Response to HSE press release 3rd December 2010
(HSE press release at end of paper)

**HSE rubbishes Daily Mirror claims of asbestos cover up**

The HSE’s press release contains half truths and misleading statements. It in itself adds to the cover up.¹

If HSE’s Head of Public Services Sector is correct that a report on leadership of health and safety in schools was never intended to address the problems of asbestos, then that is a very serious omission, for asbestos is a major hazard and is present in most schools in the country. Also there is a profound lack of asbestos awareness amongst many headteachers and school governors.

If she is correct that it was never intended to address the senior management of asbestos in schools, then the HSE have misled the Minister, MPs and the Asbestos in Schools group.

**HSE “Positive messaging” and release of asbestos fibres in schools**

In 1987 it was discovered that dangerous levels of asbestos fibres could be released into the classrooms of system built schools from the simple act of hitting walls and slamming doors.² HSE failed to take action to warn the thousands of other schools throughout the country, so the asbestos fibre releases continued unabated for the next twenty years.

In 2006 the problem was rediscovered.³ An HSE committee was established to find solutions and the Chair was the author of this HSE press release, the Head of the Public Services Sector. The solution was not to remove the damaged, deteriorating asbestos, it was to leave it in place and seal the cracks with bathroom sealant and sticky tape. The Head of Services Sector described this as “The Rolls- Royce of solutions.” She then instructed her committee that she wanted “Positive messaging” in all statements regarding asbestos in schools⁴ – and this press release is “positive messaging” with the lack of balance that implies..

**Study on compliance with asbestos guidance in system built schools**

The press release states:

“We've already published a report on asbestos in schools earlier this year, which confirmed that the majority of education authorities were managing asbestos in their schools, in accordance with the regulations...”

She is misleading about the HSE study published earlier this year, for it did not confirm that the majority of education authorities were managing their asbestos in their schools in accordance with the regulations. It was based on a tick box questionnaire that looked at this one particular problem in system built schools. The design of the study does not give a true picture of the standards of

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² ILEA Investigation into fibre release from low level asbestos panels - Ernest Bevin school LS/AP/52 May 1987. ILEA Investigation into fibre release from asbestos panels surrounding door frames at Roehampton Gate primary school LSS/AP/78 (1987) September 1987

³ See: Release of asbestos fibres in System Built schools part 1. Release of asbestos fibres in System Built schools part 2

⁴ HSE Education Sector briefing 13th December 2006. Contemporaneous notes Lees.
asbestos management, but instead gives a more positive picture than actually exists. Its credibility was even severely criticised by one of the local authorities. It failed to address all the other asbestos problems in the majority of other schools in the country. It failed to look at schools in Wales and Scotland and schools in the independent sector. Only a handful of responses were received from the diocesan schools. Out of the local authorities that were inspected a quarter had enforcement action taken for failing to manage their asbestos. The study was flawed and the report put a positive spin on a serious problem that the HSE have failed to adequately address.  

**Hidden asbestos releasing dangerous levels of asbestos fibres**

The HSE press release states:

“That's why we have been clear that asbestos which is in good condition and unlikely to be damaged is not a significant risk to health and is better left in place and managed.”

HSE are aware that this is a misleading statement. The recommended system of managing asbestos in system built schools had failed so that asbestos fibres were being regularly released. This has occurred over many years, but because the material is hidden it had passed unnoticed. Conventional asbestos surveys had failed to identify that the asbestos was not in good condition and that it was damaged and deteriorating. It was only when air sampling was carried out that the release of asbestos fibres was realised. Ordinary classroom activity regularly damaged it so that cumulatively dangerous levels of asbestos fibres were being released. HSE acknowledge that they had been incorrect to presume that because asbestos was enclosed it was unlikely to be damaged and unlikely to release fibres. They stated:

“A recent problem investigated by the HSL in the UK was the report of releases of asbestos from enclosed asbestos containing materials (ACMs) in a system built school... A release from an enclosed source of asbestos was unexpected and of particular concern as this is one of the recommended methods for remediation.”

When a child knocks a column, kicks a wall, slams a door or even sits on a window sill dangerous asbestos fibres can be released, even when the material is enclosed or the surface appears to be in good condition. The Head of the Public Services Sector was the Chair of the committee that investigated the problem and is fully aware that is the case. It is misleading of her to make the statement that she has.

