



Department
for Education

Call for Evidence Response Form

Call for Evidence closing date: 31 March 2014

Your comments must reach us by that date

Policy Review: Asbestos Management in Schools

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If you want all, or any part, of your response to be treated as confidential, please explain why you consider it to be confidential.

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Please tick if you want us to keep your response confidential.	<input type="checkbox"/>
Reason for confidentiality:	

Name: Julie Winn	
Please tick if you are responding on behalf of your organisation.	<input checked="" type="checkbox"/>
Name of Organisation (if applicable): Joint Union Asbestos Committee	
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If your enquiry is related to the DfE e-consultation website or the consultation process in general, you can contact the Ministerial and Public Communications Division by e-mail: consultation.unit@education.gsi.gov.uk or by telephone: 0370 000 2288 or via the Department's ['Contact Us'](#) page.

Please mark the boxes that best describes you as a respondent. (For example, if you are a teacher in a secondary school that is an academy, please tick all three relevant boxes).

<input type="checkbox"/>	Maintained school	<input type="checkbox"/>	Academy	<input type="checkbox"/>	Primary school
<input type="checkbox"/>	Middle school	<input type="checkbox"/>	Secondary school	<input type="checkbox"/>	All through school
<input type="checkbox"/>	HT/Principal	<input type="checkbox"/>	Teacher	<input type="checkbox"/>	Governor
<input type="checkbox"/>	School business manager/Bursar	<input type="checkbox"/>	Parent	<input type="checkbox"/>	Teaching union
<input type="checkbox"/>	Local authority	<input checked="" type="checkbox"/>	Other		

Comments: The Joint Union Asbestos Committee (JUAC) was formed in 2010 and is a trade union campaigning committee comprising the 10 unions: Association of School and College Leaders (ASCL); Association of Teachers and Lecturers (ATL); National Association of Head Teachers (NAHT); NASUWT; National Union of Teachers (NUT); Voice; plus the education sections of, UNISON, Unite UCATT and the GMB: The Group has the objective of making all UK schools and colleges safe from the dangers of asbestos. All the unions in JUAC are also members of the Asbestos in Schools (AIS) campaign.

JUAC is a non-party political group and both JUAC and AIS have a common interest in making UK schools and colleges safe from the dangers of asbestos, both for staff and pupils. In the long term we wish to see all asbestos removed from all schools. However we recognise that, realistically, the focus in the short and medium term must be on safe management of asbestos in schools and colleges.

The members of JUAC will be making individual submissions to this Call for Evidence but have endorsed this submission. We also support the submission of the AIS group which provides further detail on some of our key areas of evidence.

Policy review: asbestos management in schools

We want to understand more about:

- the effectiveness of the current DfE policy;
- how asbestos is managed in schools; and
- how DfE can support duty holders to fulfil their responsibilities effectively.

Purpose of policy and the role of DfE

How strongly do you agree or disagree with the following statements –

1 a) Asbestos management in schools works well.

<input type="checkbox"/> Strongly agree	<input type="checkbox"/> Agree	<input type="checkbox"/> Neither agree nor disagree
<input type="checkbox"/> Disagree	<input checked="" type="checkbox"/> Strongly disagree	

Comments: JUAC would strongly disagree with this statement as we believe that the current policy is failing to support schools and ensure that asbestos management in schools works well, and that there is an urgent need for action to address this issue. Our submission to this call for evidence outlines the overwhelming evidence we have of failures in the management of asbestos, of the confusion that exists over this issue and of the resulting unmanaged risk of exposure to asbestos in some schools.

We will show in our evidence that schools are special workplaces containing large numbers of children known to be more vulnerable to asbestos, and protecting those children from exposure to asbestos cannot be left to good intentions.

We believe that there should be national strategic plan for the management of asbestos in UK schools to include a plan for the eradication of asbestos from all UK schools.

1 b) The current DfE policy offers the right level of support to schools.

<input type="checkbox"/> Strongly agree	<input type="checkbox"/> Agree	<input type="checkbox"/> Neither agree nor disagree
<input type="checkbox"/> Disagree	<input checked="" type="checkbox"/> Strongly disagree	

Comments: We believe that the support from the DfE falls far short of what is needed to support schools to keep children and school staff safe, and this needs immediate attention. The DfE who should address the following priorities in a national strategic plan:

In the short term:

- The DfE must assess the extent of asbestos present in the school estate and what proportion cannot be safely managed, in order to understand the risk it presents and in order to develop investment plans for phased removal of asbestos, starting with that in the most dangerous condition. The DfE has an opportunity to collect this data in UK schools through the Property Data Survey Programme, and asbestos must be included in this data collection if the full picture on the condition of the school estate, and its investment needs, can be understood.
- The DfE must consider this information in planning funding to allow for the removal of the most dangerous asbestos and the continued management of any remaining asbestos in UK schools
- There is a need for accredited mandatory training for all those responsible for or involved in the management of asbestos in schools, tailored to an individual's role, and in the case of duty holders, independently accredited to an acceptable standard. This should be funded by government and there should be monitoring of compliance with this obligation.
- The Health & Safety Executive should proactively inspect all schools to ensure that they are properly managing asbestos and ensure that poor management is urgently addressed. The evidence of high levels of poor management whenever the HSE has carried out inspections in schools cannot be ignored and makes a strong case for such inspections to act to protect children and school staff.
- These inspections should add to the evidence base of data and inform a national strategic plan for the phased removal of asbestos from UK schools.
- There must be a policy of openness and transparency. Parents, teachers and support staff should be informed and updated annually on the presence of asbestos and the plans to manage the asbestos in their schools.

In the medium term

- The current measure for acceptable levels of asbestos fibres to be inhaled in schools is that used for all workplaces, and takes no account of the particular vulnerability of children. This should be reviewed and a suitable environmental level should be established and supported through a system of widespread air sampling in schools to assess the level of risk to which children and staff are exposed..

Over the long term

- A programme for phased removal of asbestos from all schools should be adopted with immediate effect with priority being given to those schools where the asbestos is in the most dangerous or damaged condition.

