

## BBC You and Yours

On 7<sup>th</sup> October 2010 the HSE Director of Field Operations, David Ashton, was interviewed by the Radio 4 programme You and Yours.<sup>1</sup> The interview was about the recently published HSE report into compliance with the asbestos guidance for system built schools.<sup>2</sup>

David Ashton made a number of statements that were either misleading or incorrect. The whole tenor of his interview was that local authorities and schools are managing their asbestos effectively and safely, although the surveys had identified a few problems in a very small number of authorities, these were mainly minor and the occupants of the schools had never been at risk.

The following is an analysis of misleading and incorrect statements made by the HSE Director, his statements are as a heading in italics.

### *“The issue first came to light in 2006.”*

The issue of asbestos fibres being released when children hit walls or slammed doors in system built schools first came to light twenty years earlier than claimed by the HSE. It was identified in 1987 during a series of tests that were carried out in two schools in London.<sup>3</sup> Although HSE were made aware of these most disturbing findings<sup>4</sup> that had serious implications for thousands of schools in the country, a nationwide warning was not issued to prevent the release of asbestos fibres in the other schools.

The problem was “rediscovered” in 2006 and it was only then that a warning was sent to all local authorities and dioceses.<sup>5</sup>

### *“We decided in 2009 to do an online survey and we asked local authorities to provide information . We surveyed 152 local authorities responsible for 16,500 schools. Quite a large scale programme this.”*

The online survey is in the main a tick box questionnaire that attempts to establish compliance with guidance for one asbestos problem in one type of school, almost to the total exclusion of all other asbestos problems in system built and all other schools.

The questionnaire relies heavily on the honesty of the responses. Some of the questions literally ask whether people are complying with the Regulations and the response is a tick in a box for either yes or no. By design it is inevitable that it will elicit a more positive reply than actually is the case. A local authority is highly critical of the credibility of the questionnaire and states:

*“I’m concerned about the quality of this questionnaire and the potential for misinterpretation when the contents are analysed. It does not show the full picture of asbestos management and only*

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<sup>1</sup> Listen again You and Yours 7 Oct 10 [http://www.bbc.co.uk/iplayer/console/b00v3ynd/You\\_and\\_Yours\\_07\\_10\\_2010](http://www.bbc.co.uk/iplayer/console/b00v3ynd/You_and_Yours_07_10_2010)

<sup>2</sup> HSE Majority of Local authorities satisfy asbestos management rules in system built schools. 21<sup>st</sup> September 2010 <http://www.hse.gov.uk/press/2010/hse-asbestosinschools.htm>

<sup>3</sup> Fibre release from low level asbestos panels, LSS/AP/52 (1987) May 1987 . Fibre release from asbestos panels around door frames LSS/AP/78 (1987) September 1987

<sup>4</sup> 1983-1988 Five year progress by the ILEA’s asbestos joint working party. Air sampling sub-group report. 15 Jan 1988

<sup>5</sup> For a detailed analysis of the problem see:

<http://www.asbestosexposureschools.co.uk/RELEASE%20OF%20ASBESTOS%20FIBRES%20IN%20SYSTEM%20BUILT%20SCHOOLS.%20PART%201.%20AL%204.15%20JUN%202008.pdf> also <http://www.asbestosexposureschools.co.uk/RELEASE%20OF%20ASBESTOS%20FIBRES%20IN%20SYSTEM%20BUILT%20SCHOOLS.%20PART%202.%20AL%203.14%20JUN%202008.pdf>

*concentrates on a very small area. The questions are confusing and potentially misleading (far too open to interpretation)."*

HSE issued this questionnaire to all local authorities and dioceses in January 2009 with a deadline for responses of April 2009. By that time 88% had failed to reply despite the fact that the information should have been at their finger tips. Two further deadlines were given with a final one of November 2009, although most local authorities had replied by then only a handful of responses had been received from the 95 expected from the dioceses. No attempt had been made to assess compliance in Scotland, Ireland or Wales or in independent schools.<sup>6</sup> No attempt was made to inspect the 110 local authorities who had ticked the boxes yes.

