insurance companies and the contractors they employ to deal with emergency repairs, etc. in insured properties.
- b) Gas and electricity suppliers - to develop guidelines for contractors engaged in the "smart meter" replacement programme (in older properties gas and electricity meters may be located on asbestos backing boards).
- c) Companies and organisations involved in the reuse and reclamation of disused land - to help them control risks from asbestos in soils.

### **Asbestos in schools**

18. HSE's policy on the management of asbestos is currently being challenged in relation to asbestos in schools. It is estimated that around 75% of schools in England may contain asbestos. Private individuals, trade unions and the Asbestos in Schools Group (which has the support of a number of MPs) have been calling on the Department for Education for some time to remove all asbestos from school buildings.

19. In 2012 the Asbestos Subcommittee of the All Party Parliamentary Group on Occupational Safety and Health published a report "*Asbestos in Schools: The need for action.*" This called for more action to manage the risk from asbestos in schools. Publication of the report triggered the Education Select Committee (ESC) to hold a one-off inquiry into asbestos in schools in March 2013. HSE provided support to the Education Minister for the hearing. The ESC has not yet produced a report of its inquiries.

20. As part of its consideration of the issue, the Department for Education asked the Department of Health's Committee on Carcinogenicity of Chemicals in Food, Consumer Products and the Environment (COC) to consider the vulnerability of children to low level exposure to asbestos fibres. HSE was one of the organisations asked to provide information. We provided the COC with a view on the likely concentration of asbestos in schools, summarising peer reviewed published data to provide an informed estimate of the average airborne asbestos fibre concentrations in buildings during normal use.

21. The COC report concluded that it was not possible to say whether children were more susceptible to asbestos related injury. However, it acknowledged that, due to the increased life expectancy of children compared to adults and the long latency period of mesothelioma, children are more vulnerable to developing the disease than adults on an equivalent dose basis - this issue is well understood by HSE.

22. The Asbestos in Schools Group has expressed concerns regarding the outcome of the COC report and the ESC hearing. HSE is continuing to provide support and advice to the Department for Education on the matter.

23. The profile of this issue was raised by the closure of Cwmcarn High School by Caerphilly County Borough Council in October 2012 following receipt of an “asbestos investigation report” from a survey company on the potential for the asbestos fibres to be released from debris in the ceiling voids into the occupied areas of the school. The findings of the investigation report were questioned by some, and after a period of many months, we understand the Borough Council and the School Governors have agreed a package of measures to deal with the asbestos in the school. HSE carried out an investigation of the circumstances leading up to the school closure which will be made available to interested parties.

### **Prohibitions on the use, importation and supply of asbestos**

24. In the past, asbestos was used in a wide range of articles as well as in buildings. Prohibitions on the use, importation and supply of asbestos are contained in direct acting EU legislation - REACH (Registration, Evaluation, Authorisation & restriction of Chemicals). REACH contains an exemption to allow the “placing on the market” of second hand asbestos-containing articles, provided they were first put into service before 2005 and that high levels of health protection are maintained. However, this has not yet been implemented in the UK and work is ongoing with Defra (who have overall policy responsibility for REACH) to give HSE powers to issue exemptions to allow asbestos containing articles to be transferred between owners in specific circumstances (such as the transfer of cultural/heritage items between museums). Exemptions will only be issued provided strict measures can be guaranteed to protect against risks to health. Defra currently plans to introduce the necessary legislation in October 2013.

25. In the meantime, HSE is dealing with specific requests for transfer (of heritage items, etc) on a case-by-case basis. For example, July 2013 marked the 75<sup>th</sup> anniversary of the world speed record for a steam train achieved by the A4 class ‘Mallard’ locomotive. To celebrate this, the National Railway Museum in York wanted to bring together and display the last remaining (six) locomotives of the A4 Class. As two of the locomotives were in North America, HSE negotiated with the museum and with Defra and reached agreement to allow the locomotives to be brought into the UK, provided strict requirements to protect human health were observed. Work was undertaken in North America to remove some asbestos, and enclose the rest, before transport of the locomotives to the UK. Once here, further work was done to ensure that the remaining asbestos had not been disturbed in transit and that any necessary remedial work was carried out to ensure the locomotives were safe for display.

## Sale of second hand gas masks

26. HSE has received complaints that a number of second hand gas masks, dating back to World War II, have been made available for sale online and at trade fairs specialising in militaria. The masks are sought out by collectors and those engaged in historical re-enactments. It is claimed that some of these masks may contain asbestos in the filters. If so, not only is this a health hazard but the sale of such items is prohibited by REACH. HSE is attempting to determine the scale of the problem (including estimating the number and type of gas mask that may contain asbestos).

## **EU Activity**

27. The Asbestos Directive 2009/148/EC is one a number of directives that are scheduled for review by the European Commission in 2015. The Directive is also one of a number of 'health and safety' directives included in a Practical Implementation Review (PIR) which is currently taking place; the results of which will inform the 2015 review.

28. At the end of 2012/beginning of 2013, MEPs on the Employment and Social Affairs Committee of the European Parliament prepared an "own initiative" (INI) report on "Asbestos related health threats and prospects for abolishing all existing asbestos" (2012/2065(INI)). The report was wide-ranging and included calls for:

- a) Screening and registration of asbestos in public buildings.
- b) Ensuring qualifications and training for those working with asbestos; for architects and surveyors; and for diagnosis by medical practitioners.
- c) Development of removal programmes (including mandatory removal of asbestos from public buildings).
- d) Recognition of asbestos related diseases (in terms of compensation schemes).
- e) Support for asbestos victims support groups.
- f) Strategies for a global ban on asbestos.