2 Are there other things that DfE could do to support duty holders to fulfil their responsibilities? If so, please give details.

<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No	<input type="checkbox"/> Not Sure
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Comments: JUAC believes that there are a number of key areas where the DFE could support duty holders to fulfil their responsibilities:

1. Providing mandatory training for all duty holders and staff tailored to their role:

- Poor asbestos management in schools can be mainly attributed to a lack of training and asbestos awareness. In Appendix 1 to this submission, we present the findings of our surveys of various groups of school staff which found evidence of confusion surrounding the responsibility for the management of asbestos prevalent throughout the school workforce. Large proportions of the JUAC school staff asbestos survey respondents (the majority of whom were teaching assistants) had no awareness of processes surrounding the management of asbestos found in their schools. This was also reflected among school leaders where an ASCL/NAHT surveys found a lack of clarity concerning the role of the duty holder and the responsibilities of the duty holder, school leadership, governing body and local authority.
- This confusion and lack of clarity is a product of the lack of training on asbestos received by the school workforce, again at all levels. 43.3 per cent of school leaders had received no training on asbestos despite the large proportion (97 per cent) of school leader responders indicating they held responsibility for managing contractors on site for day-to-day repairs.

- In relation to school governors, only 16.6 per cent of school leaders in maintained schools indicated that a member of their governing body had received training rising to only 18.2 per cent in non-maintained schools. This is particularly worrying as in non-maintained and foundation schools, the governing body is the duty holder and therefore needs to be very clear as to its responsibility in relation to asbestos..
- The lack of training received by school leadership teams appears to be magnified amongst school staff where nearly 90 per cent of respondents indicated they had not received asbestos awareness training, with 97 per cent of respondents having no awareness of the DfE's online asbestos awareness package, for instance.
- This supports our view that it is essential to make asbestos training mandatory for school governors, head teachers, teachers, support staff and relevant officials in local authorities. Without properly funded mandatory training it is inevitable that there will be a wide range of competence across those expected to be responsible for asbestos management in UK schools. Competence in asbestos management is essential if good standards of asbestos management are to be maintained. It is also important to ensure, through mandatory training, that those liable to disturb asbestos in the course of their daily activities have the appropriate asbestos awareness training. Such training would play an important role in prevention of accidental exposure; including exposure by pupils.
- In February 2012, the DfE published on-line basic asbestos awareness guidance for schools. However, it is not mandatory and has not therefore been effectively cascaded to all those that need to access it.
- For those responsible for the management of the asbestos in a school, the mandatory training should be full training and we believe that accredited training should be developed to ensure the quality of such training. Duty holders must have general asbestos awareness and management training to enable them to understand asbestos issues, the requirements of legislation and principles and practicalities of asbestos management.
- In addition, all members of teaching and support staff need to be trained in asbestos awareness so that they understand their own responsibilities and can avoid disturbing asbestos in their schools.

2. Ensuring that governing bodies and trustees are aware of their responsibilities

- It is very important that members of the academy trust or governing body are aware of their legal responsibilities and informed about asbestos in making decisions about budget priorities and capital works at the school,

so they also need to be trained.

- The governing body acts as the employer in academies, free schools, voluntary aided and foundation schools, and as such carries legal responsibility for the safety of staff, pupils and visitors to the school. They therefore have to be aware of their obligations, including familiarity with the Approved Code of Practice for working with asbestos which sets out the duty holder's responsibilities, and competence to deliver them. This requires both training as highlighted in the response to the last question, and being updated on developments, best practice and changes to their school's asbestos management plan.
- It is also imperative that governors fully understand the issues in order that they are able to make informed decisions in relation to budgets and capital investment.

3. Moving to a policy of openness and transparency

- There is no policy of openness or transparency regarding the issue of asbestos in schools. If the problem of asbestos in schools is to be properly addressed in this country, a policy of openness is essential but instead the issue has been played down by successive governments.
- It is clear from surveys by JUAC and constituent unions as shown in Appendix 1 that staff in schools have little information about asbestos in their schools. This is unacceptable and against the law. It is also common that parents are not informed of the presence of asbestos in their children's schools nor of the measures taken to tackle this.
- Schools in the USA¹ must give parents and teachers an annual report on the presence and condition of asbestos in their school and the measures taken to manage it and we believe that this practice should be adopted in the UK.
- JUAC supports the recommendation of the All Party Parliamentary Group on Occupational Health and Safety that parents, teachers and support staff should be annually updated on the presence of asbestos in their schools and the measures that are being taken to manage it.

4. Making duty holders aware of known and emerging risks as soon as they become known

¹ AHERA US code: title 15,2643. EPA regulations Chapter 53. EPA Fact sheet AHERA 1986 Statement EPA Administrator 23 Oct 1986

- With responsibility for schools, the DfE has a responsibility to support duty holders in accessing the latest information by communicating any development in the area of asbestos management in schools as soon as it becomes available. This largely administrative task would have a disproportionately high benefit.
- The decision by the DfE last autumn to issue a warning to all schools not to wear or handle WW2 gas masks was the correct decision and was welcomed by JUAC, but it is regrettable that we had to insist for some time before this risk was communicated to schools, time during which more children and school staff would have handled such masks.
- Similarly, the report on the 2012 incident of asbestos exposure in Cwmcarn High School in Caerphilly has reminded us of the risks presented by warm air cabinet heaters in schools where they contain loose asbestos materials, risks known about since 1981 which led the HSE to issue a warning in 1982. The evidence from this report and other incidents highlighted the risks that these present and the urgent need to remind schools that all such heaters should be surveyed and where they present a risk, this should be removed. Despite a number of requests, the DfE has still not issued a warning to all schools and JUAC has been the only organisation warning its members of the risks to pupils and staff presented by these heaters. It seems extraordinary that when these risks have been known for over 30 years, during which time many of those heaters will have continued to deteriorate, the HSE who issued a warning in 1982 no longer think that schools need to take action to review such heaters
- We believe that issuing such warnings to duty holders is an important means by which the DfE can provide support, and that the DfE should play a proactive role, possibly through monthly briefings to schools/local authorities/governing bodies. The teaching and school leadership unions would be prepared to work with the DfE to support and disseminate this work, as well as making the DfE aware of emerging issues. Trade unions have always played a key role in supporting health and safety at work and this would be an extension of this.