The misleading impression given by the HSE that this questionnaire was "a large scale programme" was also given by the Department for Education who in February 2010 issued an equally misleading press release which stated:

*"The HSE and DCSF have surveyed every single local authority over the last year to assess their asbestos management and ensure that they are fulfilling their legal duties — the first ever such national audit."*<sup>7</sup>

This is not a national audit and neither is it a proper survey of local authorities, dioceses or their schools. It is a tick box questionnaire with a very limited remit. In addition it was directed at local authorities and dioceses and not at the schools, consequently only a very limited number of inspections were carried out amongst the 16,500 schools and therefore the standards of asbestos management in the vast majority of schools were not assessed. Consequently the results from the questionnaire do not give the HSE or the Department for Education valid grounds to make their unsubstantiated statements.

The General Secretary of the NUT summed up the lack of credibility of the questionnaire and the HSE report:

*"The HSE and DfE conclude that the majority of local authorities have demonstrated that they have systems in place to manage asbestos safety. Whilst welcoming the survey as a step in the right direction, the NUT views this confidence as misplaced.*

*"Apart from the fact that the survey was restricted to asbestos management in system built schools, the NUT questions how it can be claimed that the majority of local authorities meet legal requirements in terms of asbestos management when only 42 were actually visited by HSE inspectors. The other 110 simply completed an on-line survey, making the survey essentially a paper exercise, reliant on local authorities admitting to failings in their system of asbestos management in order to trigger a visit from the HSE. A true understanding of the nature of the problem can only be gained when a full independent national audit of all schools is undertaken."*<sup>8</sup>

***"There is a lot of reassurance to be gained in the widespread good standard achieved by local authorities."***

The questionnaire is not a valid basis to make the claim that there was a "widespread good standard achieved by local authorities" as heavy and unrealistic reliance was put on the honesty of the responses, with the majority of local authorities and none of the dioceses being inspected. There is

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<sup>6</sup> For an analysis of attempts to assess compliance in system built schools see:

<http://www.asbestosexposureschools.co.uk/pdfnewslinks/DCSF%20QUESTIONNAIRE%20TIMESCALE%2014%20Nov%2009.pdf>

<sup>7</sup> Schools Minister Iain Wright DCSF Press release 22 February 2010

<sup>8</sup> General Secretary NUT Christine Blower press release <http://www.teachers.org.uk/node/11964>

ample other evidence that the standards of asbestos management in many schools are not good and all too often it is poor and even dangerous.

A limited number of schools were inspected by the HSE during this study, and indeed until recently it was rare that HSE inspectors would examine the standards of asbestos management in schools. In contrast as part of their job asbestos consultants regularly visit schools throughout the country and therefore have an in depth and practical knowledge of the standards of asbestos management. Their association (ATaC) published a report in February that was highly critical of the standards of asbestos management in schools. Although a small number of schools were inspected for the study the poor standards that were found were a reflection of the standards that are found by their members. The ATaC report stated:

*“The results reflect what they regularly find in schools throughout the country – that the majority are not managing their asbestos effectively or safely”<sup>9</sup>*

*“These are not minor problems that have crept in over recent years; rather they are fundamental problems that are endemic in schools in the UK.”<sup>10</sup>*

A senior asbestos consultant stated in connection to the list of responses to the questionnaire and the HSE report:

*“Within the HSE’s detailed list we are aware of a number of authorities who have not undertaken re-inspections and who have had more than one asbestos issue over the last few years, but yet these are judged to be ok. The message created by this report is in complete contrast to that produced from the recent ATaC report at school level earlier in the year, where the report was conducted at school level and identified a number of key failing in most schools.”<sup>11</sup>*

The Asbestos consultants association confirmed that the flaws in asbestos management in the limited number of schools that HSE had visited were similar to the widespread flaws their members find. ATaC commented on the HSE report and stated:

*“Of those authorities that were visited, failures were identified in asbestos awareness and training, a lack of knowledge of their school stock and what types of school buildings were at risk. Flaws in asbestos surveys and a failure to implement the recommended measures. In a number of authorities poor standards of asbestos management plans were identified. Two local authorities had failed to identify those schools at risk and had failed to seal any cracks to prevent the release of asbestos fibres, some four years after the guidance was first issued.*

