

Work and Pensions Committee

Oral evidence: Health and Safety Executive's approach to asbestos management, HC 560

Wednesday 2 February 2022

Ordered by the House of Commons to be published on 2 February 2022.

[Watch the meeting](#)

Members present: Stephen Timms, (Chair); Debbie Abrahams; Shaun Bailey; Siobhan Baillie; Nigel Mills; Selaine Saxby; Dr Ben Spencer; Chris Stephens; Sir Desmond Swayne.

Questions 97 to 190

Witnesses

I: Chloe Smith MP, Minister for Disabled People, Health and Work, Sarah Albon Chief Executive, Health and Safety Executive, and Professor Andrew Curran Chief Scientific Adviser, Health and Safety Executive.

Written evidence from witnesses:

[Health and Safety Executive \(HSE\)](#)



Examination of witnesses

Witnesses: Chloe Smith, Sarah Albon and Professor Curran.

Q97 **Chair:** Welcome, everybody, to this meeting of the Work and Pensions Select Committee and a very warm welcome to our witnesses this morning, Sarah Albon and Professor Andrew Curran, both of whom we are welcoming back. We are delighted to see you again. Thank you for coming, and a very warm welcome to the Minister, Chloe Smith, who is with us for the first time; the first of many times, we hope. Thank you all very for being here.

Can I start with the first question, which is for the HSE? Can you tell us how our inquiry might contribute to your forthcoming five-yearly statutory review of the control of asbestos regulations and what we should expect from that review?

Sarah Albon: To start with the first thing, we finished our wider direct evidence gathering in autumn of last year. We deliberately decided not to publish a conclusion at that point until we had heard from the various people who gave evidence to the Committee, and had had the benefit of the Committee's consideration of all the evidence that you have heard and seen your report. We would be very keen to take on board the Committee's thoughts and views following this inquiry into asbestos and to build that into our overall evidence base for the post-implementation review.

When we put out those inquiries to a wide variety of stakeholders in the normal way, we had over 1,800 responses from different stakeholders so we had a very broad range of views fed back into us.

Q98 **Chair:** Was that more than you would have expected?

Sarah Albon: It was more than we expected, so we were pleased with the level of response and the engagement that we had in that post-implementation review. I am sure that you would not expect me to go into details of a report that we have yet to publish. Indeed, we will not reach our final conclusions until we see the views of this Committee, but the responses that we have had so far are broadly very supportive of the regulations.

Q99 **Chair:** As things stand, you are not looking at major changes to those regulations?

Sarah Albon: As things stand we would not be, but we take the work of this Committee seriously and very much look forward to seeing the final report.

Q100 **Chair:** Can I raise one issue that has been raised with us? Witnesses have raised worries about the regulation of asbestos in social housing, both from the point of view of the people who live in social housing but also from the point of view of council employees who perhaps go in to



HOUSE OF COMMONS

carry out repairs in social housing. Do you think action is needed over that issue? I appreciate that this is not entirely for HSE, although perhaps it is partly.

Sarah Albon: Partly? It is absolutely squarely within our remit. All of the Health and Safety Work at Act legislation, including the asbestos regulations, would apply to contractors or direct council employees going in to work in the common parts of social housing. To the extent that work is being done on behalf of a landlord within the premises, and that that business of renting was coming under the conduct of letting premises, that work also may come under it in terms of protecting the workers who are there.

If any major work is happening, whether it is in domestic premises or anywhere, the licensing regime applies to contracted licence-holders who are allowed to conduct work to remove asbestos if it is directly related to that. Where there is no direct regulatory requirement, it is in the use of domestic premises for domestic purposes. As it currently stands, the legislation would not apply to individuals in their own homes doing work within their own home, whether that is rented accommodation or owner-occupied.

Q101 **Chair:** We heard about one person who found asbestos dust on her son's bed, after somebody had been in to carry out some repair, and nothing was done about it.

Sarah Albon: It is very difficult to say whether or not that would have been in breach of any kind of regulation. It would depend on the nature of the repair that was going on, whether or not it was directly working on the kind of asbestos-containing material that would be covered by regulations requiring a licensed person to be working on it. It would depend on who was doing the work in the home as well. Was it the council carrying out the work of the social housing association doing that on behalf of themselves as landlord, or was it somebody who had come in to do some work in their premises because the tenant had asked them to?

If you have detail of a particular case, I would be more than happy to look at the detail and respond to you and the Committee to explain where regulations may be capable of applying and where there may be any lacunas.

Q102 **Chair:** If it was the landlord coming in to carry out a repair of its own property, what is the regulatory position there?

Sarah Albon: Potentially, they would be doing work in the course of carrying out their business. Therefore, they would have an obligation to be mindful of the impact of that work, not just on their employees but on other people affected by the work that they were doing in conducting their business.

Q103 **Nigel Mills:** We all know, from construction projects in our



HOUSE OF COMMONS

constituencies, that it is a nightmare—that you might find asbestos that you did not expect, and it hikes the cost and makes the project a lot more complex and take a lot longer. How do you stop people from just turning a blind eye and pretending that they did not see it, or are just not looking for it? It is clearly quite a dangerous thing to do, but how do you take away that temptation to save the money and the time and not look behind that wall or something?

Sarah Albon: I suppose, if they are not looking behind the wall and not disturbing the asbestos—Andrew may want to say more about when the significant hazards actually occur—it may not be problematic, but are you talking about the cowboy builder who might instruct their people not to notice what they are dealing with?

We not only try to work with those people who own businesses and might be under that economic pressure and make those wrong decisions, but we work with construction industry bodies, through social media and other ways, to try to ensure that those people who might be affected—people in the building trade themselves—and working directly on the material understand the dangers.

We continue to think about routes through to wives, to girlfriends, to other people who might be influential with their family members who work in that trade, to get them to understand that that is not something that they should take lightly, and the long-term danger of exposure to damaged asbestos and asbestos fibres.

We try to use a range of different techniques to ensure that not just business understands its legal obligations—which is of course really important—but that those people in the wider infrastructure understand what they are dealing with and understand the personal risk to themselves. Therefore, they are much less likely to be complicit with the kind of misbehaviour or misconduct that you are describing.

Professor Curran: If I can add to that that the communication of risk is really important. Clearly those people who are working in the construction sector will be aware that buildings constructed before about 2000 are more likely than not to contain asbestos. In undertaking the work that they are planning to deliver for those buildings that are built in that pre-2000 period, they should be thinking about the potential for asbestos to be one of the things that they would need to consider and manage as part of their overall risk management strategy for that piece of work.

Q104 **Nigel Mills:** Do you have any feeling or data as to what the level of compliance is? Do you think that the vast majority of times people are doing this properly, or do you think that there is a whole widespread scale of work being done every year and that there should be more asbestos-compliant activities going on but people are just sweeping it under the carpet?



HOUSE OF COMMONS

Sarah Albon: We do periodic inspection campaigns targeting the construction industry in particular, to try to understand the level of compliance with different regulations. In the most recent campaign that we did last year, we saw good levels of compliance. "Sustained" is the terminology we use. We saw high levels of sustained compliance in 83% of the sites that we visited and really poor levels of compliance in just 4%. The gap, the 13% in the middle, was mostly okay but with some areas for improvement.

