

## HSE Enforcement Action for Failure to Manage Asbestos in Non-LA Schools

November 2010 to July 2011

Between November 2010 and July 2011 HSE carried out a series of inspections of schools outside local authority control to determine their standards of asbestos management. The inspections resulted in enforcement action being taken. The level of enforcement is high and shows that a significant number of schools outside local authority are failing to manage their asbestos safely.

The following is a summary of the HSE Enforcement Action. The data is extracted from the HSE's summary of 14<sup>th</sup> October 2011<sup>1</sup> and also from their Enforcement data base web-site.<sup>2</sup> Four schools outside local authority control that had enforcement action taken were on the web-site data base but were not included in HSE's summary, conversely two were in the summary but not on the web. (highlighted in yellow) This summary includes all the relevant schools.

HSE guidance states *"If you don't manage the asbestos-containing materials in your premises, you could be putting your employees' and other people's health at risk."*<sup>3</sup>

Almost a fifth of the 168 schools outside local authority control that were inspected had enforcement action taken against them for failing to manage their asbestos. By doing so they had potentially put staff and pupils' health at risk. A further 110 had "Advice" given to improve their asbestos management. Almost a third of the sixty two independent schools that were inspected had enforcement action taken. More than half of the eighty schools that carried out their own maintenance and building work had failed to train their staff so that they could safely undertake maintenance without potentially damaging asbestos and harming themselves and the other occupants. Three of the five Academies inspected had enforcement action taken against them, another school has now become an Academy and that also had enforcement action taken against it. By law schools have to have a written asbestos management plan, but 51 did not. 49 schools did not have a proper system in place to tell their staff where the asbestos is in the buildings, and twenty of them there was no system at all. HSE warn that *"Not having a system in place, or operating a system with major gaps or flaws, is a major source of risk as potentially anyone in a school can disturb asbestos containing materials"* There were forty breaches of the Health and Safety at Work Act for failing to ensure the health and safety of the staff, and a further twenty eight breaches for failing to ensure that the pupils were not exposed to risks to their health and safety.

See further [Analysis](#) of the enforcement action.<sup>4</sup>

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<sup>1</sup> Press release <http://www.hse.gov.uk/press/2011/hse-asbestosinschools.htm> list of schools inspected: [www.hse.gov.uk/services/education/asbestos-management-1011.htm](http://www.hse.gov.uk/services/education/asbestos-management-1011.htm)

<sup>2</sup> HSE Enforcement data base [http://www.hse.gov.uk/notices/notices/notice\\_list.asp?PN=2&rdoNTtype=&NT=&SN=F&x=23&EO=LIKE&SF=SICD&SV=education&ST=N&y=10&SO=DNIS](http://www.hse.gov.uk/notices/notices/notice_list.asp?PN=2&rdoNTtype=&NT=&SN=F&x=23&EO=LIKE&SF=SICD&SV=education&ST=N&y=10&SO=DNIS)

<sup>3</sup> HSE a comprehensive guide to managing asbestos in premises."