**Spin on science**

The air tests that proved common classroom activities can release significant levels of asbestos fibres were first carried out almost a quarter of a century ago, then in 2006 tests found similar levels. In contrast in 2007 HSE commissioned their own tests supposedly to determine the levels in occupied schools, they claimed that:

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5 See : DCSF Questionnaire - 15 Nov 09 Determining the scale of the problem in System Built Schools [http://www.asbestosexposureschools.co.uk/pdfnewslinks/DCSF%20QUESTIONNAIRE%20TIMESCALE%2014%20Nov%2009.pdf](http://www.asbestosexposureschools.co.uk/pdfnewslinks/DCSF%20QUESTIONNAIRE%20TIMESCALE%2014%20Nov%2009.pdf)  and All local authority’s responses are here [http://www.hse.gov.uk/services/education/survey.pdf](http://www.hse.gov.uk/services/education/survey.pdf)  and a summary of inspections at this link:  [http://www.hse.gov.uk/services](http://www.hse.gov.uk/services).  Two thirds of the authorities were not inspected because HSE assumed from their response that they had “procedures and precautions in place to manage asbestos safely.” Kirklees Council’s response is typical of others and raises questions about whether they have been managing their asbestos safely.

"The level was an order of magnitude lower than the average background value for asbestos containing materials in buildings...below the previously monitored average in asbestos containing buildings."

The reason for these remarkably low results was that the tests were carried out in a school that had been selected where it was known that there was not the same asbestos problem, and five weeks of testing were also carried out in a clean office block, untypical of a school. The results were then pooled in a mathematical exercise that gave even lower figures. This was a spin on science which enabled the positive, but misleading, message to be given.

A number of years ago HSE took part in a similar exercise over the release of asbestos fibres from the common practice of teachers displaying the children’s work with drawing pins. Because of the manner in which HSE designed the tests only 30-60 fibres per pin were counted, when independent tests showed that the actual number was greater than 6,000. The government’s advisory committee on science found that the HSE test was flawed. A warning was then given to all teachers and teaching assistants to stop the practice. It was because of HSE’s actions that the warning had been delayed by five years.

HSE’s press release states:

“Our guidance on managing asbestos is based on science, and dealing with risks in a sensible and proportionate way.”

This statement is flawed, for although HSE’s actions might be based on science, at times serious questions have to be asked about the credibility of that science.

In addition one cannot deal with risks in a sensible and proportionate way if HSE refuse to assess the scale of the problem or the risks. This issue is addressed in the following section.

Mesothelioma deaths

The press release implies that there is nothing out of the ordinary in school teachers dying from asbestos exposure. She is wrong.

The press release states:

“There is no evidence to show that rates of asbestos-related cancer among teachers are significantly higher than the population as a whole.”

The Head of the Public Services Sector shows a profound lack of understanding of the significance of the teachers’ deaths, or else she appears to be intentionally misleading. The reason is that in an occupation where one should expect minimal or no asbestos exposure teachers should not be dying.

at the rate they are. The rate should be far lower than the population as a whole and yet their
deaths are at a rate greater than many comparable occupations and even greater than a number
of manual occupations.\textsuperscript{10}

There is evidence that teachers, support staff and children have been exposed to asbestos in
schools. They are developing mesothelioma and they are dying, with teachers dying at the rate of
one a month. For every teacher there are 20-30 children who are more vulnerable to the effects of
asbestos, however because of the long latency their deaths are recorded under the occupation they
had at the time of their deaths and not as the result of asbestos exposure at school. The teacher’s
deaths are therefore the tip of the ice-berg.

In spite of this the Government have refused to assess the risks to children from asbestos, and it is
known that the reason is they do not want to know the result, for if they did they would be
compelled to take action. The latest refusal was just last week when HSE once again refused to task
the Government’s advisory committee on science to assess the asbestos risks to children.\textsuperscript{11}

When Nick Gibb MP, the Minister of State for Education, was in Opposition he was briefed on the
asbestos problem in schools and how it had been kept from the public. His response was that:

\textit{“One cannot sweep the problem under the carpet”}\textsuperscript{12}

He was also briefed on how it was essential to assess the scale of the problem and the risks so that
proportionate resources could be allocated. He responded:

\textit{“One cannot shut one’s eyes to the problem.”}\textsuperscript{13}

Regrettably though that is precisely what HSE are attempting to do in this press release.