Q105 **Nigel Mills:** Are those sites that you are visiting obvious building sites with fencing around and signs up, or do you get to go to the smaller-scale ones that are perhaps are not compliant?

Sarah Albon: It will be a mixture. Our construction teams will do everything from planned notified inspections to larger sites through to targeting particular geographic areas, driving around and looking for signs of ongoing work that looks non-compliant in any type of different ways, and going and knocking on the door and seeing what is going on.

Q106 **Nigel Mills:** What level of understanding and awareness do you think workers in the building industry have? I suppose that they all know that it might exist and it is not very nice, but what level of understanding do they have of how dangerous it is and what they should be doing?

Sarah Albon: It is very difficult to judge that. Intellectually, as you say, if you ask almost anybody in the building trades, "Do you know what asbestos is? Do you know that it is dangerous?" you would get overwhelmingly positive answers, but do they really understand on a deep emotional level?

That is why we keep trying to gain traction through social media and other ways of getting through to people. It is almost like any risk thing, very many people in the building industry are relatively young and you are trying to tell them about something that could be a serious impairment to their life in 30 years' time. With many health campaigns, whether smoking, drinking or anything else, it is quite difficult to make people appreciate the seriousness and importance of a risk that can seem so distant at that age.

Q107 **Nigel Mills:** Do you have any data? I presume that, when you spend money on a campaign, you try to work out whether it was successful and that you have more understanding at the end than you had at the start. That suggests to me that—

Sarah Albon: We do that and, at the end of a campaign, we see figures in the region of, say, 10% of improved understanding and things like that. I suppose my hesitation is because we have not been able to do any structured resurveying of the same people, because of the ephemeral nature of social media, to say two years or five years later, "Do you still remember that? Are you still acting on it?"

Q108 **Nigel Mills:** I suppose that you would see patterns of behaviour. You



would see less asbestos being chucked in a layby or less tipping it in a wheelbarrow at a council tip or something. Do you track through that to see whether it is going down?

Sarah Albon: When we started to look in the campaigns, that 83% figure that I mentioned is significantly higher than even a few years ago. At an industry level we do see real understanding, and on the whole they are taking the obligations incredibly seriously.

As Andrew said, we know that the UK used incredibly large amounts of asbestos—more than most developed countries—in the building that it did in the 1950s, 1960s, 1970s and the majority of buildings that were built prior to 2000 in the United Kingdom will have asbestos in them, so there is that knowledge and understanding of its ubiquity in our built environment.

Professor Curran: Could I add to that as well? There is another element of this, which is the research angle. As HSE we have delivered and funded research over many years. We have recently finished a piece of work looking at asbestos removal workers and their levels of exposure. That also helps to add to our understanding of what the position is at the moment. In that particular study, which will be published very soon, we showed that levels were low. Some were above the limit for very specific circumstances, so there is clearly more that could be done.

There are new and emerging opportunities through designs of respiratory protective equipment, for example, that might be able to help with some of those particular circumstances where you would be expecting asbestos to be in the environment because the people are there to remove it from a particular situation. The work that we have been doing with Professor Peto, looking at the lung burden of asbestos fibres, shows exposures coming down. The body of evidence that we have collected across the whole of HSE shows that decline in exposure over time but recognises that there are still issues that need to be tackled.

Q109 **Chair:** The number of asbestos enforcement notices that HSE issued fell by about 60% between 2011-12 and 2018-19. Does that imply that there has been a dramatic improvement in compliance with the regulations or should we be seeing more than are being issued at the moment?

Sarah Albon: The honest answer is that it has been a mixture of improvement in compliance but also—as the Committee will be aware and we have discussed before—we have done fewer inspections in total in recent years. That was through a mixture of reasons. Very recently, we have significantly turned our attention to supporting the wider public effort around Covid and Covid compliance. There we have seen incredibly high levels of compliance and that has led to a big reduction in the number of enforcement notices issued across the board.

The other thing that has definitely made a difference is that, in the last couple of years, we have recruited significant numbers of new inspectors,



HOUSE OF COMMONS

but during the time when they are training a lot of the training involves being closely mentored and coached by more experienced inspectors. We see people going out with a trainee present to conduct an inspection.

That will necessarily take a bit longer because they are not only doing the inspection, but they are talking the trainee through the work that they are doing. I would hope that in coming years we will start to see numbers of inspections increasing again, but that period of retrenchment and investing in training and recruitment and increasing the numbers overall has and continues to be essential.

Q110 Chair: That period that I quoted the figures from is a pre-Covid period, but I take the point that overall inspections have had to reduce. The total enforcement notices over that period have gone down by about 10%, so the reduction on asbestos does seem significantly larger.

Sarah Albon: Yes. I was talking about the figures of last year's inspection council looking at levels of compliance at 83%. It was slightly higher than that the year before. Two years ago, though, we were down in the low 70% range in compliance, so we have genuinely also seen a significant improvement in the levels of compliance that we have seen in recent years. Two years is probably too soon to call that a trend.

We have already planned a further 400 inspections next year into focusing on the duty to manage under the inspection regulations, so that we are looking at people's compliance not just from the construction angle but also looking at those people who are in control of business premises, to ensure that they are doing what they need to do in terms of being aware of asbestos present in their buildings and that they are maintaining it in a good condition.

Q111 Chair: That would be an increase in inspections next year, would it, specifically on asbestos?

Sarah Albon: Specifically on asbestos, yes.

Q112 Sir Desmond Swayne: You have largely covered it, Chair. We were told that your risk-based approach to enforcement has led in the market to a risk-based approach to compliance. Are you confident in what you have just told us that compliance remains high and the regime is robust?

Sarah Albon: I think so because, as Andrew said, it is not the only source of evidence that we have. We have direct evidence about the amount of exposure present in individual workers when we look at evidence from that. The studies are variously looking at monitors, sometimes looking at pathology, but there are consistent sources of evidence that we have now that show that the level of exposure that is in the general population and also in the workforces that are specifically exposed to higher levels of asbestos is starting to decline now in the UK.

Q113 Sir Desmond Swayne: Does the fee-for-intervention model distort where you put your main effort?



HOUSE OF COMMONS

Sarah Albon: No, it does not. I know that was a concern that was raised when the fee was introduced, which significantly predates me. The idea behind the fee for intervention is to get a blend between polluter paying and the support that we have from moneys voted by Parliament for more assurance and general activity. We seek to go to those areas that we think pose greatest risk.

If we are right and if the company concerned demonstrates that it has a material breach of the law, we will take action to improve that situation, issuing an enforcement notice of some description or a notice of contravention and will require them to improve. Our time spent on them doing that activity will be directly chargeable, but we are turning up because we think that there is something worn and we want to protect those who are potentially being exposed inappropriately to risk. We are not chasing money. If we were chasing money only, I hope that we would do a better job of it, because the main team that carry out that work only cover about 17% of its costs through fee for intervention.

The serious point is that we are trying to ensure that we use all the tools. Part of that is a charging tool, to make businesses see that the better thing to do is to do the right thing in the first place rather than wait for the regulator to turn up to start proceedings and to force them to do the right thing. It should be cheaper, easier, more straightforward and better for business to comply with the rules in the first place than it is to have to go through the process of being made to do that.

Q114 **Sir Desmond Swayne:** Why must asbestos analysts checking on asbestos work be UKAS accredited but the surveyors who check the conditions before the work starts do not have to be?