5. Clarify responsibility for asbestos in schools in Wales

The recent asbestos incident at Cwmcarn High School is an example of how poor asbestos management practices can be allowed to continue and go unnoticed over very many years in the absence of a responsible body for the management of asbestos in schools and a clear and effective policy for the management of asbestos in schools. The Welsh Government states that HSE has overall responsibility for asbestos in Welsh schools whilst the Welsh Minister states that responsibility is that of the Welsh Government. This lack of clarity is leaving Welsh schools unsupported

and means there is no strategic approach to the overall management of asbestos in Welsh schools.

3 Can any issues only be fixed or resolved through government intervention? Is there something that needs to be done that only DfE can deliver? Please provide details.

<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No	<input type="checkbox"/> Not Sure
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Comments:

The points that we have highlighted above are issues that only the DfE can address as schools expect the DfE to set standards and requirements, and therefore have responsibility for:

- Establishing the extent and condition of the asbestos in schools and developing investment plans to remove the worst of the asbestos and ultimately all the asbestos in UK schools.
- Making training a mandatory requirement for school leaders, school governors and school staff.
- Working with the HSE to reinstate proactive regular inspections of all schools in order to monitor, understand and address the management of asbestos in schools, and protect school children and staff. The Government currently receives no feedback by which to assess whether the current policy is working.
- Ensuring that there is valid public liability cover to cover all staff and pupils in relation to asbestos risk in all schools. Public liability insurance policies specifically or implicitly exclude asbestos risk and whilst local authorities will self-insure to cover themselves against future claims in relation to asbestos, academies and free schools will have no such cover and are often unaware that their policies exclude this risk. JUAC has raised this with the DfE on a number of occasions and there has been no satisfactory response to how this issue will be addressed. It is the Government's responsibility to ensure that children educated in publicly funded schools and staff employed in such schools are not harmed in attending those schools and if they are, that they have recourse to compensation. This matter must be satisfactorily addressed.
- Due to the long latency of diseases arising from asbestos exposure, it is also important to ensure that duty holders be required to retain records in relation to their management of asbestos long term. JUAC believes that there should be a mandatory standard for keeping records in relation to asbestos. The organisation responsible for guiding local authorities on their record retention obligations (The

Information and Record Management Society) states in section 9.4 of their retention schedule that such records should be kept for 40 years from the last action. JUAC believes that this be standard across the education sector

- Developing a regulatory framework which is specific to schools and sets an appropriate environmental level for children and school staff, and assures that there is systematic air sampling.

This latter point is an important one as in 1983, the Department for Education considered a proposal for an 'environmental' limit specifically for schools given that teachers and pupils could be breathing in raised levels of asbestos for six or seven hours a day. It recommended that, because of the particular vulnerability of children, a level of 1/100th of the workplace control level would not be unreasonable in schools. An environmental level has never been introduced, and instead workplace control levels are still applied to classrooms. With the recent formal recognition of the particular vulnerability of children in the Committee on Carcinogenicity's report, the need to establish an appropriate level is now pressing.

In UK, schools asbestos management is controlled by generic regulations and approved codes of practice for all workplaces. The regulations were mainly drafted for the protection of those working with asbestos. There is the Control Limit and the Clearance Level. HSE admits that "The Control Limit is not a 'safe' level and work activities involving asbestos should be designed to be as far below the Control Limit as possible." Following work on asbestos or a release of asbestos fibres in a school, staff and pupils are allowed back in the classroom when the airborne asbestos fibre levels are below what is known as the Clearance Level. At this level occupants will inhale an estimated minimum of 6,000 fibres an hour.

These levels are not suitable for schools as schools contain large numbers of vulnerable children. Many schools simply do not know the levels of asbestos fibres to which people in their buildings are exposed. The real risk from asbestos in schools is therefore unknown. A system of widespread air sampling in schools would identify those schools and rooms where asbestos fibres are being released. It would also provide updated data on fibre levels in schools so that a more accurate assessment of the risks to staff and pupils could be made.

4 The role of duty holders is clearly outlined in legislation. Is there a role for others in supporting schools to manage asbestos effectively? If so, what is the role and who should carry it out?

<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No	<input type="checkbox"/> Not Sure
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Comments:

The Control of Asbestos at Work Regulations 2012 define those who own, occupy, manage or have responsibility for premises which may contain asbestos as 'duty holders'. Given the huge numbers of different employers across the education service (local authorities, governing bodies, proprietors of independent schools, college corporations and academy trusts) and taking account of the role of governing bodies in maintained community schools, as well as head teachers' day-to-day responsibilities for managing health and safety on site, it can be difficult to fully attribute the duty holder.

With growing numbers of schools converting to academy status, and the growth of the free schools sector, JUAC is concerned that there is a greater chance than ever before of confusion over the duty holder's role. In most schools the main duty holder will either be the local authority, academy trust or governing body. JUAC recognises, however, that there is of course a role for others in sharing this duty in the school environment.

It is hardly surprising that confusion over responsibilities can arise as whilst the local authority or academy governors may be the formal duty holders, the responsibility within the school may largely fall on the head teacher who may in turn delegate most of these responsibilities to a premises manager, school business manager or caretaker.

As revealed in the results of our head teacher survey in Appendix 1, head teachers are responsible for day-to-day health and safety management in their school but many do not feel confident in this role in relation to asbestos management. In the majority of cases this is because of a lack of training, which is why JUAC believes that only a programme of mandatory training for head teachers and governors will fill this gap. In addition, all members of teaching and support staff need to be trained in asbestos awareness so that they can avoid disturbing asbestos, and prevent pupils from doing so.