\textbf{Cover up over report into leadership of health and safety in schools.}

HSE’s refusal to release the report on health and safety in the classroom is also a cover up. In
September 2009 the Asbestos in schools group attended a meeting with senior HSE officials,
including the Head of the Public Services Sector, to discuss how to improve asbestos management in
schools. HSE spoke about the system built school questionnaire and then announced:

\textit{“It is intended to widen health and safety issues to those in control of schools to ensure that they are
competent to manage all risks including asbestos... A senior teacher or headteacher will be
seconded to HSE for two terms to undertake a study of how to improve health and safety leadership
in schools... He will particularly look at how to train new headteachers”}\textsuperscript{14}

\textsuperscript{10} See: Significance of teachers’ mesothelioma deaths.
http://www.asbestosexposureschools.co.uk/pdfnewslinks/TEACHERS%20DEATHS%20ARE%20SIGNIFICANT%20JAN%202010%20_2_.pdf
Education sector mesothelioma statistics
http://www.asbestosexposureschools.co.uk/Statistics%20of%2odeaths%2oteachers%2ostaff%2ochildren.pdf and the
increased vulnerability of children to asbestos
http://www.asbestosexposureschools.co.uk/pdfnewslinks/CHILDREN%20increased%20vulnerability%20to%20asbestos%20%20Nov%2009.pdf

\textsuperscript{11} DfE Asbestos Steering Group meeting 29\textsuperscript{th} October 2010. Contemporaneous notes Lees

\textsuperscript{12} Meeting Nick Gibb MP/ Lees 7 Jul 2009

\textsuperscript{13} Meeting Nick Gibb MP/ Asbestos in schools group 27\textsuperscript{th} January 2010

\textsuperscript{14} Meeting HSE / Asbestos in schools group 3 Sep 2009 Contemporaneous notes Lees
Discussion took place about whether HSE were placing sufficient priority on addressing the risks from asbestos in schools. HSE Head of Services Sector, Rosalind Roberts, stressed that:

“Asbestos management in schools is at the top of the list.”

This was a meeting of senior HSE officials about asbestos in schools. In a prepared briefing HSE announced the secondment of the senior teacher. HSE made it very clear that the intention was for him to undertake a study and report on all aspects of senior health and safety management in schools, and asbestos management was to be part of that.

On 11th November 2009 the Schools Minister Diana Johnson confirmed that a steering group would be established to improve the asbestos management in schools, and that members of the Asbestos in schools group would be an integral part.

On 24th February 2010 another meeting took place with the Minister. Her officials handed out the TORs for the Steering group which was based on a draft “Joint DCSF/PfS/HSE workplan on asbestos in schools.” Under the title “Competence to manage asbestos” the plan emphasises the need for effective health and safety leadership in schools. The senior teacher’s secondment was highlighted as part of HSE’s strategy. It stated:

“Competence to manage asbestos

...Leadership in health and safety

As part of the implementation of HSE’s strategy, HSE has offered a secondment to a senior school leader. The secondee will work with key education stakeholders to identify opportunities to strengthen the training given to new (and existing) head teachers on leadership in health and safety. This initiative will help head teachers and others identify sensible risk management principles and ensure that they focus on real and not trivial risks.”

There was no doubt from the workplan that the secondment of the headteacher was part of the strategy to improve health and safety management in schools and that asbestos management and training was part of that. This confirmed HSE’s statements made the previous September.

On 17th May 2010 I talked on the phone to the senior teacher about his study and HSE’s reaction to his recommendations. He asked that we meet to further discuss asbestos management in schools. A meeting was arranged and it was suggested that the incoming Chair of the Asbestos in Schools group, Annette Brooke MP, should also attend. A week before the meeting HSE directed him not to meet us. The reason given was that it was beyond his remit.

In the light of the earlier cancellation, surprisingly HSE agreed that both they and the senior teacher would give a briefing to the Joint Union Asbestos Committee on the conclusions and recommendations of the study. The meeting was to take place on 15th July. Two days before the meeting HSE cancelled and directed that the senior teacher was not to attend in their absence.