Sarah Albon: You would probably have to ask UKAS about that, about when and where its accreditation schemes run. Truthfully I do not know the answer to that.

Q115 **Sir Desmond Swayne:** Perhaps you will not know the answer to this one either, but I will ask anyway. It costs about £10,000 a year for an asbestos analyst to maintain their UKAS conditions for accreditation but a removal contractor gets away with a £1,000 a year licence fee. Is that a fair discrepancy?

Sarah Albon: Somebody applying to us to have a licence to remove will pay the cost of the work that we do in order to maintain them as fit to do the licence. The cost is just under £4,000 the first time that they apply. We do a rigorous background check on the owner of the company, looking at their business record and whether or not they have a good record of being broadly compliant. The initial licence is given only for a year. We will always inspect them more frequently than an established licence holder and inspect the actual work that they have done. If everything goes well, they can reapply every three years for a continuing licence.



HOUSE OF COMMONS

In common with all public sector bodies, we are charging them the direct cost of us to verify them; there is no element of profit to us. I do not know the basis of the fee to UKAS. It may be that the processes that they need to go through are more expensive, but all I can say about the fees that we charge is it is what it costs us and it is a very rigorous process.

We are satisfied that we can be confident in the standard of the contractors who are licensed by us to remove asbestos. Thinking of the actual licensing, there are just under 400, about 380 currently, licensed asbestos removers and we conducted over 800 inspections on their work last year.

Q116 Sir Desmond Swayne: Chloe, are you comfortable with the number of prosecutions, with the level of fines and that they are commensurate with the risk posed by asbestos?

Chloe Smith: Yes, I am. Broadly, I think that we do have the right regulatory regime in place and, secondly, that it is based on the principles and, thirdly, that my colleagues at the HSE are doing the right work to go into that. Therefore, yes, I do think that what comes out of that system is targeted at the right things and being worked in the right way.

Can I also say that it is a pleasure to join the Committee for the first time and I look forward to many more sessions?

Q117 Selaine Saxby: We understand that contractors doing asbestos work can appoint their own analysts to check that the work meets the regulatory requirements. Is that akin to contractors marking their own homework? Could it not be a requirement for the building duty holder to appoint the analysts to make sure that there is real independence?

Sarah Albon: We have never seen any sign or suggestion in the various inspections that we do that there is any issue with analysts under-marking the results of the work that they get. It is hard to see what the benefit in that would be, in the sense that quite often the removal conditions will end up removing at a level below that which is required under the regulations anyway. What that final piece of analysis is doing is ensuring that there is sufficient clearance.

We have very stringent conditions under which we grant licences for asbestos-clearance work and we do not then leave those contractors just to get on with it. We regularly inspect the work that they do, and we make sure that they reapply every three years if they want to continue to have a licence. We have confidence in that small pool—we are only talking about 380 firms—that they are overwhelmingly working to the right standard and that they are not seeking to somehow find some analyst who would be complicity in cutting corners.

Professor Curran: To add to that, one of the things that we also do, to assure the quality of the work that those analysts deliver, is run proficiency testing schemes—national/international proficiency testing



HOUSE OF COMMONS

schemes—that essentially test whether the analysts are coming up with the right answer on a test sample that they get sent. We do that on behalf of HSE. Therefore, we can be assured as to the competency of those analysts in delivering the answer that is required from any of the analysis that they do.

Sarah Albon: When sending those test samples that Andrew is talking about, the laboratories receiving them to do the sample do not know that it is a sample from the HSE that they are being tested on. Effectively, they are doing a piece of work and they are sending back the result blind and we check to see that it matches what we know that we sent them.

Q118 **Selaine Saxby:** You published a new guide for analysts in 2021, but a draft of that guidance first came out in 2015. Why did it take so long to get from draft to publication?

Sarah Albon: I am happy to check back and write to you; I am afraid I do not know the detail of that.

Q119 **Chair:** Can I put to you some written evidence that we have received from Dr Brian Gardner from Ethos Environmental consultancy? He made the point to us in writing that, “Despite strenuous efforts to police the relationship between removal contractor and analyst—via ever-tighter, more prescriptive guidance and the UKAS-accreditation mechanism—too often the former will still informally discourage the analyst from applying full rigour to their inspection and testing work if this may result in project delays and commercial losses”. He goes on, “Sadly, the industry is still rife with bad practice, fraud and inducements, an elephant in the room that HSE seem powerless to address”. What is your response to the concerns that he is addressing?

Sarah Albon: I would welcome it if he would like to engage with us and give us his evidence, because it has not been raised with me and I do not know what evidence he has for that. Clearly it is a serious assertion and one that I take seriously, but I would want to understand the basis for it so that we could properly look into that.

Q120 **Chris Stephens:** I welcome the panel to the meeting. I thank Sarah and Andrew for all the meetings that they had during the Covid pandemic and for having the patience to come with my very many pertinent and, indeed, impertinent questions.

Talking about impertinent questions, why do we not start with you, Minister? Why do the regulations not say that all work involving asbestos-containing materials should be done by a licensed contractor?

Chloe Smith: I am very happy to comment on that but I am going to invite my colleagues to come in on this because there is an important technical point there first. If I may, I am going to ask them to provide the technical point first.

Professor Curran: Could you repeat the question, sorry?



Q121 **Chris Stephens:** Why do the regulations not say that all work involving asbestos-containing materials should be done by a licensed contractor?

Professor Curran: One of the issues is that asbestos was so widespread in the building trade prior to 2000. Clearly it is a very ubiquitous material. Therefore, what the regulations try to do is to make sure that the removal of asbestos is appropriately managed where the risk is highest. That risk-based approach is critical.

We have done a significant amount of research over the years, to make sure that we understand those issues and how we can apply our resources appropriately to do that on a risk-based approach. For me that is the most important reason. That we are thinking about it from a risk-based perspective and not a hazard-based perspective. If you think about things as a hazard-based perspective, you will be forever deploying all of your resources to deal with issues that perhaps are better dealt with through an appropriate management regime, as our regulations require.

Q122 **Chris Stephens:** Thanks. Notifiable work simply informs the relevant regulator that the work is being done and that there is a need to keep a register of work undertaken. Does this generate any follow-up monitoring by HSE, or inspection? What I am trying to drive at is what the purpose of just notifying serve?

Sarah Albon: The notified work by the licensed contractors is what generates that high level of inspection on the work that they are doing, so that we have that confidence in the quality of the work that they are doing when they come to reapply for licences and things like that.

Q123 **Chris Stephens:** Does anyone pay serious attention to these registers? What I am driving at is that it is called "notifiable work". I am trying to get a sense of: is there a purpose and is it taken seriously and is anyone paying attention to these?

Sarah Albon: We take it incredibly seriously. If you think about the number of businesses in general that are in the country, literally millions of different businesses are being conducted day in, day out, and the relatively low number of inspectors and inspections that we conduct and, therefore, the infrequency with which the majority of businesses will ever be touched by HSE. Probably, most businesses outside the highest hazard regimes would not see an HSE inspector possibly in their entire business life.

For these licensed asbestos contractors, we are doing on average slightly more than two inspections a year on every single firm. Therefore, the level of intervention, oversight and control that we are exerting on this aspect of work is significantly more than the vast majority of businesses would ever expect to see from us as a regulator.