*These findings are no surprise to the Asbestos Testing And Consulting association ATaC who published a report in February highlighting very similar flaws of asbestos management in schools in a sample of schools. The ATaC members have confirmed they find similar cases everyday in schools across the country. This has now been highlighted within both reports that there is a problem.”<sup>12</sup>*

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<sup>9</sup> Asbestos consultant and testing association ATaC Asbestos management in schools 24 Jan 2010 <http://www.asbestosexposureschools.co.uk/pdfnewslinks/ASSESSMENT%20OF%20ASBESTOS%20MANAGEMENT%20IN%20SCHOOLS%20ATaC.%2022%20FEB%202010.pdf>

<sup>10</sup> ATaC press release Report highlights issues with asbestos in schools. 6 Oct 10. <http://www.atac.org.uk/asbestos-testing-consultancy/ATaC-article.asp?ArticleID=281>

<sup>11</sup> Concerns raised over HSE’s Asbestos in schools report <http://www.environmental-asbestos-surveys.co.uk/2010/10/concerns-raised-over-hses-asbestos-in-schools-report/#more-155>

<sup>12</sup> ATaC press release Report highlights issues with asbestos in schools. 6 Oct 10. <http://www.atac.org.uk/asbestos-testing-consultancy/ATaC-article.asp?ArticleID=281>

*“The asbestos is safe if it is left alone and managed in the way described. We think that is generally a prudent and cost effective precaution... If asbestos is in good condition and unlikely to be damaged it is not a risk to health and can be left in place and managed.”*

The irony of this is that the specific problem that the HSE questionnaire has focussed on is because on the surface the asbestos in these schools appeared to be in good condition and unlikely to be damaged. However when air sampling tests were carried out it was found that just normal every day classroom activities had been releasing cumulatively dangerous asbestos fibres into the classrooms, halls and corridors.

Despite being aware that damaged deteriorating asbestos is present in thousands of schools and readily accessible to the children, the HSE and Department for Education issued guidance that the damaged material is to be left in place and managed with a strip of bathroom sealant preventing the release of asbestos fibres into the classrooms once again. This is a temporary expedient. Although it is certainly cost effective in the short term, it is neither a long term nor a safe measure. It is known that in some schools the sealant has been removed within a short period of time.<sup>13</sup> The following are responses from local authorities that highlight serious weaknesses in the recommended method of preventing fibre release:

*Q. Have you encountered any difficulties in completing the necessary remedial work (e.g. with sealing gaps)?*

*A. Encapsulation adhered directly to ACM can create further problems if dislodged, which then pulls part of ACM away.<sup>14</sup>*

*“In light of feedback from other Authorities who experienced problems with various joint sealing products we chose to adopt the overclanking approach. This way the gap seal integrity is maintained & it's easy to see if there have been any attempts to vandalise...”<sup>15</sup>*

*“There is an emerging picture about the possible additional risks that may be associated with asbestos incorporated into system built schools. Managing the risk of disturbing asbestos concealed behind column casings or asbestos fibres lying on top of ceiling tiles presents both practical issues (you cannot practically seal a lay in grid ceiling) and communication issues where staff perception of high risk buildings may lead to anxiety or even industrial action.*

*Any work at all in ceiling voids in these buildings may be rendered impossible unless spaces below are sealed off and work required is treated as if a full asbestos strip is in progress.*

*The measures implied in this return propose a much more intense regime of management and inspection than would have been deemed compliant and proportionate only a few months ago. Communicating this two tier regime to schools will have to be handled with great sensitivity. Implications also emerge for a wholesale asbestos strip in all of these buildings, with the attendant impact on funding.<sup>16</sup>”*

During his interview the HSE Director reiterated a number of times that *“If asbestos is in good condition and unlikely to be damaged it is not a risk to health and can be left in place and managed.”* Despite the reassuring words HSE are aware that the asbestos in many of these schools is not in good condition as it has been damaged over many years, albeit the damage is not obvious to the

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<sup>13</sup> Follow link page 89 for photograph of sealant removed a week after being applied to a column in a school hall.