### Key points of HSE summary issued 14 Oct 11

- 17 of 59 Independent received Improvement Notices for failures in asbestos management. **(29%)**
- 5 out of 60 VA received Improvement Notices for failures in asbestos management. **(8.3%)**
- 4 out of 41 Foundation Schools received Improvement Notices for failures in asbestos management. **(8%)**
- 2 out of 4 Academies received Improvement Notices for failures in asbestos management. **(50%)**
- (When 4 four schools not in 14 Oct HSE summary are included then the following are the figures :
- **20 of 62 Independent Schools received Improvement Notices for failures in asbestos management.** **(32%)**
- **5 out of 60 VA Schools received Improvement Notices for failures in asbestos management.** **(8.3%)**
- **4 out of 41 Foundation Schools received Improvement Notices for failures in asbestos management** **(8%)**
- **3 out of 5 Academies received Improvement Notices for failures in asbestos management.)** **(60%)**
- Extracts from HSE summary:
- 164 schools visited (4 schools received IN not in HSE summary)
- Enforcement action in 28 **(17%)**
- 41 Improvement Notices
- 17 for failure to provide training
- 8 for failure to implement a suitable system to manage the risks from asbestos
- 2 for a failure to undertake a survey/assessment of the presence of asbestos containing materials
- 51 schools had no written management plan. **(31%)**
- In house building and maintenance work carried out in 80 schools.
- 41 of 80 schools had no training for maintenance staff even though they undertook their own maintenance **(51%)**
- Confusion in some schools over roles and responsibilities
- Some schools who bought services from LA were often uncertain or unaware of their own duties and relied on LA.
- Governors are legally responsible even if they buy services from LA.
- 49 schools no comprehensive system to ensure that people who might disturb asbestos are told where it is. **(30%)**
- 20 schools there was no system at all to inform people where it is. **(12%)**
- 110 schools were given “Advice” by HSE to improve asbestos management. (in addition to the schools given Ins) **(67%)**
- 138 of 164 schools visited were issued Improvement Notices or Advice **(84%)**

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<sup>4</sup> Analysis of HSE enforcement action <http://www.asbestosexposureschools.co.uk/pdfnewslinks/HSE%20ENFORCEMENT%20ACTION%20%202011%20Oct%2011.pdf>

## HSE Enforcement action taken in schools for a failure to manage asbestos between November 2010 and Jul 2011

Data from HSE enforcement Web Site.

- 32 schools outside local authority control
- 2 local authority schools
- 168 visits made in schools outside local authority control (Presumed the four schools not on 14 Oct list were in addition to 164)

Schools outside LA control	(Total including two LA schools):	
• <b>32 schools served with Enforcement Notices.</b>	<b>(34)</b>	<b>(19%)</b>
• <b>19% of schools visited warranted enforcement action</b> (32 of 168 including 4 not on HSE list 14 Oct 11)		
• <b>49 Improvement Notices issued</b>	<b>(52)</b>	
• <b>68 breaches of the Health and Safety at Work Act 1974</b> (does not include breaches for two schools not on the HSE enforcement site)	<b>(74)</b>	
• <b>79 breaches of the Control of Asbestos Regulations 2006</b> (Does not include breaches for two schools not on the HSE enforcement site)	<b>(84)</b>	

### Breaches of the Control of Asbestos Regulations 2006 (CAR)

#### Non-LA schools

- 10 breaches of CAR 4 Failure to manage asbestos
- 8 breaches of CAR 4/3 Failure to assess whether asbestos is present
- 3 breaches of CAR 4/4 Failure to consider the condition of the asbestos
- 3 breaches of CAR 4/5 Failure to take account of age or building plans, failure to inspect accessible parts of premises
- 2 breach of CAR 4/6 Failure to review the survey if no longer valid or changes to buildings
- 2 breaches of CAR 4/7 Failure to record the assessment or every review
- 13 breaches of CAR 4/8 Failure to determine the risks, to record location of asbestos, to specify measures to manage risk
- 11 breaches of CAR 4/9 Failure to monitor condition, properly maintain or safely remove, inform people who might disturb it
- 10 breaches of CAR 4/10 Failure to review or revise the management plan
- 16 breaches of CAR 10 Failure to inform, instruct or train people who might disturb the asbestos
- 1 breach of CAR 15/4 Failure to mitigate after release of asbestos, or restore situation or to inform people of their exposure.