Q124 **Chris Stephens:** I am going to come back to the number of inspections that are carried out soon, but non-licensable work is expected to produce only sporadic and low-intensity asbestos fibre exposure that does not



HOUSE OF COMMONS

exceed the control limit. How can the public have confidence that those control limits are not exceeded?

Sarah Albon: In non-licensable work?

Chris Stephens: Yes.

Sarah Albon: It is essentially because of the nature of materials that are classified into one or the other regime and the propensity of those materials, when worked on, to shed particular densities of asbestos-containing material.

Q125 **Chris Stephens:** Thanks. However, one of the concerns that has been put to the Committee is the current categorisation of what is licensed work and what is non-licensed work incentivises perhaps less scrupulous building managers and contractors to say that their work is low risk, obviously to keep costs down. In terms of the inspection regime, are there spot surveys conducted to measure how accurate the claims of low risk actually are?

Sarah Albon: We do not proactively do that on a routine basis but, as I said, we do conduct routine inspections in the construction industry looking at non-licensed activity, looking at how any asbestos-containing work is being managed. When our inspectors go on to premises where work is not being conducted, if they see damaged asbestos as part of a routine inspection, they will take action for that. Indeed, if one of our construction inspectors went on to a building site and saw work going on that they were concerned contained asbestos, and not having the appropriate measures taken to ensure the safe conduct of it, it would be one of the reasons why an immediate prohibition notice would be issued.

Q126 **Chris Stephens:** Thanks, that is maybe something that we could pick up. More broadly, can you give us the statistics on the amount of inspections carried out by HSE in the last year for licensable, non-licensable and notifiable work?

Sarah Albon: In my written evidence to the Committee I gave the detailed breakdown of different types of inspections and numbers of inspections for the last few years that we have.

Q127 **Chris Stephens:** I will certainly refer to that. My final question is: what criteria are used to judge if the amount of inspection conducted is sufficient, by HSE? Is there someone, a supervisor perhaps, looking at the inspections and undertaking an exercise to say—I hate to use the words “good inspection” but I think you know what I mean by that—that there is an adequate inspection being carried out? What is the criteria that is being used for that?

Sarah Albon: There are two different ways that we look at that, both at the same time. At an organisational level we look every year—and we are in the process of finishing this off now for the next financial year—at the



HOUSE OF COMMONS

resources that we have available to us and at the evidence that we have of areas of highest risk.

We also have to take account of ongoing investigative work, where there have been incidents or accidents where inspectors are putting a large degree of their time into investigations. We take account of what we know to be a typical expectation of new incidents and accidents and concerns that will come in and then we look at the available days. We look at the priorities to take action. We will be thinking about priorities in a number of different areas when we are thinking about areas where we are concerned that particular sectors of industries are failing to manage risk appropriately and where we want to go and take action with an enforcement head on.

There will be other areas, particularly in some of the highest-risk industries—thinking about offshore oil and gas refining industries—where we expect that risks will be well managed, but we recognise that it is so important that we ensure that they are well managed and that the public would want that assurance from us. We are being very proactive in the work that we do to keep the most hazardous sites safe. Then we look at all of the resource that we have, all of the calls on our time, and we make some difficult judgments about where we are going to put the resource that is available to us.

Professor Curran: To add to that, from the point of view of the individual inspections, I am not an inspector myself but I do know that our inspector colleagues put a lot of effort into peer review. They will work as peer-review teams to review each other's work. The training is very detailed and a lot of that is delivered in the field. It is not all classroom based. There is an ongoing review process for that inspection activity to ensure that it is meeting the required standards and is subject to that internal and ongoing peer review.

Sarah Albon: As Andrew says—picking up on your second point, the other half of that—at an organisational level that is how we decide where the resource goes. Then at a daily working level each team of inspectors will have a principal inspector. Typically, there will be around five inspectors working for a principal inspector who will be overseeing the quality of the work that is done, talking to the teams about the progress that they are making, where they are going next and what the priority is for the team in the next day, week, month, using all of the normal management controls that you would expect in addition to things like peer review.

Chloe Smith: May I add one final thing because, understandably, Mr Stephens did ask me the question at the outset? The only thing I would add here is to talk in context of the regulations and do we think the regulations are correct in all of their architecture. You focus there on the lines between licensed, non-licensed, notifiable and so on but there are other parts of the architecture as well there in the regulations.



HOUSE OF COMMONS

What am I looking for in those regulations as the HSE colleagues do their review of those regulations? I would be looking for the principles of proportionality, which Sarah has just explained there, to continue to be properly reflected in those regulations. That is because it is a matter of historical fact that there is the extent of asbestos that there is throughout housing stock and building stock of all kinds. Obviously the Committee has the facts on that already.

I think, therefore, that it is justifiable that the regulations rest on the idea that there have to be duty holders out there in the general population to meet that extent of where the asbestos is in the general stock of buildings.

I support what Sarah has gone on to explain around where the lines are drawn, in terms of the licensed regime and the other parts of the architecture. I would also reiterate what we have already said this morning, which is that everything that the Committee is looking at through this inquiry will be reasonable material to include in our review of those regulations to be sure that the architecture continues to be calibrated in the right way.

Chris Stephens: Thank you. That is helpful.

Q128 **Chair:** You made the point earlier, Sarah, that you are expecting 400 inspections next year.

Sarah Albon: Looking at duty to manage specifically. This is not the construction or the licensing inspections, this will be a specific campaign around duty holders' duty to manage asbestos in their buildings.

Q129 **Chair:** What would the comparable figure for this year be?

Sarah Albon: I am not sure whether we did a specific targeted campaign, although we would have looked at whether duty to manage was being picked up as part of the many of the ordinary inspections in, say, small factories, farms and that kind of thing.

Unless we found something being done incorrectly, we would not necessarily be recording that on our system because, if the purpose of the inspection was following up after an incident or something like that, we would only record anything about asbestos if there was something concerning found.

There will be a lot of times where an inspector would have seen asbestos being appropriately managed in a building but they will not have recorded that because it was not the core purpose of why they were attending.

Q130 **Chair:** It is a new initiative that you are planning for next year.

Sarah Albon: It is something that has been done before but we feel that it is appropriate to do it next year in the overall cycle of work that we do.

Chair: Thank you very much.



Q131 **Dr Ben Spencer:** My questions are on the data around asbestos management and exposure risk. Professor John Cherrie told us that there was a lack of systematically collected information on asbestos levels and exposures in non-domestic buildings. How does HSE know that workers, schoolchildren and the public are safe from asbestos?

Professor Curran: Shall I start? As Sarah said, we collect our data in relation to the asbestos removal. We use other data sources to look at the totality of information available to make those judgments around risk, which includes the lung-burden work that I know Julian Peto has talked about to this Committee. The epidemiology is also regularly reviewed so that we understand exactly what is happening.

We run the mesothelioma trends information through our national statistics to look to see whether the modelled number of mesothelioma deaths meet the current actual mesothelioma deaths. That body of evidence is what we use to inform our approach to both regulation and policy. Clearly, you could spend an awful lot more money collecting a lot more data, but I think what the evidence is showing us is that the current levels are much lower than they were previously and that the levels of mesothelioma deaths are falling certainly among males who were very heavily exposed.