To sum up, schools need support in order to manage asbestos effectively. Head teachers are primarily educationalists and cannot be expected to manage asbestos safely unless they receive support and training. In the past, they would have relied on expertise from the local authority but:

- The diminishing role of local authorities as a result of several years of cuts and of losing budgets from schools ceasing to buy their services means that the expertise no longer exists in many local authorities.
- Where schools become academies or where free schools are established, the responsibility is with the trustees or governors yet they generally have no expertise and often no idea that they should be buying this in. Schools don't know what they don't know and without regular inspections of their management of asbestos, the risk to staff and pupils could continue to grow.

With the current and on-going fragmentation of the education service, a diminishing role

for local authorities, and the abandonment of HSE proactive inspections, it is important that the DfE plays its part in supporting schools. In addition to the areas of DfE support to Duty Holders and their staff that we identified in response to question 2, JUAC sees a key role for the DfE to protect children and school staff by reinstating government proactive inspections of all schools to ensure that poor management is identified and addressed, and information about areas of support that schools require are identified. If a comprehensive system of inspecting the standards of asbestos management had been in place at Cwmcarn High School in Wales, then their failure to manage their asbestos would have been identified many years before, and the asbestos exposure of generations of staff and pupils could have been prevented.

Since March 2011, Government policy has been that HSE does not carry out proactive inspections in local authority schools. HSE was asked by JUAC what system was in place to detect those LA schools that were not achieving a satisfactory standard, and HSE responded that they will only carry out an inspection after an asbestos incident has occurred or when a member of staff alerts them to a problem.

This is not a satisfactory long term strategy for ensuring safe standards are achieved. There are a number of cases where school staff have expressed their concerns that asbestos in their school was not being managed safely and this has occasionally been very difficult for them with one case that JUAC is aware of where a senior teacher felt that they had to resign as a result of raising the issue and another where a school governor did the same.

If HSE carries out an inspection after an incident has occurred then the damage has already been done, and although as a result of the inspection standards may improve, if a policy of proactive inspections had been in place then the incident could have been avoided in the first place. The lack of adequate quality assurance for health and safety was noted by a school leader, Michael Horswell, who was seconded to the HSE to review the management of health and safety in schools "Quality assurance of health and safety standards by external agencies is not currently part of the approach taken to health and safety in schools. HSE's input to schools mainly resulted from incidents that were selected for investigation."

It is HSE's designated role to inspect the standards of asbestos management in schools but they do not deliver this role proactively. The fact that this is their role was highlighted when, in the light of the increasing numbers of schools outside LA control, HSE were asked if the LAs could take over the role. HSE replied that the duty was theirs and that LA inspectors would not be allowed to take on the role.

JUAC believes that pro-active inspections should be reinstated in all schools to assess the standards of asbestos management. The information collected by HSE would also help to provide wider intelligence about the success of current government policy. The DfE should also ensure that schools that contain asbestos materials have the right level of expertise to support them on this issue, either in house or purchased through

local authorities or commercial providers.

Evidence for change

We want to gather evidence – including real life examples - of how the current asbestos policy works in practice along with any evidence to support proposals for changes.

5 What examples of good practice are there and what works well?

Comments:

JUAC is aware of many examples of good practice and also of bad practice that highlight current issues.

1. In the 1980s, the Association of Metropolitan Authorities had a policy of phased removal. They prioritised the most dangerous materials. This was considered safer and cheaper in the long run.²
2. Nottinghamshire County Council continues to operate a policy of phased removal when they carry out any maintenance or refurbishment works.
3. The London Borough Asbestos Group provides support to schools and works with the Asbestos in Schools Group and supports the aims and objectives of AIS. Their approach includes a recommendation that any asbestos work carried out in schools must take place when the school is unoccupied, good practice to avoid exposing children and staff to unnecessary risks from an airborne risk that is difficult to contain.
4. In the 1980s, the USA carried out an assessment of the scale of the problem of asbestos risks in schools. They acknowledged the increased vulnerability of children and the probability that they were being exposed to asbestos at the same time as their teachers. Consequently, in 1986, the USA introduced school-specific regulations known as the AHERA Regulations. The AHERA Regulations bring with them a policy of openness and transparency and ensure schools are accountable to both staff and parents. This approach to prioritise the issue in the USA is interesting as most asbestos fibres in public buildings were found to be chrysotile, whereas in the UK, amosite was the material widely used in school construction between 1945 and 1975, which is up to 100 times more likely to cause mesothelioma. The incidence of mesothelioma has stabilised in the USA at about 14 per million per annum since 1999.³
5. In 2010, Australia's mesothelioma incidence was 28.8 per million per annum. Britain's was 38.4 per million per annum; the worst in the world. In June 2013, Australia passed the "Asbestos Safety and Eradication Agency Bill. The Agency has implemented the National Strategic Plan for Asbestos Awareness and Management. The plan includes developing the implementation of a prioritised

removal program across Australia.⁴

6. In March 2013 the European Parliament voted 558 to 51 in favour of the “Asbestos related occupational health threats and prospects for abolishing all existing asbestos” Bill. The Bill recommended an impact assessment and cost benefit analysis to assess the proposal that asbestos be removed from public buildings by 2028.
7. In the States of Jersey, with the exception of fee paying schools, all schools are located in premises owned centrally by the Jersey Property Holdings Department (JPH). JPH holds landlord responsibilities and actively manages the asbestos in its buildings. Management surveys (formerly known as Type 2) have been undertaken in all buildings and where necessary, ACMs have been removed, for example asbestos which is damaged or at risk of damage. Where the materials are in a good condition and in a location which permits them to remain in situ i.e. are in a good condition and risk of damage is low, then arrangements are in place to ensure that they are subject to formal inspections on an annual basis. Where necessary a Refurbishment and Demolition survey is undertaken prior to any works taking place that could disturb hidden material. JPH have confirmed that no warm air heating cabinets have been identified in Jersey schools during the surveys.
8. Poland has adopted a policy of identifying its asbestos and removing it by 2032.⁵
9. The Isle of Man’s Department for Infrastructure (formerly Works Department) has been involved in the management of and the removal of asbestos containing materials from schools for a number of years. The work is high priority and carried out during school holidays and weekends by licensed contractors to minimise risk to staff, pupils and visitors to school sites. The policy is one of phased removal.
10. Northern Ireland has the same policy as England; however it has carried out an assessment of the entire school stock. The assessment included collecting data on the presence, location, management plans and monitoring the condition of and maintaining any asbestos. Any material identified as “high risk” was removed following the assessment. The data collected is held centrally by the Education and Library Boards who were tasked to obtain the information. The Health & Safety Executive (NI) carries out pro-active inspections of schools. In a Northern Ireland Assembly written answer the Minister for Education outlined that:

