

HSE guidance gives dangerous advice. School staff and parents are not informed of their, and their children's, asbestos exposure.

On 26th April the Schools Minister, Nick Gibb MP, and the Minister with responsibility for the HSE, Chris Grayling MP, replied to Parliamentary questions tabled by Annette Brooke MP about the risks from asbestos exposure. The questions were asked to clarify the Government's position on HSE guidance that gives dangerous advice on the level of exposure that constitutes a significant risk.

Hansard: Brooke / Grayling 26 Apr 11:

<http://www.publications.parliament.uk/pa/cm201011/cmhansrd/cm110426/text/110426w0010.htm#11042753002007>

Hansard: Brooke / Gibb significant risk 26 Apr 11:

<http://www.publications.parliament.uk/pa/cm201011/cmhansrd/cm110426/text/110426w0012.htm#11042790001660>

Following an asbestos incident in a school the Department for Education advise the school authorities to refer to the HSE document LAC 5/19. The guidance states that if the level of exposure is beneath the Action level it would "*Usually have been insufficient to pose a significant long term risk to health*" (HSE Level of risk from occupational exposure <http://www.hse.gov.uk/lau/lacs/5-19.htm>)

The Action level is not a safe level. It was designed for asbestos contractors wearing breathing apparatus and protective clothing and should not apply to the occupants of a school, and certainly not to children.

The guidance gives further advice that equates the Action level (48f/ml hrs) to the asbestos fibre release from various activities that damage asbestos including damaging "*Sprayed coatings... or loose lagging : 15minutes, Insulation: 30 minutes, Asbestos insulating board: 60 minutes*". The fibre release from these activities would be very high and yet the guidance gives the impression that damaging these materials for less time than this would not be detrimental to health. This is despite the fact that the levels of fibre release would be dangerous for adults, let alone children. In addition HSE advise that staff and parents need not be informed of their exposure unless it has exceeded the Action level.

In his written answer Nick Gibb MP confirmed that following a release of asbestos fibres in a school the authorities are referred to the HSE guidance. Chris Grayling MP confirmed that the guidance applies to school staff and school children. He also stated that he has no plans to revise the guidance.

When he was the Shadow Minister Nick Gibb asked a similar Parliamentary question and was informed that there is no scientific basis for applying the Action level to children. He was briefed that the level is a dangerous level and that the guidance should be withdrawn. He is therefore fully aware of the implications, and yet he still recommends that schools should use the guidance. (See page 4 <http://www.asbestosexposureschools.co.uk/pdfnewlinks/MESOTHELIOMA%20%20BENCHMARK%20LEVELS%20OF%20ASBESTOS%20EXPOSURE%2022%20Oct%2009.pdf>)

The HSE guidance on what constitutes an insignificant risk has been used as a benchmark level following incidents in schools when staff and pupils have been exposed to asbestos. In one case the exposures were to amosite and occurred six times a day for many years at a hundred times greater than the background level. The "expert" advice to the local authority was that:

"In our estimation, none of the pupils had exposure approaching the 48 fibre/ml.hrs that HSE referred to as an indicator of exposure being sufficient to pose a long term health risk..... We interpret the HSE advice as being that at those levels of exposure it is not necessary to put the

*information onto individual's medical records. Therefore, the pupils' potential for exposure was so low that we recommend that they do not need to ask their GPs to enter a note on their medical record."*¹

The HSE guidance is contrary to expert medical opinion and to the definition of significant exposure accepted by the High Court, Appeal Court and Supreme Court. Expert medical opinion was given in the case of Dianne Willmore and the Courts accept the definition:

*"Significant" is defined in accordance with the definition adopted in relation to mesothelioma causation by the Industrial Injuries Advisory Council in their 1996 report (CM3467) "A level above that commonly found in the air in buildings and the general outdoor environment."*²

The asbestos fibre levels commonly found in buildings and the outdoor environment are many thousands of times less than the Action level.

(Dianne Willmore was negligently exposed to asbestos as a pupil at school and subsequently died of mesothelioma.)

This issue of when to inform staff and parents of their and their children's exposure to asbestos was discussed at an HSE meeting in 2004. Expert medical opinion was that people should be informed regardless of the level of exposure,³ however the expert advice was ignored.⁴ Instead a decision was taken that staff and parents need not be informed unless the level was significant, and significant was defined as exceeding the Action level.⁵ As a direct result of this guidance teachers, support staff and pupils have not been informed that they have been exposed to asbestos at their school.

There is no scientific or moral justification for this bad guidance. HSE guidance LAC5/19 should be withdrawn without further delay.

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28th April 2011*

For further background information on Benchmark asbestos fibre levels see :

<http://www.asbestosexposureschools.co.uk/pdfnewlinks/MESOTHELIOMA%20%20BENCHMARK%20LEVELS%20OF%20ASBESTOS%20EXPOSURE%2022%20Oct%2009.pdf>

¹ IOM pupil report Derby Lees Brook School para7.6 p 35

² High Court QBD Liverpool District. The Hon Mr Justice Nicol . Dianne Willmore and Knowsley Metropolitan Borough Council 24 July 2009 Dr Robin Rudd Para 8, 57b

³ Comments on Lees family and OC265/48 Inadvertent exposure HSE Medical Inspector Hermann Mar 04.

⁴ HSE Minutes "The Lees Family Conference meeting2 19 Mar 2005. Letter HSE Head of Nuclear, Hazardous Installations & Chemicals Policy Division, Coldrick/Lees 6 Sep 2004.

⁵ Briefing. HSE Asbestos Policy Nash/ HSC Chairman's Office CO Case CO/62/04 13 Aug 2004