**79 breaches of the CAR 2006** TOTAL non-LA schools

**TOTAL Non LA schools and LA schools**

- 10 breaches of CAR 4 Failure to manage asbestos
- 8 breaches of CAR 4/3 Failure to assess whether asbestos is present
- 3 breaches of CAR 4/4 Failure to consider the condition of the asbestos
- 3 breaches of CAR 4/5 Failure to take account of age or building plans, failure to inspect accessible parts of premises
- 3 breach of CAR 4/6 Failure to review the survey if no longer valid or changes to buildings
- 3 breaches of CAR 4/7 Failure to record the assessment or every review
- 13 breaches of CAR 4/8 Failure to determine the risks, to record location of asbestos, to specify measures to manage risk
- 12 breaches of CAR 4/9 Failure to monitor condition, properly maintain or safely remove, inform people who might disturb it
- 11 breaches of CAR 4/10 Failure to review or revise the management plan
- 16 breaches of CAR 10 Failure to inform, instruct or train people who might disturb the asbestos
- 1 breach of CAR 15/4 Failure to mitigate after release of asbestos, or restore situation or to inform people of their exposure.
- 1 breach of CAR 17

**84 breaches of the CAR 2006** TOTAL including two LA schools

**Breaches of the Health and Safety at Work Act 1974 (HSWA)**

- **40 breaches of the HSWA Section 2.** **(43 total including two LA schools)**  
Failure to ensure the health, safety and welfare at work of all his employees  
(does not include breaches for two schools not on the HSE enforcement site)
- **28 breaches of the HSWA Section 3.** **(31 total including two LA schools)**  
Failure to ensure that the pupils were not exposed to risks to their health and safety.

**68 breaches of the Health and Safety at Work Act 1974**

**(74 total including two LA schools)**

DATE Served Compliance	SCHOOL	TYPE OF SCHOOL. RECEPIENT	INs	OFFENCE	BREACHES
	The Chorister School Durham	<b>Independent</b> Church school Nursery, Primary, Secondary	1	Training of contractors  Note: Included in 14 Oct HSE list but not on HSE enforcement web-site, Details to follow	
	Headlands School Vale of Glamorgan	<b>Independent</b> Special school 8-19 years	2	Asbestos management plan Training  Note: Included in 14 Oct HSE list but not on HSE enforcement web-site, Details to follow	
13 Jul 11 Compliance 1 Oct 11	Aylward Academy Enfield	<b>Academy</b> London Academies Enterprise Trust  Secondary	3	INs to carry out Asbestos Survey, produce Asbestos Register and produce APM  Note: Not included in 14 Oct HSE list	3 of HSWA 2/1 3 of HSWA 3/1  CAR 4/3 CAR 4/8 CAR 4/9
7 Jun 11 Compliance 19 Sep 11	Nicholas Breakspear Catholic School  St Albans	Catholic Governors  <b>VA</b> Secondary	2	IN for failure to have an asbestos management plan in place and IN number 303323934 for failure to provide employees with adequate information, instruction and training about the risks and precautions associated with working with ACMs.	2 of HSWA 2/1  CAR 10 CAR 4/10
7 Jun 11 Compliance 19 Sep 11 Revised 12 Oct 11	Stanborough School  Watford	British Union Conference of Seventh-Day Adventists <b>Independent</b> Primary (and Nursery)	1	IN for failure to have an asbestos management plan in place.	HSWA 2/1 HSWA 3/1  CAR 4

DATE Served Compliance	SCHOOL	TYPE OF SCHOOL. RECEIPT	INs	OFFENCE	BREACHES
25 May 11 Compliance 25 Aug 11	Brockhurst & Marlston House School Ltd  Newbury	Limited Company <b>Independent</b> Primary	1	Management of Asbestos, company had no survey or management plan for asbestos  <b>Note: Not included in 14 Oct HSE list</b>	HSWA /2  CAR 4/3 CAR 4/8
20 May 11 Compliance 20 Jun 11	Hartlip Endowed Primary School  SITTINGBOURNE Kent	C of E <b>VA</b>  Primary	1	No Asbestos Management Plan in place, nor management of the risks from asbestos,	CAR 4/8 CAR 4/9 CAR 4/10
15 May 11 Compliance 10 Jun 11	Earlham Primary School London Borough of Newham	London Borough of Newham  <b>Local Authority school</b>  Primary	1	Premises not thoroughly cleaned of asbestos debris following disturbance during refurbishment work.	HSWA /2/1 HSWA /3/1  CAR 17
19 Apr 11 Compliance 20 Jul 11	Highfields Private School  Redruth Cornwall	<b>Independent</b> Primary  Owners	1	No assessment of the presence of Asbestos Containing Materials (ACMs) in the premises.	HSWA 2/1 HSWA 3/1  CAR 4/
18 Apr 11 Compliance 29 Oct 11 Revised 19 Dec 11	Fochrhiw Primary School	Caerphilly County Borough <b>Local Authority School</b>  Primary	2	Potential asbestos disturbance	2 of HSWA 2/1 2 of HSWA 3/1  CAR 4/6 CAR 4/7 CAR 4/9 CAR 4/10 CAR 10