“The system of management also includes monitoring the condition of and keeping up to date records of the condition and location of any known asbestos containing materials in the school, assessing risks from the materials and making plans to manage those risks. These plans must be put into action and should any deterioration of the materials occur and based on the assessed risk, removal, repair or encapsulation must be carried out by a licensed asbestos company.

Every school in the schools’ estate, where asbestos is present, has an asbestos register that gives detail of any asbestos containing materials known to be

present in the school. The information to populate these registers was obtained from asbestos surveys of the schools' estate. Following the surveys any asbestos that was deemed to pose a 'high risk' was removed by a licensed asbestos company. It must also be ensured that anyone, who is likely to work on, or disturb, the asbestos is provided with information about its location and condition. The school sectors follow these recommendations and manage the asbestos in the estate rather than remove it unless this is deemed necessary.”⁶

It is apparent to JUAC that there is much good practice by other nations who clearly take the issue of asbestos management in schools much more seriously, whereas our evidence, which will be detailed in response to question seven, will highlight severe shortcomings in the policy in this country.

6 Are there any particular barriers or disincentives that hinder the effective management of asbestos in schools? Please provide details.

<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No	<input type="checkbox"/> Not Sure
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Comments:

We believe that there are a number of factors that particularly hinder the effective management of asbestos in schools:

1. Lack of information about the asbestos in UK schools

Unlike the situation in many other countries and despite having the highest rate of mesothelioma deaths in the world, we have no national picture of the state of asbestos in UK schools, except for Northern Ireland. This means that it is impossible to fully assess the risk at a national level, nor plan for future investment for removing the asbestos that presents the highest risk and updating this as the asbestos continues to deteriorate.

More than 75 per cent of British schools contain asbestos. The materials of greatest concern are those that readily release asbestos fibres such as asbestos lagging, sprayed asbestos and asbestos insulating board (AIB), all of which are present in schools. Asbestos was also sprayed on ceilings and structural beams or used extensively in the construction of schools in walls, ceilings, heating baffles, window and door surrounds, with much of it in locations that are vulnerable to damage by children. The Chief Executive of Partnership for schools stated in 2010 that more than 80 per cent of the school stock is beyond its shelf life.⁷

The Property Data Survey Programme (PDSP) was set up to provide up-to-date and accurate information on the condition of schools. Asbestos has been specifically excluded from the surveys that have been carried out and existing data held locally on asbestos has not been collected in the Asset Management Software (AMS) system. The information collected for the programme will be used to inform funding allocations for schools. Asbestos is the single most expensive item when it comes to refurbishment, maintenance and repair in buildings containing asbestos. Any funding decisions made on the basis of this information will therefore be meaningless and flawed. Inevitably the allocations for schools will be under funded. Schools will not have the financial resources that they need to fulfil their legal responsibilities to manage the asbestos in their buildings.

2. Lack of dedicated resources to support the management of asbestos

The assumption that all the asbestos in UK schools can just be managed denies the reality that over time, more and more of this will deteriorate and will need to be removed as it becomes impossible to manage it safely. Government needs to budget for the phased removal of the asbestos in these buildings .

3. Lack of a national plan for management of asbestos in UK schools including a plan for prioritised phased removal

This is critical as without a national picture on asbestos in UK schools, it is not possible for the government to make the necessary plans and budget provision to allow for the long term management, and removal of asbestos as it deteriorates and becomes impossible to manage in situ. Local Authorities and Independent schools are legally responsible for the management of the asbestos in their schools but the financial burden and a strategic long term plan for Asbestos in Schools falls to central government. The DfE is responsible for making and delivering policy on asbestos in schools. It needs to work with, and share information with, other government departments and organisations including the Department for Work and Pensions and the Health & Safety Executive.. Full information would allow a national strategic plan to be developed that is prioritised and has adequate resources allocated to it.

4. HSE advice on asbestos in schools – including use of inappropriate workplace levels

The HSE are regulators of health and safety in the workplace and therefore apply workplace standards to schools, and this is simply not appropriate in schools. An example of this relates to the HSE Clearance Level after an asbestos incident, used to determine when occupants (including pupils) can be allowed to return to the school. These standards were designed for adults working with asbestos and ignore the fact that whilst schools are workplaces, they are also unique in that they contain large numbers of children.

Children are more vulnerable to asbestos. A child exposed to asbestos at age 5 years is more than 5 times more likely to develop mesothelioma than an adult exposed at age 30 years.⁸ It is therefore very clear that this is not the appropriate approach to assessing risk in schools, and we believe that the HSE struggles to make such distinctions and is not able to advise the DfE in a way which protects school children and staff

5. Lack of transparency

The fear of creating panic and the loss of reputation are often quoted as reasons and justification for not having a policy of transparency about asbestos in schools. The USA introduced school specific regulations in 1986 – schools did not suffer from a resultant loss of reputation and nor was there a national panic or widespread fear. Instead the USA has benefited from this policy of openness and has seen its mesothelioma mortality rate stabilise since 1999.

It is accepted that there is no safe level of exposure to asbestos fibres and therefore a person has the right to know if they are liable to disturb asbestos in the course of their duties at work. Importantly, if a person knows about the presence of asbestos then they are much more likely to take preventative steps to avoid disturbing it. Children are more vulnerable to asbestos and therefore a parent has the right to know if their child is attending a school containing asbestos. A parent who is well

informed is more likely to take a proactive approach to health and safety in school and be reassured by the presence of a good management plan. Both staff and parents should be informed of the presence, condition and the plans to manage the asbestos in their schools.