The other issue is of course that mesothelioma deaths are a reflection on the work environment from some 20, 30, 40 years ago. It is about the point that was made earlier, about proportionality and pragmatism, making sure that we are targeting our efforts on areas of greatest risk. From the point of view of the evidence that we have available to us, we believe that we are doing that appropriately but, clearly, we could do more if there was more resource or more analytical capability. All these things are decisions we make based around that risk judgment.

Sarah Albon: To add to what Andrew is saying, it is important for the Committee to understand that there is sometimes a misunderstanding by some people who want to understand why there isn't more routine air quality monitoring. The monitoring activity would be somewhat analogous to, say, a smoke monitor, so that there would be a passive unit that you could put into a building that would trigger if asbestos was present beyond a certain level.

Because of the nature of asbestos and the fact that asbestos fibres are quite heavy and they settle very quickly, if you are going to try to monitor any particular site to see if there is asbestos there you must disturb the area. Therefore, you must make a plan of what you are going to measure and when. You must proactively then disturb the area that you are trying to measure.

If you were thinking about a school you would need to think about every room, sometimes more than one room. You would need to make sure that you were doing it at a moment when you had reason to think that if any asbestos is present it is actively shedding. Otherwise, you could



HOUSE OF COMMONS

monitor in a transient moment when no asbestos was present and give yourself a false positive.

These are the kinds of reasons why—although that level of background monitoring has its place in academic research to try to understand what the continuing environmental widespread contamination remains in this country—it is a very poor method for being a warning to a particular business or a particular duty holder about the danger or otherwise of asbestos that might be present in their building.

We think it is much more likely that they will be able to maintain themselves safely, if they ensure that they fully understand where asbestos might be and they regularly visually inspect it to ensure that it is not damaged. Undamaged asbestos is very unlikely to be shedding fibres that can then be inhaled and harm people.

Q132 Dr Ben Spencer: I have two concerns about that approach and I hope you can relieve those anxieties. One is that you are dealing with aggregate data here, so, if there is a particular problem in a particular school or area, the data sources that you are using will not be able to detect that; if you are looking at aggregate data across large regions.

The second is that I do not know about the lung burden study—and my apologies on that—but certainly the mesothelioma data has a 30-year lag, as you rightly pointed out. If there was a problem with your approach today, although clearly your approach 30 years ago was a good one, because you have seen it come down, we will not know for another 30 years. How do you relieve my anxieties around that, in terms of HSE doing what it needs to do in terms of regulating risks around asbestos, particularly in schools?

Professor Curran: I will start off with the individual measurement side. I go back to the point that Sarah made, because being able to sample in a way that enables you to have certainty about the level of exposure is very difficult. As Sarah said, asbestos fibres will fall to the ground very quickly, so you need to be in the right place at the right time. You need to take sufficient samples to be clear on the uncertainty of the measurements that you are making, because one of the biggest risks is that the measurement uncertainty is so large that your decision-making is then flawed and based on false assumptions.

Certainly, one of the concerns that we have had is that, if you were to use this approach to routinely measure exposure in schools, you would be more likely not to detect any asbestos than you would to detect it, because the circumstances in which that asbestos needs to be made available in the area are such that it would be very difficult to get that certainty into your measurement system.

That is why, as Sarah said, the visual inspection side is the best way to determine whether there is a likely risk and from that you can determine the appropriate actions to take.



The second point was around recent studies and are we relying on data from long ago to inform our position? We have looked at exposures in schools over the years and I think our first study detected out of, let's say, 29 schools¹ maybe 30 asbestos fibres in that whole series of schools, so a very small number of fibres and then a more recent study did not detect any fibres at all.

When we have gone out and looked specifically in schools we are not finding high levels of asbestos in those situations, so that is why we think if you were to spend an awful lot of time going out to measure you might falsely reassure yourself that there are no asbestos fibres in that particular environment.

Q133 **Dr Ben Spencer:** How many schools did you look at?

Professor Curran: I can check the information. I think that the original data were in 29 schools, but I can check that.

Q134 **Dr Ben Spencer:** Is 29 schools a good enough sample size?

Professor Curran: At the time, again because of the nature of this work, going out and doing that level of measurement in schools, which clearly are busy places, was the approach that we chose to use to give us the information that we thought would be representative in those particular types of school.

Sarah Albon: It was trying to look at different schools with different construction methodology. Again, I suppose it is the case that in all research you need to understand the basis of the research question that you are asking. If you are saying, "Are 29 schools likely to be a representative sample of all schools' state of anything?" it is unlikely that the answer could possibly be yes.

What we were trying to measure there is whether in a small series of schools with particular construction methods and issues this kind of sample would show anything different from the experience that you have of looking at a visual sample and asking, "What is my level of confidence?" It is about the purpose of the research.

Q135 **Dr Ben Spencer:** Therefore, what you are telling me is that, not only is it a sample size of 29, but it is a stratified sample size because you are looking at individual different schools, which has decreased the power of your study. This has heightened my anxiety in a sense, because it sounds to me that you are relying on decisions about safety in schools for school children based on a sample size of 29 schools.

Sarah Albon: The evidence that we have in schools is not just what we do directly. For example, DfE has paid significant attention to asbestos and to the maintenance of school buildings. It conducted a survey of all

¹ After the hearing, the HSE wrote to us to clarify that 4 schools in fact were visited as part of this first study from 1986.



HOUSE OF COMMONS

school buildings and is about to start on a new survey where, over a four to five-year period, structural surveyors will go to every single school building to look at a range of aspects around structural safety of the buildings, including asbestos.

Along with head teachers and boards of schools, DfE takes very seriously the duty the schools have to manage and engage on that. It is also putting in place independent evidence around structural and other building safety issues in schools. We draw our comfort from several areas, including the degree of proactivity that schools themselves have around the duty to manage.

Q136 **Dr Ben Spencer:** So that I am clear, your confidence that schools' current exposure levels are safe—however one wants to define that, and let's not go down that rabbit hole—is based on aggregate data that has a 30-year time lag showing what was happening then in terms of general trends of mesothelioma. It is based on your confidence in the visual inspection approach and it is based on a study that you have done looking at exposure levels in 29 schools.

Professor Curran: It is based on more than that. It is based on a whole body of evidence. Julian Peto presented evidence to you on the lung burden study. That is giving us some important information, not just about the levels of exposure that we are experiencing in more recent times but also in the dose response relationship there is between the number of fibres that are inhaled and the risk of mesothelioma. It is a growing body of evidence; it does not rely on one single measure.

The other thing I refer back to is the point that Julian Peto made about the balance of benefit when it comes to research activities. To do the large-scale studies that think about every single potential opportunity for exposure in every single school type around the country would be an extremely large and probably unfeasible study to deliver. Therefore, it is about making sure that we have the best available evidence across all the potential and achievable areas of data that enable us to better understand that risk and how that risk is changing over time.

We are very happy to consider other research ideas as part of that proposal. We do that all the time and our conversations with Peto, for example, are continuing to see what studies might be suitable in the future, and our own research capability is still doing the fundamental research on asbestos that we need to ensure that we are making the right decisions. That collection of evidence is continuous and it informs that body of evidence, rather than relying on single measures that when taken out of context may not provide you with the right information to make the best, informed decisions.

Q137 **Dr Ben Spencer:** What about a national register of asbestos in public buildings?