29. The European Parliament voted in favour of a resolution supporting the report at a plenary meeting in March 2013 by a large majority (558 in favour, 51 against, 5 abstentions).

30. The Commission held a one day meeting of EU Member States' representatives in Luxembourg on 27 June 2013 to consider and discuss views on the report. However, at this stage, there is no indication as to what, if anything, the Commission plans to do as a result of the report.

## **Other current issues**

### Emergency services

31. A number of fire and rescue services (FRSs) have asked for clarification on the legal requirements for periodic medical examinations for workers who disturb asbestos, and asked how this applies to fire-fighters who may disturb asbestos in the course of their activities. In particular, whether and at what frequency, fire-fighters need medicals. HSE is currently considering the issue with the FRSs to decide the position and what, if any, action needs to be taken to clarify the legal requirements.

### Compensation issues

32. There have been some high-profile court cases recently relating to the pay out of compensation for victims of asbestos related diseases. In particular, a court decided that a payout should be made to a person suffering from “pleural plaques”. The insurance industry had previously claimed that compensation should not be paid out for pleural plaques. HSE was not involved in this case.

33. The latest Queens Speech contained proposals for a “Mesothelioma Bill”. This is intended to streamline the compensation system and introduce a scheme to provide compensation for sufferers of mesothelioma who are unable to trace a solvent employer or insurer to claim against. It is intended that the scheme will be paid for by a levy on insurers. HSE is not involved in administering such schemes; this is the responsibility of DWP.

## **Current Research**

34. To inform our policy and approach with regard to asbestos going forward, HSE has commissioned research on the current asbestos “lung burden” amongst workers. This involves tissue samples being taken from people who undergo lung operations (for a variety of reasons not associated with asbestos). The samples are then analysed to determine if asbestos is present and in what quantity. The research is due to deliver its findings in 2014/15 and will provide information on the prevalence of asbestos in the lungs of a wide range of workers and others.

35. HSE is in the final stages of commissioning another research project to determine the concentration of asbestos in air resulting from typical work activities carried out by maintenance workers and similar employees. This will involve workers wearing sampling devices to capture asbestos fibres in the air where they are working as they undertake their normal work activities. The research is intended to provide data on the typical concentrations in air and will inform future HSE consideration of the risk presented by asbestos.

## **Recommendation**

36. That the Board note the information provided in this paper.

## Asbestos background

1. Chrysotile (white asbestos) is the most commonly encountered form of asbestos and was used in corrugated asbestos cement roof sheets (for outbuildings, warehouses, garages, sheds, etc) and in panels in ceilings and walls. Many articles were manufactured using chrysotile including: brake linings, insulation in electrical switchgear/fuseboxes, pipe insulation, floor tiles, etc. Amosite (brown asbestos) and crocidolite (blue asbestos) were frequently used in low density insulating board (often referred to as asbestos insulating board or AIB), thermal and acoustic insulation, loose fill and sprayed insulation, gaskets, etc.

2. The health risks from asbestos have been known for many years. Asbestos is classified internationally as a human carcinogen and there is no recognised level below which exposure to asbestos can be deemed to be “safe” to human health. When asbestos-containing materials are worked on, damaged or otherwise disturbed they can release fibres which, if inhaled, can lead to asbestos related diseases later in life. There are four main types of disease:

- a) Mesothelioma, a form of cancer mainly affected the lining of the lungs (which is always fatal).
- b) Asbestos relate lung cancer (almost always fatal).
- c) Asbestosis – a non malignant scarring of the lungs (not always fatal, but it can be very debilitating).
- d) Non-malignant pleural disease (also known as diffuse pleural thickening and plural plaques) (which is not fatal).

3. Asbestos related diseases usually do not develop until decades after exposure to asbestos first occurs. HSE currently estimates that about 4500 people die each year from asbestos related diseases as a result of past exposure to asbestos. About half (2347 in 2010) are from mesothelioma and the remainder are from asbestos related cancer and asbestosis. It is expected that the number of deaths from asbestos will peak in 2016 and gradually reduce after that, as a result of the introduction of the bans on various forms of asbestos in the 1980s/90s.

4. Most deaths occurring today result from past asbestos exposure to employees who worked in the construction and manufacturing sectors where asbestos was extensively used. Those most at risk today are employees who may disturb ‘in situ’ asbestos-containing materials. In particular, workers in the construction sector (building demolition and refurbishment), trades people (such as plumbers, electricians and joiners), and maintenance workers.

## **Regulatory Framework**

5. At European level, occupational exposure to asbestos is subject to controls contained in the Asbestos Worker Protection Directive (2009/148/EC). The Directive is implemented in Great Britain through the Control of Asbestos Regulations 2012. These regulations contain provisions to identify the presence of asbestos for those who have responsibility for the maintenance of non-domestic premises through the “duty to manage”, and to employers in relation to licensable work; notification of some non-licensed; work effective controls; and training provisions.

6. The legislation was last updated in April 2012, as a result of a reasoned opinion from the European Commission that the 2006 version of the Regulations did not fully implement the Directive. The changes introduced mean that some types of non-licensed work now need to be notified to the enforcing authority; that the work area is segregated; and that employees undertaking such work get periodic medical examinations and that their health records are kept.

7. For a number of years the prohibitions on the use, importation and supply of asbestos were part of domestic legislation. However, they are now contained in direct acting EU legislation - REACH (Registration, Evaluation, Authorisation & restriction of Chemicals). Under REACH, existing asbestos containing materials can remain in use until they reach the end of their service life, provided they were first installed prior to 1 January 2005.