

## Comment on Parliamentary Question on Asbestos in Schools.

8<sup>th</sup> December 2010

### Schools: Asbestos

**John Cryer:** To ask the Secretary of State for Education (1) if he will commission an assessment of the risks from asbestos in schools to (a) children and (b) other occupants; [27283]

(2) what estimate he has made of the (a) extent, (b) type and (c) condition of asbestos present in the fabric of maintained schools; [27284]

(3) what measures he has put in place to identify asbestos in (a) secondary and (b) primary schools during refurbishment work; [27285]

(4) what measures he has put in place to prioritise those schools with the most dangerous asbestos for refurbishment or replacement works; [27294]

(5) what measures he has put in place to remove asbestos when refurbishment takes place in (a) secondary and (b) primary schools; and if he will make a statement. [27295]

**Mr Gibb** [*holding answer 30 November 2010*]: The Department has no plans to commission an assessment of the risks from asbestos in schools. The Government Scientific Advisory Committee Working Group on Action to Control Chemicals (WATCH), which considers all aspects of risk from toxic chemicals including asbestos, is currently examining the risks of lung cancer and mesothelioma from low level exposure to asbestos fibres. Their findings will be made known to the recently formed Asbestos in Schools Steering Group chaired by the Department.

On the numbers of maintained schools containing Asbestos Containing Materials (ACMs), I refer you to the answer given to me on the 4 June 2009, *Official Report*, column 657W, by the former Minister of State for Schools. This stated that:

"Our best estimate in September 2008 was that around 70% of school buildings contain some ACMs."

These schools are likely to contain a range of ACMs, e.g. moulded or preformed asbestos in the lagging used as thermal insulation on pipes and boilers; asbestos insulating board used for fire protection, thermal insulation, partitioning and ducts; and asbestos-containing floor tiles and textured coatings. The responsibility to assess the condition of ACMs falls to the duty holder under the Control of Asbestos Regulations 2006.

Under the Control of Asbestos Regulations, statutory duties are placed on those who are responsible for repair and maintenance of non-domestic premises. In a maintained school, the duty holder is normally the maintaining local authority-where there is delegated funding this duty is often shared with the head teacher. For academies, voluntary aided and foundation schools, the duty holder is the school's governing body. For independent schools, it is the proprietor, governors or trustees. The Department is working with the Health and Safety Executive (HSE) and asbestos training providers to produce training for head teachers to make sure they are fully aware of their roles and responsibilities.

A recent questionnaire survey and follow-up work of HSE shows that the majority of local authorities were managing asbestos in their schools. Formal enforcement action in the form of 18 improvement notices and one prohibition notice was taken against 10 local authorities requiring improvements to their asbestos management arrangements. The reports of this work and the letter to local authorities reminding them of their responsibilities under the Control of Asbestos Regulations can be found at:

[www.hse.gov.uk/services/education/information.htm#asbestos](http://www.hse.gov.uk/services/education/information.htm#asbestos)

It is for the duty holder to assess, with expert advice, the action which needs to be taken when buildings are refurbished, depending on the location of the asbestos

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materials in relation to the location, nature and extent of the works to be carried out. Removal, encapsulation, repair or management in situ may all be appropriate actions. Responsibility for prioritisation of specific projects rests with individual schools and local authorities.

Asbestos does not pose a serious risk if it is in good condition and managed in accordance with the Control of Asbestos Regulations. HSE does not recommend the routine removal of asbestos. Its advice remains that, providing that ACMs are maintained in good condition, they can be left in situ and managed until a building reaches the end of its life, at which time ACMs can be removed without risks to building users who would otherwise be exposed to fibres arising from significant disturbance.<sup>1</sup>

## Comment

### Risk.

A basic health and safety principle is that an assessment is made of the scale of the problem and the risks, and yet when it comes to assessing the scale of the asbestos problem in schools and the consequent risks to the occupants, successive Governments have refused to apply this basic principle.

In July 2009 the Chief Executive of the British Safety Council stressed the need for an assessment of the risks to the teachers and pupils from asbestos. He stated:

*"It is unacceptable that the UK, in 2009,... has not yet not comprehensively assessed the risks that teachers and pupils in each and every school face....."*<sup>2</sup>

In his answer the Minister has stated that he has no plans to assess the risks to the occupants of schools. When in Opposition Nick Gibb MP was briefed on the asbestos problem in schools and how the risks were greater to children. He was told how the problem had been played down and was asked if he would assess the scale of the problem and the risks. He responded: *"One cannot shut one's eyes to the problem.... One cannot sweep the problem under the carpet."*<sup>3</sup>

It would appear that is precisely what he intends to do.

### Extent, type and condition of asbestos.

The 70% estimate was made on the age and floor area of schools and is little more than a guess. Local authorities and school governors know how many of their schools contain asbestos, and therefore it would be a very simple matter of asking them. The Freedom of Information responses that have been received so far indicate that the number is likely to be significantly higher.