Sarah Albon: Essentially, any register is going to be as good as the data provided. Building owners are already under an individual duty to hold data on asbestos that is present in their building, to inspect it on an annual basis and to keep their own building's register up to date in that respect. That information must be made available to anybody who might then do work in the building, to any subsequent purchaser or lessor of the building so that there is information directly available for anybody who is going to need it in respect of an individual building.

We know that the use of asbestos in buildings in the United Kingdom was ubiquitous for a considerable period and that most buildings built before the turn of the century will have asbestos in them somewhere. To hold the data that are held on a building-by-building basis and are available for people who are interested in that building at a national level would be costly to do.

It would potentially be administratively burdensome for those people to engage with updating into a national register on a regular basis. It would be quite hard to audit to make sure that they were accurate and would not add any information that is not available to somebody when they come to think about working on a building, leasing a building, buying a building, because that data can be and must be made available to them at that point locally. It is hard to see what further benefit would be had and by whom for holding the data at a national level or who would be best placed to do that.

Q138 **Dr Ben Spencer:** I think the Minister wants to come in?

Chloe Smith: I am in full support of what my colleagues say but perhaps I will add two points, if you would like me to: one point around a national register and then another point going back to your drive for reassurance around schools.

On the national register, in addition to what Sarah has said, there is an important point to return to here about the position of duty holders. I would not want to see a national register dilute the responsibilities that are laid on duty holders in some way. I think it is proportionate that duty holders have the responsibilities that they are given under the regulations, because of the extent of the use of asbestos that was historically true. I would not want to see that burden removed from them and put somewhere central, because I do not think that is proportionate to where the asbestos is and, as Sarah and Andrew have gone into, how it can best be managed in detail.

If I may come back on the point you were asking about schools, I quite understand why you want that reassurance and I want it too. Perhaps one thing we could do to be helpful to the Committee is to write further on the points that Andrew is making about the extent of our evidence to seek to give you that reassurance because, quite rightly, that would be a valuable thing in terms of the state of the school and what both children and teachers ought to expect.



HOUSE OF COMMONS

Sarah Albon: I am very happy to do that.

Q139 **Chair:** That would be very helpful. On the register point, might the exercise of putting a register together shine a bit of a light on where there are difficulties about failures in the compliance with the current regulations and a bit of a lack of knowledge of where the asbestos is?

Sarah Albon: It would depend upon how you put a register together. If there was any appetite for some branch of government—and I say that deliberately because I think this would not necessarily be HSE’s remit—for someone to proactively survey the building stock of the UK and reach an independent opinion about how each and every building was managed, other than the most recent buildings built, it would give you a secondary overview of the state of the nation and the state of our buildings.

I suspect that that would be extraordinarily expensive. I do not know if that would be done in a sensibly confined period of time, if there were sufficient surveyors or professionals out there who could conduct the work. Clearly, it would be time-consuming, expensive and all those kinds of things.

If it was not done like that, any register would simply be an exercise in asking people, who already must have the information that they have, to notify it somewhere. I am not sure that without significant effort in audit or assurance or something about what they have said you would do more than just capture whatever it was they were doing. The diligent people no doubt would give you a good and diligent breakdown that was reliable, but there would be some who just would not bother at all and you would have to think about your enforcement effort to go to do that.

Then there would be another group who absolutely filled it in but they put nonsense in, and the computer people would say, “garbage in, garbage out” and I do not know how it would necessarily be a useful tool over and above the tools available now.

Q140 **Shaun Bailey:** Can you talk me through the profiles of the duty holders? When we talk of duty holders, who are we talking about?

Sarah Albon: It is business owners. Given that we are talking here about non-domestic premises it is anybody who is the controlling mind in a business.

Q141 **Shaun Bailey:** Keeping that in mind, how are you ensuring that duty holders are fully aware of their responsibilities, particularly given that you said these people often are business owners or people who are doing other things? How are you dealing with that? I can imagine it is a big issue.

Sarah Albon: There is a huge range. As you would expect, in the largest organisations, whether that be public or private sector, large businesses will have facility managers who specialise in looking after the estate of a



HOUSE OF COMMONS

large enterprise who are fully informed about this kind of thing. We do proactively check up with some of the large businesses, including the public sector—so other Government Departments, and things like that—what they are doing, for example, in the school estate, the prison estate and the health service.

We know that they use professional facilities managers who give them the information that is required and help them fulfil their duties. I should say the duties are not passed to the contractors. They remain with the duty holder, but they typically will put in very structured, professional help to ensure that their buildings are professionally and appropriately managed.

In smaller businesses they will typically end up needing to do that themselves. That is where some of our information campaigns come in, working both with duty holders directly through social media, when our inspectors go out for other reasons, to help to inform them about what to look for and what the signs are and, importantly, we work very intensively with the construction industry to ensure that they are fully aware.

We know that the biggest danger is when asbestos is disturbed, which typically happens during renovation or building works. That is not to say we are completely sanguine, and we think everybody knows exactly what they are doing and they always do the right thing. We are aware that there will be businesses who remain unaware of some of the materials in their buildings, particularly some of the smaller, micro businesses.

We are working very closely with BEIS and other Departments, thinking about the enormous amount of renovation that will be coming to buildings right across the United Kingdom with the move to net zero, thinking about putting in different heat sources, different heating systems and better insulation.

There is going to be a significant amount of renovation and remediation going on in buildings with a heightened risk that asbestos will be disturbed during those activities. It is also an opportunity for us to work directly with those people who may be encouraging renovation, funding renovation, and part of the building trade conducting it, to make sure that they understand what they might be doing and are able to carry some of our messages around the importance of safe handling of asbestos.

Q142 Shaun Bailey: That is helpful to know. I am curious here, because my understanding—and I might be wrong—is that there is no regulatory duty for duty holders to have a particular level of knowledge on this. Is that not a gap in the system?

Sarah Albon: It is about proportionality. If every single small business owner had to go on some sort of educational course to know something about asbestos to a particular level—



Q143 **Shaun Bailey:** Surely, there must be a way that can done. My own example when I was a lawyer was we would have to go on CPD training quite regularly. Surely there is a way that you can give a base level of competence training to a business owner within that, to ensure that they have at least a degree of competence and a base knowledge in this.

Sarah Albon: The difference for me is about understanding the levels of risk that are present as opposed to hazard. Asbestos is an incredibly hazardous material if it is damaged. If it is maintained in a safe condition in most cases it will not pose a direct risk.

The comparison with CPD point, I suppose that is directly about your profession. You had to keep directly up to date with your profession. The question for me is: would it be proportionate and appropriate to the risk concerned to ask for example every micro business owner to go on a course or to get some sort of formal qualification? If it wasn't to a degree of accreditation then to some extent what would the point be?

Q144 **Shaun Bailey:** The concern I have here is your previous response to one of my colleagues. You said, for example, that when a business uses a contractor to monitor asbestos that liability does not pass to that contractor. Ultimately, that duty still remains with that business owner. If I am a business owner who is doing a million other things and perhaps has not had this base level of knowledge thinking, "Oh well, I will get a contractor in and if it all goes wrong I have whatever right to address that" that does not pass over.

I am curious here. I appreciate what you have said to me to begin with and it does sound as though you are trying to engage, but do you not see the argument here for at least a required base level of competence and to perhaps be providing some sort of basic level of required training with business owners in respect of asbestos for people who hold these duties? These people are not experts; they are normal, everyday people.