<http://www.asbestosexposureschools.co.uk/RELEASE%20OF%20ASBESTOS%20FIBRES%20IN%20SYSTEM%20BUILT%20SCHOOLS.%20PART%202.%20AL%203.14%20JUN%2008.pdf>

<sup>14</sup> Bath and NE Somerset response to HSE/DCSF questionnaire

<sup>15</sup> Nottinghamshire County Council response to HSE/DCSF questionnaire

<sup>16</sup> Cornwall response HSE/DCSF questionnaire

naked eye as it is concealed in walls, ceilings and columns. They are equally aware that it is likely to be damaged in the future because, on their advice, it will remain in place. Instead they advise that the asbestos should be managed by sealing the cracks with bathroom sealant, despite the fact that they are fully aware that it can be removed so that asbestos fibres are potentially released once again and the health of the occupants put at risk.

*“We do also provide some reassurance from the medical evidence that has shown teachers, for example, are not at increased risks from asbestos related disease.”*

The medical evidence is that teachers are at risk from asbestos related disease as more than 178 have died of the asbestos related cancer, mesothelioma, since 1980, with 64 dying between 2001 and 2005. School caretakers, cleaners, cooks, secretaries, teaching assistants and nursery nurses have also died of the cancer.<sup>17</sup> For every teacher there are 20 to 30 children in the class, and children are more vulnerable to the dangers of asbestos.<sup>18</sup> It is therefore probable that in proportion to their teachers significantly more children were exposed to asbestos at school and have subsequently died of mesothelioma, however because of the long latency there are no statistics that record their deaths having being caused by exposure to asbestos as a child at school.

Between 2001 and 2005 school teachers were dying of mesothelioma at a rate greater than one a month. Proportionately if one takes 20 children in each class that equates to 20 children subsequently dying of mesothelioma a month from their asbestos exposure at school.

The HSE is wrong that teachers are not at increased risk from asbestos related disease, for they have a higher incidence of mesothelioma deaths than many other professions. Male teachers have a proportionately greater number of mesothelioma deaths than for instance coal miners, bakers, bus drivers/conductors, cooks, farmers and motor mechanics,<sup>19</sup> which demonstrates that they have been exposed to significantly more asbestos. If they are compared with broadly similar professions such as solicitors, doctors, the clergy, government administrators or police officers the teachers' deaths are proportionately higher than all of them.<sup>20</sup>

If female teachers are compared with a similar profession then marked differences are also shown; There are similar numbers of female teachers as there are female nurses and yet between 1980 - 2000 the proportion of female teachers dying of mesothelioma was precisely twice that of female nurses. One would have thought that neither profession should experience asbestos exposure, however the statistics demonstrate that both professions have experienced significant exposure, with the exposure of the teachers being twice that of the nurses.<sup>21</sup>

Therefore the HSE Director is being misleading when he states *“The medical evidence has shown that teachers are not at an increased risk from asbestos related disease,”* for the very opposite appears to be true. Despite this HSE and the Government continue to make unsubstantiated claims without

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<sup>17</sup> Statistics of mesothelioma deaths in the Education sector.

<http://www.asbestosexposureschools.co.uk/Statistics%20of%20deaths%20teachers,%20support%20staff%20children.pdf>

<sup>18</sup> HSE Head of Asbestos Policy briefing to Local Authority Forum, Asbestos Management in Schools. Asbestos in Education LAFORUM/04 Nov 2004) For further detail see:

<http://www.asbestosexposureschools.co.uk/pdfnewslinks/CHILDREN%20increased%20vulnerability%20to%20asbestos%20%20Nov%209.pdf>

<sup>19</sup> HSE statistics Mesothelioma Occupational statistics 1980-2000 Highest and lowest risk occupations for males p7 Table 5, E-mail HSE Statistics Unit/Lees 15 Jul 2008. Mesothelioma deaths in the education sector for males and females 2001-2005. HSE Mesothelioma mortality in Great Britain: Analyses by Geographical area and occupation 2005 Tables 11, 13 (2002-2005).