The government are within days of announcing the results of a schools capital spending review and have stated that they will prioritise the most dilapidated schools for refurbishment. And yet it appears to be financially irresponsible as they are unaware of the extent and cost of one of the potentially most expensive items. They cannot therefore allocate proportionate resources. They

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<sup>1</sup> Parliamentary written answers 8 Dec

2010 <http://www.publications.parliament.uk/pa/cm201011/cmhansrd/cm101208/text/101208w0004.htm#10120883001750>

<sup>2</sup> British Safety Council press release Government failing to tackle asbestos in schools. 3 Jul 2009  
[www.britsafe.org/feedcontents.aspx?id=100261](http://www.britsafe.org/feedcontents.aspx?id=100261)

<sup>3</sup> Meeting Nick Gibb MP Shadow Schools Minister/ Asbestos in schools group 27<sup>th</sup> January 2010. Meeting Nick Gibb MP/ Lees 7 Jul 2009

also cannot allocate the resources according to need as they are also unaware which local authorities and schools have the greatest asbestos problem.

### **Prioritise for refurbishment.**

The Minister has placed the onus for setting priorities for refurbishment on the local authorities and the individual school. But the flaw arises when one local authority has a large number of dilapidated schools with deteriorating, dangerous asbestos, whereas another has few. As government policy means that they are unaware of such details, then one must presume that the authorities with the greatest problem will be unable to refurbish all the schools that they should, whereas other authorities will refurbish schools that are in less need.

Quite how priority is given to an Academy or Free schools is not explained. But as the buildings are handed over to their new owners on the strength of a management survey, the hidden asbestos has invariably not been identified. It is likely that they will only find that asbestos once they are the proud owners and when they decide to refurbish their school buildings. They will then also find out the significant expense that is needed to make the asbestos safe, but by then it is their responsibility to resolve a problem that the previous owners had avoided doing.

### **Primary and secondary schools.**

Under the last government the secondary school initiative (BSF) was relatively well funded, whereas the primary school one was not (PCP). It would appear from this answer that the government have not set a priority, as that they claim is entirely the province of the individual school or local authority. As fewer funds are available and it is to be spread more thinly, it would appear that the last government's policy of removing asbestos from secondary schools during major refurbishment's will not continue under this government. This tends to be confirmed in the answer about the policy of removing the asbestos from schools during refurbishment.

### **Removal of asbestos.**

The Minister makes it clear that the government's policy is to leave the asbestos in situ and managed it until the building reaches the end of its life. That means that the vast majority of schools will have to manage their asbestos for decades to come.

The guidance for system built schools advises schools to seal in damaged asbestos. Even if there was total compliance, which there is not, the recommended measure are known to have failed and be unsafe. Despite this the HSE claim, incorrectly, that the measures work - which conveniently justifies the policy of leaving the asbestos in situ and managing it.

### **Management of asbestos.**

The policy is further justified by the Minister as he and the HSE, erroneously, claim that the majority of local authorities are managing their asbestos in accordance with the regulations.<sup>4</sup>

The Minister is misleading about the HSE questionnaire survey, for it did not confirm that the majority of education authorities were managing their asbestos in their schools. It was based on a

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<sup>4</sup> See comment on HSE press release 3 Dec 2010 <http://www.asbestosexposureschools.co.uk/pdfnewlinks/HSEresponse.pdf>

tick box questionnaire that looked at compliance with the guidance for one particular problem in one type of school, system built schools.

The design of the study does not give a true picture of the compliance or the standards of 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 questionnaire and the inspections do not provide a basis for the Minister to make his claim. However he does make his claim, and by doing so it supports his policy of managing the asbestos rather than removing it.

### **Training.**

The Minister also puts a gloss on his policy by highlighting the training that his Department and HSE are producing for headteachers. The training is much needed and long overdue, but that is not apparent from the answer, and neither is the priority that has been based on this training. Just £20,000 has been allocated for every headteacher in the country, whereas in comparison the Department for Education spent £82,000 on pot plants for their splendidly refurbished headquarters.<sup>5</sup> It is also not mentioned that the training will not be compulsory,<sup>6</sup> which will inevitably mean that those headteachers who most need the training will continue to avoid seeking it.

Two reports that were potentially critical of present standards of health and safety training and awareness in schools have not been published, and sight of both has been refused under the Freedom of Information act.<sup>7</sup> The end result is that anything that supports the Government policy of managing asbestos is given a positive gloss, and if it does not then it is suppressed.

### **Lord Young report.**

In September Lord Young published his report on health and safety. He declared that schools are a low hazard, low risk workplace. As no assessment has been made of the risks, and no assessment is intended, this statement is unsubstantiated and the evidence is that it is also unjustified. But Lord Young's statement does justify the government's policy, for if it can be claimed that the risk is low, schools are managing their asbestos and that the measures for preventing release of asbestos fibres are effective – then the government need not go the expense of removing asbestos from schools. The fact that the Minister of State for Schools is not doing what he said he would when in Opposition is nowadays to be expected. The fact that people will die as a result is immoral.

*Michael Lees*  
*12<sup>th</sup> December 2010*

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<sup>5</sup> DCSF Departmental plants 321130 18 Mar 2010

<sup>6</sup> DfE asbestos in schools steering group Contemporaneous notes Lees 29 Nov 2010

<sup>7</sup> <http://www.asbestosexposureschools.co.uk/pdfnewslinks/HSEresponse.pdf>