Chloe Smith: May I come in on this? It is worth broadening this out, although obviously this inquiry is about asbestos management. Inherent in the work of what the HSE does, and inherent in any legal requirement that any of us ever put on small business holders or large business holders or anybody else, are a number of risks and a number of different conditions and problems that they ought to be aware of at any time.

I think it is the case that the HSE provides the right amount of information and the right level of resources for when duty holders need to look for it. It is correct that it is there for when a duty holder may realise that they need to go to seek that information out.

It is also inherent in the regulations that they have that duty to do so. We are all parliamentarians. We could all find it a little bit difficult to conceive of constructing a law that would say, "You are under a duty to do this and you are under a duty to be trained to get the information to do this" as opposed to just sticking with, "You are under a duty to do this".



Any business owner, by nature of being one, knows that it is under various legal duties about various things and where to go to get information about those things. It might be duplicating a bit and adding an unreasonable burden on businesses to say, "You also have to get this particular training about this particular thing" because at any one time they are subject to a range of legal duties and there is information available about all of them.

Q145 Shaun Bailey: Minister, I completely see that. There is a reverse of that argument to say that, when you are under a plethora of legal duties, things can drop through the cracks. Sarah, I do not know how you are monitoring compliance of these duties. Is there anything in there that suggests that duty holders are managing to understand their duties and complying accordingly, or is there anything in the data that would say perhaps there needs to be a bit more?

Sarah Albon: The majority do. Bear in mind that we target those businesses and business sectors where we are most concerned that they might be more generally non-compliant, including with this, but we still see more evidence of compliance with this regulation than non-compliance.

Taking the Minister's point—and it would be outside our remit—there are many legal obligations that a business needs to comply with, whether that be environmental legislation, employment legislation, some of our other health and safety information. As far as I am aware, it is very rare that there is specific, prescribed training and qualifications that the owners must go through in order to be required to comply. Clearly, it is always up to Parliament if it wanted to do that, but it would be incredibly burdensome.

Q146 Shaun Bailey: How do you monitor compliance?

Sarah Albon: The 400 inspections that I was just talking about will be specifically on the duty to manage. More generally, when our inspectors go to business premises, one of the things that they are trained to look out for is visible use of asbestos in the building that they are in. Where they see that they will engage the duty holder in a conversation to say, "Do you know what that is? Do you understand what your duties are?" If they are concerned that the answers are not compelling, they might ask to see the register.

We spend a lot of time training our inspectors to a very high professional degree, so they have significant latitude in the way they conduct their individual inspections to tailor that to the risks that they find when they get to a business and the responses that they get from business holders, so they do not have a simplistic checklist so that they can say, "I saw this and I did that" because it is a much more interactive, responsive engagement they have with the individual businesses.

Q147 Shaun Bailey: As an organisation, how confident are you that you have



the broadest understanding of compliance and non-compliance? I appreciate you have talked about the inspections and the engagement you have done, but clearly you want as broad a picture as possible. How do you ensure the data that you are looking at are as accurate as they can be?

Sarah Albon: The data that we have are accurate. I have been very clear with the Committee that we do not seek to do a level of inspection in this area that gives us the ability to say to you, “We have looked at 50% of all businesses” or anything like that and that we have a view. We have never have been resourced to do that level of intervention inspection.

Part of the Regulators’ Code requires us to be proportionate, quite rightly, in the activity that we do. Therefore, we do a lot of work to consider both the individual businesses, the business sectors that pose the greatest risk across a plethora of different risks in both health and safety to workers and to others who come into contact with that business. We try to target our interventions, whether that be inspection, communication or education, to those areas of greatest risk. We target enforcement to areas where we see effectively deliberate non-compliance or absolute carelessness as to whether compliance occurs.

Q148 **Shaun Bailey:** Finally from me, in other countries—France, for example—there is a requirement that every three years a non-domestic building is surveyed and so there is a resurvey requirement. To both Ms Albon and the Minister: were that to be applied here, what do you think the impact of a resurveying obligation would be? I know you talked about resourcing before. Would it make it easier for you if that obligation is put on business holders to have to resurvey and monitor that more proactively, notwithstanding the duties they already have?

Minister, from a policy perspective in terms of what the Government view would be on that as a policy, whether that is something that the Government would view as feasible to bring forward in light of their expectations of the Health and Safety Executive and taking it more broadly?

Sarah Albon: Shall we start off on the technical? It is slightly back to the point that we were discussing with Dr Spencer. The surveying that has been introduced in France is an air quality survey. We have looked carefully at it because we genuinely want to stay openminded to the possibility that other countries, other jurisdictions, have found ways of doing this work better than we are doing it in the UK.

We are genuinely not at all self-satisfied that we are right about everything, so we look carefully at other developed economies when they diverge from what we do to see why they are doing it, if we think we can learn something from them and if we think we agree with them.

In the case of the three-year air monitoring in France, we think there are some significant technical flaws in what they require, which could



potentially lead to an underrepresentation of the risk that some of their asbestos contains when compared with the method that we have.

Professor Curran: It comes back to this point about how you can be assured that the measurement you are taking is giving you an answer that represents the actuality of the situation. Given that you would need to be in the right place at the right time after disturbance of any asbestos material, the chance of measuring fibres in the air is very small.

However, as Sarah says, one of the things that we do try to do is to make sure that we are exposing those views to challenge. For example, we are part of the Partnership for European Research in Occupational Safety and Health. We are going to be participating in a programme of work with those 13 other European countries to look at some of these issues around asbestos measurement and so on.

As Sarah says, we are never complacent. We always want to learn and do better, so it is by working across those different technical organisations to gather and share information in a way that enables us to test our own approaches that we will make sure we are making the best decisions for the UK situation.

Chloe Smith: Coming in on whether it would be a good policy idea to have a rolling programme or to introduce the French idea of a repeat duty, I am not persuaded of that idea. For me, this comes back to the very nature of asbestos, which is that it is a static thing. It sits there and if it is undisturbed it does not necessarily give rise to an ongoing risk. The risk occurs upon disturbance.

I gather that the inquiry has heard a range of specialist evidence that supports that point and supports the Government's view that, essentially, where a building is in good condition the best thing to do is to have a plan around the asbestos but not to go to proactive removal, because that could create more exposure than it would prevent. I also understand that other European regulators who have been talking about this recognise that risk and endorse that position.

Therefore, would a three-yearly repeating plan make a difference when the asbestos can sit there until disturbed? I am not persuaded it would. I do not necessarily see that as a wise use of either a regulator's time on behalf of taxpayers and using taxpayers' money, nor of duty holders' time because they are already looking only at the key moments where risk occurs by disturbance, rather than when the material is simply sitting there.

Q149 **Debbie Abrahams:** Good morning, everyone. Thank you very much for your evidence so far. I want to pick up where Shaun left off, and if I can start with you, Minister. You have just said that you understand that the EU regulators do not support the removal around that. Can you provide some evidence? I have been googling as we have been talking and I believe that is not the case, so if you are able to say that there is a



HOUSE OF COMMONS

proactive move across the EU for the removal, if you could provide that.

Chloe Smith: I was only reflecting back on other evidence that the Committee has heard.