The knowledge of the presence of asbestos is not a barrier or disincentive to effective management whereas keeping the presence of asbestos hidden is. If staff (and parents) know about the presence of asbestos they can work (and children can learn) around it more safely. Inadvertent disturbance is more likely to be avoided and action plans will be more effective if proper information is shared.

6. Lack of mandatory training

We have outlined in response to question two that the lack of training and awareness presents a major barrier to the effective management of asbestos and the worrying findings from our surveys of school leaders and staff. Without training, a person cannot be expected to manage asbestos or to know how to work safely around asbestos, as extensively evidenced in our response to question two.

7 What evidence is there that the current policy needs changing or that improvements need to be made? Please provide details.

Comments:

Current UK Government policy is that, so long as asbestos is in good condition and is not likely to be disturbed for the remaining life of the school rather than remove it. Although some schools and local authorities have good asbestos management, many do not, and our detailed evidence will demonstrate this. This is of great concern as asbestos in schools is often not in good condition, or it is unsealed and hidden, and as tests have also shown that normal school activity and asbestos fibres released over the course of many years without anyone being aware of it. The evidence that the current policy needs changing is overwhelming:

1. **Recent confirmation about the vulnerability of children to asbestos:** Schools are unique workplaces as they not only contain the workforce, but they also contain children who are more at risk from asbestos exposure than in any other workplace. A child in the United Kingdom is required to attend school so the numbers facing potential exposure are high. A report commissioned by the Medical Research Council examined the extent of asbestos in school buildings and concluded *"It is not unreasonable to assume, therefore, that the entire school population is exposed to asbestos in school buildings... Exposure to asbestos at school may therefore constitute a significant risk to health."* It is equally reasonable to assume that the widespread exposure of a large number of people to asbestos has contributed to the exceptional mesothelioma incidence in Britain.

In 2011 the Supreme Court confirmed the judgment that Dianne Willmore had been negligently exposed to asbestos as a pupil at school and the exposure had materially contributed to her mesothelioma. They also accepted the opinion that there is no known level of exposure to asbestos below which there is no risk.

Although it is known how many teachers have died it is not known, because of the long latency, subsequently died. On 7th June 2013 the Government's advisory Committee on Carcinogenicity the relative vulnerability of children to asbestos compared to adults. They concluded that children younger the child the greater the risk. The lifetime risk of developing mesothelioma for a five year child is greater than an adult aged thirty. The following table puts the increase in risk for younger children. The conclusion is based on the table:

Increased mesothelioma risk to age 80 (~lifetime risk)

Start age	0	5	10	15	20	25	30	40	45	50
Factor	7.0	5.3	4.0	3.0	2.1	1.5	1	0.4	0.2	0.1

At the Education Select Committee hearing in March 2013 Professor Peto, a leading epidemiologist, gave this evidence and later estimated that between 200 and 300 people could die each year of their asbestos exposure as children at school during the 60s and 70s. That would equate to up to 2000 deaths over a twenty year period because of asbestos exposure as a child at school. That is clearly of great importance, but it has never been properly addressed.

The estimates are based on the levels of exposure during the 1960s and 1970s and HSE claim that asbestos exposure in schools are less now than they were then. However, this claim is not based on sound evidence. Present fibre levels in schools. The lack of sufficient data on airborne fibre levels, and in particular in primary schools was highlighted by the COC. Most of the asbestos remains in place and so does the risk. Much is deteriorating as the school stock has been poorly maintained. The evidence is that asbestos is consequently staff and pupils are still being exposed to asbestos, in some cases over a prolonged period.

Information about the level of risk to children is fundamental to the impact assessment of the risk. This needs to be reviewed, as the DfE agreed in initiating this review as a result of these findings.

2. **Increasing evidence of poor management in schools through HSE enforcement action:**

Recent HSE surveys and the resultant enforcement actions are evidence of widespread management failures. Details of these are included in the AIS response to this Call for Evidence, which JUAC also supports. There have been two rounds in recent years of inspections of local authority schools. In the first round in 2007/08, improvement notices were issued in 17 per cent of schools.⁹ In the second round in 2009/10, 24 per cent of the 42 local authorities inspected, and some of the remainder were given formal enforcement notices for asbestos management. In some cases the local authorities had failed to follow critical asbestos management standards. e.g. South Gloucestershire council, Thurrock Council, Glasgow Council and Bedford Council.¹⁰

At that point, despite worsening evidence of performance, the HSE and DfE agreed not to continue with the current approach to asbestos management in schools but to focus instead on academies that didn't have the support of local authorities for asbestos management.

Yet what was glaring from those previous inspections was that there was an endemic problem, and the current approach of leaving local authorities and schools to address the issue on their own was not working. Despite clear evidence of failures, the decision was not taken to review the issue, take a different

inspect schools to monitor how a revised approach was working.

In 2011, the HSE published the results of inspections they had carried out in academies and schools under their direct control to determine their standards of asbestos management. Whilst they presented the results as satisfactory, they declared that: *“The Health and Safety Executive (HSE) inspected a random sample of 164 independent schools and foundation schools and academies between November 2010 and June 2011. It served notices on 10 schools to improve arrangements for managing asbestos, and provided informal advice to a further 110 schools. In 17 per cent of schools, some sort of intervention and enforcement action had to be taken in 17 per cent for failure to manage asbestos. More than half of the eighty schools that carried out their own maintenance and building work had failed to manage asbestos. This seems to also point to an endemic problem with the management of asbestos in schools, and the need for enforcement action for a failure that can threaten the lives of children and adults.*

In early 2013, the Education Select Committee examined the evidence of enforcement action taken against schools for failing to manage their asbestos. A committee member put the enforcement action taken into perspective, stating that one in five or six schools required the equivalent of an enforcement notice because they were not meeting the safeguarding of children requirements, it would be on the front page of every single newspaper. The committee concluded that asbestos.