The senior school leader had completed his report in July 2010. It is understood that on a number of issues it was critical of present awareness and standards of senior health and safety management.

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15 Meeting HSE / Asbestos in schools group 3 Sep 2009 Contemporaneous notes Lees
16 Draft Joint DCSF/PfS/HSE workplan on asbestos in schools. 24 Feb 2010
Clearly its findings and recommendations are not only central to the work of the Steering Group but also to the formation of Government policy. However at a meeting between the Asbestos in Schools group and the Schools Minister Lord Hill on 14th October 2010 he stated that he had not seen the report. HSE refused a request for AiS to have sight of the report as they claimed it was not complete. They stated that it was:

“First draft findings. HSE are looking at how to inform strategy and how to deal with real risk rather than imagined risks... The next job was to go back to the stakeholders and see that the report sits comfortably with them.”

On 8th November a Freedom of Information request for a copy of the report was refused by HSE:

“Factors for disclosure
Disclosure would increase transparency and understanding of decision-making, particularly in matters affecting the public in respect of health and safety in schools

Factors for withholding
The project is not complete. The focus of the draft report is leadership of health and safety in schools, and work in this area is continuing taking into account the recommendations in Lord Young’s report Common Sense, Common Safety published in September 2010...

Reasons why public interest favours withholding information
Public interest favours withholding the information as the work is incomplete, the findings have not been verified and releasing the information now will adversely impact on HSE’s proposed consultation on this issue.

HSE wishes to consult all relevant stakeholders on the material at the same time as part of a planned and managed approach. HSE plans to publish this information as part of a consultation exercise with relevant stakeholders within the next six months.”

It is unacceptable that a report that is central to the work of the Department for Education Steering group on asbestos is being withheld.

In her press release HSE’s Head of the Public Services Sector stated:

“It is wrong to claim that HSE is refusing to release a report on asbestos in the classroom. An incomplete report on health and safety leadership in schools is being worked on, but - as we have already said - it doesn’t look at arrangements for managing asbestos. The draft does not even include the word 'asbestos', and nor was it ever intended to.”

The Minister, MPs and the Asbestos in Schools group were told by the HSE that the study and report on leadership in health and safety would address the competence of school leaders to manage asbestos. It is now apparent that the HSE’s Head of the Public Services Sector had no intention that would happen. If that is the case then it is serious error of judgement, and she has misled the Minister, MPs and the Asbestos in Schools group. Her conduct appears completely unacceptable.

The evidence is that she has endangered the occupants of schools from asbestos.

17 Meeting Lord Hill/ AiS 14th Oct 2010 Contemporaneous notes Lees
18 E-mail HSE/Lees Freedom of Information request reference no; 2010110157. 8 Nov 2010

HSE rubbishes Daily Mirror claims of asbestos report cover up

3 December 2010

Re: Daily Mirror article - “Come clean on asbestos in classroom” - 3 December 2010

It is wrong to claim that HSE is refusing to release a report on asbestos in the classroom. An incomplete report on health and safety leadership in schools is being worked on, but - as we have already said - it doesn't look at arrangements for managing asbestos. The draft does not even include the word 'asbestos', and nor was it ever intended to. We've already published a report on asbestos in schools earlier this year, which confirmed that the majority of education authorities were managing asbestos in their schools, in accordance with the regulations, and highlighted the enforcement action taken against those authorities where improvements needed to be made.
Our guidance on managing asbestos is based on science, and dealing with risks in a sensible and proportionate way. That's why we have been clear that asbestos which is in good condition and unlikely to be damaged is not a significant risk to health and is better left in place and managed. Asbestos which is in poor condition, or which is likely to be damaged or disturbed, should be sealed, enclosed or removed.

There is no evidence to show that rates of asbestos-related cancer among teachers are significantly higher than the population as a whole. A recent research study commissioned jointly by Cancer Research UK and HSE which looked at the full range of jobs individuals did during their working lives - rather than just the last job - reinforces the view that teachers do not stand out as a high risk group. It is tradesmen who remain at the greatest risk.

Rosalind Roberts  
Head of the Public Services Sector  
Health and Safety Executive  

http://www.hse.gov.uk/press/record/mirror031210.htm