DATE Served Compliance	SCHOOL	TYPE OF SCHOOL. RECEIPT	INs	OFFENCE	BREACHES
12 Apr 11 Compliance 30 Jun 11	Thomas More Catholic School  Croydon	Catholic school  <b>VA</b> Secondary	1	Failure to provide employees that are liable to be exposed to asbestos, or who supervise such employees, with adequate information, instruction and training about the risks and precautions associated with working with asbestos containing materials	HSWA 2/1 HSWA 3/1  CAR 10/1
5 Apr 11 Compliance 8 Jul 11	Kings Monkton School  Cardiff	CFBT Educ Centre for British Teachers Charitable Trust <b>Independent</b> Secondary	2	no asbestos management plan Notice - - inadequate information, instruction and training for employees supervising work where people are liable to be exposed to asbestos.	2 of HSWA 2/1 2 of HSWA 3/1  CAR 4 CAR 10
31 Mar 11 Compliance 12 Jul 2011	Westbourne School  Penarth	Montague Place Ltd  Secondary  Limited company <b>Independent</b>	2	Duty to Manage Asbestos (DTM) Inspection. 2 Improvement Notices issued. 1) no written plan specifying adequate measures for managing the risks from asbestos at the premises. 2)employees who supervise or carry out work where persons are liable to be exposed to asbestos have not been provided with adequate information, instruction and training.	HSWA 2/1 HSWA 3/1  CAR 4 CAR 10
31 Mar 11 Compliance 12 Jul 11 Revised 23 Oct 11	Cathedral School Llandaff  Cardiff	Cathedral School Llandaff  Primary  <b>Independent</b>	2	2 Improvement Notices issued. 1) no written plan specifying adequate measures for managing the risks from asbestos at the premises. 2)employees who supervise or carry out work where persons are liable to be exposed to asbestos have not been provided with adequate information, instruction and training.	HSWA 2/1 HSWA 3/1  CAR 10 CAR 4

DATE Served Compliance	SCHOOL	TYPE OF SCHOOL. RECEIPT	INs	OFFENCE	BREACHES
31 Mar 11 Compliance 30 Jun 11	The Elms School  Malvern	The Elms (Colwall) Ltd  Limited company Charity  <b>Independent</b>  Primary	2	requiring review of risk assessment and provision of an asbestos management plan; requiring training on asbestos management.	2 of HSWA 2/1 2 of HSWA 3/1  CAR 10 CAR 4  Management of Health & Safety at Work Regs 1999 / 13
31 Mar 11 Compliance 30 Jun 11	The Downs Malvern College Prep school  Malvern	The Downs Malvern College Prep school  <b>Independent</b>  Primary	2	requiring review of risk assessment and provision of an asbestos management plan; and No. 303200973 requiring training on asbestos management.	2 of HSWA 2/1 2 of HSWA 3/1 CAR 10 CAR 4 Management of Health & Safety at Work Regs 1999 / 13
31 Mar 11 Compliance 1 Aug 11	Azhar Academy Girls School	Azhar Academy Limited Islamic management  Limited company <b>Independent</b>  Secondary	1	no Asbestos survey	CAR 4/3