There have been very many more enforcement actions taken against schools for their failure to manage asbestos. A full list please see the AIS summary of enforcement action at:-

<http://www.asbestosexposureschools.co.uk/pdfnewslinks/HSE%20ENFORCEMENT%20SCHOOLS>

If negligent exposures are to be prevented or reduced then pro-active HSE inspections must be required.

3. The views of experts

Members of Asbestos Testing and Consultancy (ATAC) visit thousands of schools throughout the country. In 2010:

“The evidence is that the system of asbestos management in many schools is not of an adequate standard. In some schools it is ineffective, in others it is almost non-existent, and in some it is at times dangerous... These are problems that have crept in over recent years; rather they are fundamental problems that are endemic in schools in general.”

4. Evidence of asbestos incidents in schools:

The presence of asbestos in UK schools presents an intrinsic risk to occupants. Numerous asbestos incidents have occurred and are still occurring in schools. If asbestos is present then there will always be the possibility of disturbance and asbestos fibres released. Consequently similar incidents to the 2012 Cwmcaran school incident where the cost when things go wrong is very high and presents a continual drain on resources.

Examples of this can be found in:-

- Capital Programme Urgent works Nightingale Junior School £700,000 Derby CC Corporation May 2007¹².
- William Parker School: Approximate increase in cost of project due to discovery of asbestos.

Refurbishment and re-cladding of 1970s classroom and laboratory block¹³

- South Ayrshire Council Proposed closure of Mainholm Academy Report by the Director of Lifelong Learning January 2007. £13.9m. “ ..maintaining the school buildings has proved troublesome than anticipated with asbestos making access a problem.” Evening Times 1
- Also see: Issues of Using CLASP to transform learning – Nottinghamshire County Council 94 per cent of cost of new build. P3 and 6.¹⁴
- Caerphilly Council took the decision to close Cwmcarn High School in October 2012 on the advice of asbestos management consultants, so that a full assessment of the extent and condition of asbestos and the necessary remedial actions taken to make the school safe. More than £1million was spent to make the school safe to reopen. JUAC has serious concerns about the investigation and advice given in this incident.¹⁵

In addition to the above evidence, the individual member unions of JUAC have evidenced cases demonstrating real examples of bad practices in UK schools. JUAC refers to its constituent members and adopts the evidence in this Response. It is likely that there has also been under-reporting of significant incidents – in the main because of the HSE Action Level. The HSE guidance until 2012 was that if the exposure was below the Action Level then the exposure would have been insufficient to pose a significant long term risk, contrary to the state of knowledge - *that there is no known risk below which it is safe to be exposed*. Recently the reporting of asbestos incidents has been hindered by the introduction of arrangements to reduce HSE enforcement costs from those prosecuted – making it less likely that a person would report an incident.

The most high profile recent case concerns Cwmcarn High School in Caerphilly in South Wales. The school was closed with immediate effect on receipt of a report that identified damaged asbestos, widespread in classroom heaters that were blowing asbestos fibres into the classrooms. The school had failed to follow guidance and had even failed to follow guidance that had been issued thirty years before that warned of the risk of fibre release from the heaters. The type of heater was one of the most common in schools, therefore the Education Group asked DfE to issue an urgent warning to all schools about the inherent dangers of these heaters. DfE failed to issue a warning as such a warning would “divert resources.” As at 20th March 2014 neither the school nor the DfE issued a warning.

The Minister for Education at the National Assembly of Wales asked all local authorities “To confirm whether they are undertaking their statutory duties in accordance with the legislation, along with copies of Asbestos Management Plans and analysis of the returns the Minister stated “I do not feel sufficiently assured at this stage that local authorities are fully discharging their statutory duties to manage asbestos and have sufficient plans in place.” This adds to all the evidence that a significant number of schools are not safely managing their asbestos.

5. JUAC evidence of poor training and information on the management of asbestos in schools
member surveys in Appendix 1 highlighting serious concerns that:

- Those managing asbestos are not always trained to undertake this responsibility.
- Those working in schools are not sufficiently briefed on the presence of asbestos and how to manage it.
- Those carrying out capital works in schools are not always made aware of the presence of asbestos in those schools.

- the integrity of asbestos surveys carried out in schools is sometimes questionable.
- School leaders do not always have access to expert advice from the local authority or ac

These issues highlight poor and ill-informed practice in the management of asbestos in schools checked or inspected, poor practice can continue unchecked unless there is whistle blowing by highlighted in the case studies presented by the unions.

6. **Increasing numbers of school staff deaths from mesothelioma:** Britain has the highest incidence in the world at more than twice that of France, Germany or the USA. An HSE report concluded that there is more amosite than any other country. All types of asbestos can cause the asbestos cancer mesothelioma, which is 100 to 1000 times more likely to cause the disease than chrysotile, and crocidolite is up to 500 times more likely.

More than 75 per cent of Britain's schools contain asbestos. Much of that is badly maintained, meaning that many school staff are exposed to this killer fibre and the risk of subsequently dying from mesothelioma. The number of mesothelioma deaths in Britain has increased from three a year in the 1980s to 15 a year in the last ten years. Since 1980, more than 140 school teachers have died of mesothelioma, with more than 140 dying in the last ten years. In a 2013 response to point 1 above, in March 2013 Professor Peto, a leading epidemiologist and member of the HSE, estimated that between 100 and 150 females would die each year as a result of their exposure to asbestos in schools in the 1970s, equating to 200 to 300 deaths (male and female) each year in the future. Whilst some have died, many are known to have been exposed at school and because of teachers' career patterns the death certificate is likely to be the occupation in which the exposure occurred.

The occupational statistics do not include mesothelioma deaths above the age of 74, although a significant number of mesothelioma deaths occur above that age as well as below. Studies have shown that lower exposures on average over a longer period therefore in a profession such as teaching it is reasonable to assume that as many, or perhaps more, people die of mesothelioma above the age of 74. If so, the occupational statistics significantly understate the actual numbers of teachers, caretakers, cleaners, cooks, secretaries, teaching assistants, nursery nurses and former pupils who die of mesothelioma. However, unlike teachers who will often spend their working lives in the same profession and are therefore straightforward to record, occupations in schools such as cleaners or cooks are not defined by a single occupation, making it difficult to get a definitive number exposed to ACMs in these support occupations, within schools.