<sup>20</sup> HSE statistics Mesothelioma Occupational statistics 1980-2000 Table 1- 8 table 3 - 5 year time period.. E-mail HSE Statistics Unit/Lees 15 Jul 2008. Mesothelioma deaths in the education sector for males and females 2001-2005. HSE Mesothelioma mortality in Great Britain: Analyses by Geographical area and occupation 2005 Tables 11, 13 (2002-2005) For a full analysis of the significance of teachers' deaths see:

<http://www.asbestosexposureschools.co.uk/pdfnewslinks/TEACHERS%20DEATHS%20ARE%20SIGNIFICANT%20%20Jan%2010%202..pdf>

<sup>21</sup> HSE statistics Mesothelioma Occupational statistics 1980-2000 Table 6

having properly assessed the risks. The teachers' deaths are of significance as they are an indication of the exposure of the children in their classes, however no assessment has been made of the relevance of the teachers' deaths or of the increased risks to children, despite successive governments being asked to do so. Department for Education documents show that the reason is that they think it could lead to calls for asbestos removal, which would be exceedingly expensive.<sup>22</sup>

The Government have carried out a cost benefit analysis and have clearly made the decision that the cost of making the occupants of all schools safe from the dangers of asbestos outweighs the benefit. The benefit is the prevention of the deaths of a few thousand teachers, support staff and children who are exposed to asbestos at school and subsequently die of mesothelioma.

Difficult decisions have to be made, but those affecting people's lives should be based on assessing the scale of the problem and the risks. These basic first steps of risk management have not been taken. Governments have made, and are making decisions about the cost of protecting children's, teachers and support staff lives without having the data on which to make such decisions.

When he was Shadow Schools Minister Nick Gibb MP stated "*One cannot shut one's eyes to the problem.*" He is now the Minister of State for Schools and five months after the election he has shown no sign that he intends to put his statement into action. Rather the opposite is true, as this interview by a senior HSE official proves that the Government intends to continue their policy of playing down the whole issue with misleading and incorrect statements. It is also clear that having completed this questionnaire they have no intention of carrying out a proper assessment of the standards of asbestos management or an audit of the extent, type and condition of asbestos in schools. Both of which are long overdue and essential.

This HSE interview is an example of "*positive messaging*" that deceives the public about the actual situation. Because the interview relied on misleading statements and unjustified reassurances it prevents an informed public discussion on Government policy affecting the safety of children in school.

it appears from the interview that without assessing the effects of such a policy decision, the present Government have already made the decision that the deaths of a former pupils, teachers and support staff is a price they are willing to accept.

***"...From that one can infer that exposure levels have not been high in the past."***

The HSE representative on You and Yours was misleading about the increased risk to teachers from asbestos related disease. He is therefore equally wrong to infer that the asbestos exposure levels have not been high in the past, for there is considerable scientific evidence that cumulatively dangerous levels of asbestos fibres have been released from common classroom activities on a regular basis in schools.

It is accepted by the Industrial Injuries Advisory Council, medical experts and the courts that levels of airborne asbestos fibres above the normal background level can cause mesothelioma.<sup>23</sup> Twenty three years ago HSE were aware that a level of more than 600 times greater than the background level was released from the walls when a door was slammed five times in a school.<sup>24</sup> A level of 100

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<sup>22</sup> Government's refusals to undertake a risk assessment or an audit See page 6 for risk:

<http://www.asbestosexposureschools.co.uk/Teachers%20TV.%20Today%20HSE%20flaws%20Nov%2008.pdf>

<sup>23</sup> Industrial Injuries Advisory council definition. High Court and Appeal Court Judgements see page 8:

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

<sup>24</sup> ILEA report LSS/AP/52 (1987) Investigation into fibre release from low level asbestos panels May 1987

times greater when books were removed from a stationary cupboard,<sup>25</sup> and a similar level when a teacher displays the children's work by sticking drawing pins in asbestos insulating board.<sup>26</sup> Just kicking a wall can release levels 1,600 times greater.<sup>27</sup> The particular problem addressed in the questionnaire of asbestos fibre release from the columns can release asbestos fibre levels 800 times greater than the background level.<sup>28</sup> In addition far higher levels than that have frequently occurred in schools when holes have been bashed in walls, ceiling tiles broken and window surrounds ripped out of their asbestos surrounds using crowbars and power saws. All of which have happened in schools, some every day over the course of many years.