DATE Served Compliance	SCHOOL	TYPE OF SCHOOL. RECEIPT	INs	OFFENCE	BREACHES
30 Mar 11 Compliance 24 Jun 11 Revised 2 Sep 11	The Shrubbery School  Birmingham	<b>Independent</b>  Primary  Owners	2	Company have failed to demonstrate that they have implemented a suitable system to manage the risks from asbestos in non-domestic premises where they have an obligation for the maintenance or repair of these premises.  <b>Note: 2 IN's were issued but only one was on 14 Oct HSE list</b> 303199066 P. Terry. 303199342 E. Allen	2 of HSWA /2 2 of HSWA /3  2 of CAR 4/3 2 of CAR 4/4 2 of CAR 4/5 2 of CAR 4/6 2 of CAR 4/7 2 of CAR 4/8 2 of CAR 4/9 2 of CAR 4/10
23 Mar 11 Compliance 21 Apr 11 Revised 3 Jun 11	Palfrey Girls School  Walsall	Palfrey Girls School Ltd <b>Independent</b>  Limited Company  Secondary	1	Failure to ensure that a suitable and sufficient assessment has been carried out as to whether asbestos is or is liable to be present in the premises  <b>Note: Not included in 14 Oct HSE list</b>	HSWA /2 HSWA /3 CAR 4/3 CAR 4/4 CAR 4/5
17 Mar 11 Compliance 30 Jun 11 Revised 5 Aug 11	Benedict House Prep School  Sidcup Kent	Alpha Schools Ltd  Limited company <b>Independent</b> Primary	1	Failure to draw up a plan to manage the asbestos or any asbestos containing substances in the premise	HSWA /2/1 HSWA /3/1  CAR 4/8 CAR 4/9 CAR 4/10

DATE Served Compliance	SCHOOL	TYPE OF SCHOOL. RECEIPT	INs	OFFENCE	BREACHES
17 Mar 11 27 May 11	Northwood Preparatory school  RICKMANSWORTH Hertfordshire	Northwood Preparatory school Trust (Terry's ) Ltd Limited Company charity Primary  <b>Independent</b>	2	Two Improvement Notices on duty to manage asbestos & asbestos training resulting from Inspection programme on asbestos in schools outside local authority control.	HSWA 2/1 HSWA 3  CAR 4/3 CAR 4/8 CAR 10  Management of health and safety at work Regs 1999 12/1 12/3
3 Mar 11 Compliance 3 Jun 11	Arnold Hill Academy Arnold Nottingham	<b>Foundation</b> Secondary (Became an Academy in October 2011)	1	Improvement Notice served as no written plan for the management of asbestos which surveys identify as being present within the fabric of the building.	HSWA /2/1 HSWA /3/1  CAR 4/8 CAR 4/9
25 Feb 11 Compliance 25 May 11	Wellow House School  Newark	Wellow House School Ltd  Limited company  Nursery Primary  <b>Independent</b>	1	IN for lack of asbestos management plan	CAR 4/8 CAR 4/9 CAR 4/10