7. Need for a policy of phased removal

Whilst asbestos remains in UK schools there is potential for occupants to be exposed to asbestos and it is difficult to set a limit below which exposure is safe. We believe that in many UK schools, the asbestos is now in an unacceptably high state of disrepair.

The Schools Capital Review published in April 2011 stated that "Significant parts of the school estate were in a poor state." According to the Chief Executive of the Government's Partnership for Schools, 80 per cent of the school estate has a shelf life and a Financial Times report quoted DfE estimates of an £8.5bn backlog of repairs.

Other countries have recognised the problem of asbestos in public buildings and have committed to a policy of phased removal. In recent years procedures for removing asbestos have improved, as has the system of checking and testing to ensure that safe standards are achieved. Therefore it is our view that asbestos removal can be carried out so that the health of occupants of schools and other buildings after removal is better than it was before.

Phased removal of asbestos from schools should be adopted as national policy in the UK with priority given to the most dangerous materials. If the UK does not take this action then asbestos will remain a problem in schools for a long time, continual, and growing, drain on resources as the asbestos continues to deteriorate and there will be a

the asbestos to be disturbed and fibres released.

8 Do you have evidence to show that duty holders are not fulfilling their responsibilities?
If so, please provide evidence of the underlying problems.

<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No	<input type="checkbox"/> Not Sure
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Comments: See answers to Q5 and Q7 above

9 What could be improved, how and by whom? What practical difference would your suggestion make to duty holders, school staff and pupils?

Comments: See answer to Q1, Q2, Q3, Q4 and Q7 above

10 What would be the estimated cost of any improvements that you suggest? How should these improvements be funded?

Comments:

As there has not been an audit of the asbestos in UK schools, the scale of the problem is not known and cost estimates cannot therefore be made. There has been a systemic failure to audit and budget centrally for the management and phased removal of asbestos in schools. Funding for the continued maintenance and prioritised phased removal of asbestos from schools should come from central Government funding, and as we have outlined in our response to question 6, there is an opportunity to gather such information at a national level by including the assessment of asbestos in the Property Data Survey Programme (PDSP)

Guidance and tools for duty holders/others

We want to understand more about what is helpful to duty holders and what more can be done to provide support.

11 Are you a duty holder for a school? If not, do you know who the duty holder is?

<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No	<input type="checkbox"/> Not Sure
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Comments:

12 a) Are you aware of the DfE asbestos management in schools guidance?

Yes

No

12 b) Have you read/used the guidance?

Yes

No

13 Has the guidance been useful and relevant to your needs? What did you find most helpful?

Yes

No

Not Sure

Comments:

14 Please provide any suggestions that you have to improve the DfE guidance.

Comments: Whilst asbestos incidents arise due to the presence of asbestos in schools, their risk is compounded by schools having inadequate information and/or training to manage them, rather than deliberate acts of non-compliance. Improvements to the DfE Guidance should therefore focus on this area.

To this end, we would reiterate the case we made earlier for the DfE to introduce mandatory, accredited training for duty holders, head teachers and governors covering the management of asbestos. This would ensure those running schools are fully aware of their obligations and responsibilities.

The DfE should also ensure an appropriate method for cascading information is available and this is used to ensure that all staff are aware of the DfE guidance

Similarly, the cascading system should be used when guidance is updated, particularly when incidents occur which have implications across all schools, such as the situation at Cwmcarn High School around warm air cabinet heaters, and the warnings that were issued regarding the use of gas masks in schools.

15 Please provide details of any other sources of guidance that you use or tools to help you understand and fulfil your responsibilities.

Comments:

16 Are there other things that could be done/provided that would help raise awareness of asbestos management issues? Please provide details.

<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No	<input type="checkbox"/> Not Sure
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Comments: See our response to question 14 above

17 What would be the cost of any improvements that you suggest? How should these improvements be funded?

Comments:

JUAC is not in a position to provide a costing. This is an action for Government – the improvements should be funded from central Government funding.

18 If you have further views about asbestos management in schools that you would like to share, please add here or return with this response form.

Comments:

We also ask the DfE to consider the further evidence submitted in our Appendix 1 survey of members asbestos in schools and the AIS Summary of HSE enforcement action at:-

<http://www.asbestosexposureschools.co.uk/pdfnewslinks/HSE%20ENFORCEMENT%20SCHOOLS%>

Thank you for taking the time to let us have your views. We do not intend to acknowledge individual responses unless you place an 'X' in the box below.

Please acknowledge this reply.

E-mail address for acknowledgement:

Here at the Department for Education we carry out our research on many different topics and consultations. As your views are valuable to us, please confirm below if you would be willing to be contacted again from time to time either for research or to send through consultation documents?

<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No
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All DfE public consultations are required to meet the Cabinet Office [Principles on Consultation](#)

The key Consultation Principles are:

- departments will follow a range of timescales rather than defaulting to a 12-week period, particularly where extensive engagement has occurred before
- departments will need to give more thought to how they engage with and use real discussion with affected parties and experts as well as the expertise of civil service learning to make well informed decisions
- departments should explain what responses they have received and how these have been used in formulating policy
- consultation should be 'digital by default', but other forms should be used where these are needed to reach the groups affected by a policy
- the principles of the Compact between government and the voluntary and community sector will continue to be respected.

However, if you have any comments on how DfE consultations are conducted, please contact Carole Edge, DfE Consultation Coordinator, tel: 0370 000 2288 / email: carole.edge@education.gsi.gov.uk

Thank you for taking time to respond to this consultation.

Completed responses should be sent to the address shown below by 31 March 2014

Send by post to:
DfE Asbestos Policy Review
Central Capital Unit - 4th Floor
Department for Education
Sanctuary Buildings
Great Smith Street
London
SW1P 3BT

Send by e-mail to: asbestos.review@education.gsi.gov.uk