Because the schools stock has not been well maintained asbestos has deteriorated, also many schools have failed to manage their asbestos either effectively or safely. This has resulted in asbestos materials in schools being frequently damaged, and although there have been very high levels of exposure when uncontrolled maintenance work has taken place, generally the exposures from normal classroom activities have been low level but frequent so that the occupants cumulative exposures have been significant.

***"No. I don't think that it serves to be alarmist about the presence of asbestos which is in many thousands of premises that we visit and occupy..."***

Great Britain has the highest incidence of mesothelioma in the world. The HSE Director appears complacent about the asbestos content of the buildings so many people occupy and, in particular, about the asbestos in many thousands of schools, despite the fact that children are more vulnerable to its effects than adults.

This complacent acceptance of the situation demonstrates how wrong the policies and practices of the last 40 years have been, and how wrong it is of this representative of the Government to make misleading statements about the actual risks from asbestos in schools.

Other countries like the USA have confronted the asbestos problems in schools openly for the last thirty years and treated schools as a special place because of the particular vulnerability of children. They have passed laws specifically for schools to ensure that they can manage their asbestos, and because they have assessed the scale of the problem they have been able to allocate proportionate resources. They have trained people, they have a proper system of regulation and thirty years ago adopted a policy of openness where parents and school staff are fully aware of the asbestos in their schools and what is being done to make it safe.

In contrast until recently the British Government has done little to address the far greater asbestos problems in our schools. Instead, by failing to assess the scale of the problem, it has been an easy step for them to even deny that there is a problem. While our Government denies there is a problem the number of people dying in this country increases year on year, whereas in the USA the incidence of mesothelioma is far lower and over the last few years has levelled off.<sup>29</sup>

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<sup>25</sup> Strategic Consulting Report: 629-0022 4 An assessment of the past exposure and estimation of consequent risks to health of staff that may have arisen from asbestos-containing material in cupboards at Lees Brook Community Sports College, Derby April 2009

<sup>26</sup> WATCH committee minutes Asbestos exposure from use of drawing pins in asbestos insulating board. 1 Feb 2006 page 15 <http://www.hse.gov.uk/aboutus/meetings/iacs/acts/watch/010206/minutes.pdf>

<sup>27</sup> ILEA report LSS/AP/52 (1987) Investigation into fibre release from low level asbestos panels - Ernest Bevin school May 1987

<sup>28</sup> HSL Summary of fibre concentrations in CLASP construction schools containing asbestos. HSL/2007/22 10 Apr 2007 para 3.3 p10

<sup>29</sup> Malignant mesothelioma mortality United states 1999-2005 KM Bang, PhD, JM Mazurek, MD, E Storey, MD, MD Attfield, PhD, PL Schleiff, MS, JM Wood, MS, Div of Respiratory Disease Studies, JT Wassell, PhD, Div of Safety Research, National Institute for Occupational Safety and Health, CDC. HSE Table Meso04; Number of mesothelioma deaths and average annual rates per million by age and sex in three year periods, 1969-2005 [www.hse.gov.uk/statistics/tables/meso04.htm](http://www.hse.gov.uk/statistics/tables/meso04.htm) UK Provisional incidence 2005-2007 35.46 per million. USA: 14.1 per million in 1999 and 14.0 in 2005

In the You and Yours interview the Director of the HSE, a representative of the Government, labelled openness and the facts as being alarmist. That is precisely why we are in the appalling situation we are with frequent asbestos incidents in schools, a poor standard of asbestos management in many schools, deteriorating asbestos and woefully inadequate resources to sort it out. Many have died and thousands of pupils, support staff and teachers remain at risk from asbestos in our schools. It is not acceptable that openness and facts are described as alarmist by a Government representative, just because the truth is embarrassing, unpleasant and potentially costly.

*Michael Lees*  
*10<sup>th</sup> October 2010*