DATE Served Compliance	SCHOOL	TYPE OF SCHOOL. RECEIPT	INs	OFFENCE	BREACHES
22 Feb 11 Compliance 29 Apr 11	Houghton Kepier School  HOUGHTON LE SPRING Tyne & Wear	The Governing Body Houghton Kepier Trust <b>Foundation</b> Charitable Trust (Part of the LA's family of schools)  Secondary	2	IN served for failing to ensure that procedures have been prepared which can be put into effect to limit exposure to asbestos fibres and the risks to health in the event of an unplanned release of asbestos fibres in the school, parts of which are 'CLASP' system built. Improvement . IN served for failing to ensure that adequate information, instruction and training is given to those of your employees who are or who are liable to be exposed to asbestos, or who supervise such employees.	2 of HSWA /2/1 2 of HSWA /3/1  CAR 10 CAR 15/4
16 Feb 11 Compliance 1 Apr 11 Revised 6 May 11	The Skinners Kent Academy  TUNBRIDGE WELLS Kent	The Skinners Kent  <b>Academy</b> was VA Grammar school  Secondary	1	Dutyholder failed to draw up a plan to manage the asbestos or any asbestos containing substances in the premises and record how the plan will be implemented.  (large system built complex)	HSWA /2/1 HSWA /3/1  CAR 4/8 CAR 4/9 CAR 4/10
8 Feb 11 Compliance 18 Mar 11	Claremont School  ST. LEONARDS-ON-SEA East Sussex	Claremont School (St Leonard's Ltd) <b>Independent</b> Limited company Charity Primary	1	requiring assessment of asbestos is or is liable to be present	HSWA /2/1 HSWA /3/1  CAR 4
2 Feb 11 Compliance 6 Apr 11	Shirley High School  CROYDON	Shirley High School <b>Foundation</b> Governors (Applying to be Academy) Secondary	2	Asbestos management plan and training	HSWA /2/1  CAR 4/8 CAR 4/9 CAR 4/10 CAR 10

DATE Served Compliance	SCHOOL	TYPE OF SCHOOL. RECEIPT	INs	OFFENCE	BREACHES
27 Jan 11 Compliance 15 Jul 11	Lord Grey School  Milton Keynes	Lord Grey School  <b>Foundation</b> school Secondary	1	IN requiring a suitable management plan for asbestos containing materials to be put in place	HSWA /2/1 HSWA /3/1  CAR 4/8 CAR 4/9 CAR 4/10
27 Jan 11 Compliance 28 Feb 11	Durham High school for girls  Durham	Durham High school for girls <b>Independent</b> (C of E Foundation?) Primary	1	IN served for failing to ensure adequate information, instruction and training is given to those of your employees who are or who are liable to be exposed to asbestos, or who supervise such employees.	HSWA /2/1 HSWA /3/1  CAR 10
12 Jan 11 Compliance 1 Apr 11	St. Martin-in-the-Fields High School for Girls  London	St. Martin-in-the-Fields High School for Girls  C of E <b>VA</b> Secondary	2	Asbestos training	2 of HSWA /2/1  CAR 4/8 CAR 4/9 CAR 4/10 CAR 10
6 Jan 11 Compliance 21 Apr 11	Bryanston School BLANDFORD Dorset	Bryanston School  <b>Independent</b> Secondary	1	Improvement Notice for Duty to Manage Asbestos  <b>Note: Not included in 14 Oct HSE list</b>	HSWA /2 HSWA /3  CAR 4
3 Dec 10 Compliance 11 Mar 11	Bishop Stopford's School  ENFIELD	Bishop Stopford's School  C of E <b>VA</b> Secondary	2	2 x IN - Training and management Training notice extended to 1-4-11	2 of HSWA /2/1  CAR 4 CAR 10

DATE Served Compliance	SCHOOL	TYPE OF SCHOOL. RECEPIENT	INs	OFFENCE	BREACHES
24 Nov 10 Compliance 4 Mar 11	The West London Academy  Northolt	The West London  <b>Academy</b>  (Primary secondary)	2	2 X INs - management of asbestos - EXPIRY 18 MAY 2011 IN on management of asbestos and IN on provision of information, instruction and training.	2 of HSWA /2/1  CAR 4/ 3 CAR 10
24 Nov 10 Compliance 4 Mar 11	St Helen's College  UXBRIDGE	St Helen's College  <b>Independent</b>  Primary	2	IN's Asbestos training  Note: 2 IN's were issued but only one was on 14 Oct HSE list 302997985 D.A Crehan. 302999804 G.R Crehan	2 of HSWA /2/1 HSWA /3/1  2 of CAR 10/1

*Michael Lees*  
15<sup>th</sup> October 2011