Q150 **Debbie Abrahams:** On that basis—and I think, Andrew, you started discussing international research that you will be undertaking—I quite understand the cost pressures that you are facing, both in terms of the inspection regimes but also the research that you can undertake or lead as a principal. In terms of your contribution to international multisite studies, there is an opportunity to both influence and to take part in that. Can you expand on what you might be doing in that regard?

Professor Curran: I will start by going back in time a little bit, because you make an important point about how we decide what we do and where our resources are put. One of the things that I did in 2015 was organise a workshop between ourselves, the Department for Education, the Government Office for Science and a wide range of stakeholders, the research community and people from outside that.

Q151 **Debbie Abrahams:** National or international?

Professor Curran: That was national. It started national, because we wanted to understand what the areas of focus should be, given all those different views. We came up with a list of things that were important and we have been working to fund those things since. I can talk a bit more about that if that would be of interest.

From an international perspective, I have mentioned the Partnership for European Research in Occupational Safety and Health, which is an organisation that we helped found many years ago. The primary aim of that group of research organisations, which specialise in health and safety research, was to make sure that we were making best use of the available technical resource to answer questions where we all had a similar issue.

Asbestos has been something that has been bubbling under in respect of research for many years. Prior to the pandemic, we identified through that group the need to do something about a better understanding of the different measurement approaches, the new approaches that were being put on to the market, to see if they were robust, and to share the cost of doing that work. That was halted because of the pandemic because we could not meet and do the work in the same way, but that will now be kicking off in the spring of this year. That will be a very important piece of work that we are part of and we will be significantly contributing to.

In the broader context of asbestos, I chair something called the Sheffield Group, which is a global network of national health and safety laboratories, and we hold a meeting every year. We have not had one for a couple of years, for obvious reasons, but we do talk about issues such as our approach to a particular topic. Asbestos has appeared in the



margins of those meetings, but there is no programme of work in that space.

The other thing that I would say is that our scientists and technical people in this area run the PT scheme, as I have already mentioned, which is an international PT scheme. We do have a lot of laboratories involved in that proficiency testing scheme from around Europe and the world, so we are able to ensure again that the participants in that scheme understand where they sit in the global picture, rather than just a UK picture.

Q152 Debbie Abrahams: Thanks very much. That is a very comprehensive reply. Can you then explain in terms of the very different approaches that have been taken in the UK and in Europe? I am sorry, but I have not read your research from the priorities that you identified in 2016 to look at the relative risk of asbestos remaining in situ or in terms of removal, but there is a clear delineation between our approach and the approach in Europe. Can you explain that?

Professor Curran: Shall I start from a technical perspective because there is an interesting example? We talked about France and France has set a limit that is lower than our limit. One of the advantages of having the discussions around European technical colleagues is that we can understand the reasoning behind that.

In my view, it comes down to hazard risk again. From the French perspective, the way that it set the limit was based on the lifetime risk of getting mesothelioma from an exposure, a daily exposure, at quite a high level for 30 years. That meant that the limit—again, based on that information—was lower than the limit that we have.

The reason we have not gone down to that limit is that we do not think that necessarily represents what happens in the real world. We cannot think of many occupations where you are exposed at high levels all day for eight hours a day for 30 years continuously. Therefore, it is about balancing that risk hazard issue, thinking pragmatically about what people do rather than a theoretical construct of a workday, and that is why in that particular example there is a difference in how we view the issue and how they view the issue.

Q153 Debbie Abrahams: It is not just France, though. There is a European-wide programme, as colleagues have just mentioned, having a national register, and that is a requirement across the EU member states now and there is a programme of removal as well. I understand exactly what you are saying in terms of the different limits that have been set. I have not looked at this, but I am sure you would be able to refer to the WHO limits within that context as well. It is important that we recognise there are different approaches and try to look at that in the context of our work as well.

I was very struck by the different PMRs for different occupations. I am



HOUSE OF COMMONS

particularly thinking about our teachers and our health workers, for example. This is not meant to be a flippant point, but should we be warning our new applicants to schools where there are old buildings that they may be at risk of asbestos-related cancers—because they are at additional risk, aren't they?

Professor Curran: Shall I talk through the proportional mortality rates because it is an important issue? We have certainly been listening to Robin Howie and what he talks about, in terms of some of the differences in the approach that we are taking and the approach that he suggests. Two of the issues that he identifies perhaps helps unpick some of this. The first is that he does not think that we are using the right reference population. He believes that we should be using an unexposed reference population, as opposed to comparing proportional mortality rates against all workers exposed.

Mr Howie also believes that mesothelioma takes longer to develop when the exposures are lower. That means there is a problem in the use of the death certificates, because they do not record occupation over 74 years old. He suggests therefore that if mesothelioma is taking longer to develop you miss those people who might be at risk because of the low levels of exposure. Those are two issues that we have had to think about. We do not agree with his position.

The first is around the unexposed reference category. Again, it goes back to this point that we are dealing with exposures that happened 30 to 40 years ago so, therefore, we must understand the context. The context 30 to 40 years ago was that there was a lot more asbestos used for building and there was a lot more asbestos used in manufacturing, so therefore there was a lot more asbestos in the environment generally. There will have been background levels of mesothelioma because of those background exposures.

Finding an unexposed population to do your comparisons against is very hard because you must go back to say, "What can I use from that period of time?" and there is very little chance, with the benefit of history, to be able to go back to find that unexposed population with any degree of certainty. Therefore, not all mesotheliomas are associated with occupation. There are some that will result from background exposures.

The reason we use PMRs is that it provides you with an indication of those occupations that are at increased risk, the highest risk, and that is backed up by other evidence. I have talked previously about using the body of evidence and not just single studies. The fact that Julian Peto's lung burden work has confirmed this, and has also indicated that there is a dose response relationship, gives us confidence that we are focusing on those occupations that are most at risk. Clearly, we need to look at all the data and we need to make sure that we are not missing anything. Given the challenges I have described in terms of doing the epidemiology retrospectively it is very difficult to do that.



HOUSE OF COMMONS

There are things that we could do, in terms of extending the lung burden study so that we are looking at specific groups. At present, Julian Peto's work is not identifying any particular risks in the groups that you have described. We do not see mesothelioma for example in younger teachers, of the younger age group, so there is no specific evidence other than the historical stuff that may be an artefact of the epidemiology in the low numbers to give us the red flag that we should be doing more compared to the work that we are doing with those agreed high risk categories, the construction workers, the builders, the plumbers and so on.

The final point—going back to this belief that mesothelioma takes longer to develop if you are exposed at low levels—we have looked very hard and there is very little evidence that we can find that supports that view at the international level, so we do not think that is a confounding factor in the way that we are interpreting the data. Therefore, we do not think that is something that is affecting the outcome of that interpretation.

Sarah Albon: If I could say a couple more things about the different approaches in Europe: first, it is important to put on the record that, when it comes to some of the exposure limits, Europe has not moved together. There are some countries that have changed the exposure level limits—you mentioned France; the Netherlands has as well and there are some others. There are other countries that are still setting levels the same as the UK.

There is one important difference between Europe and the UK and that is the significantly increased amount of asbestos that we historically used. It is not true to say that the UK plan is to just leave asbestos alone forever. We also think gradually that, as appropriate, asbestos should be removed from United Kingdom buildings. It poses a risk; if it is undisturbed the risk is relatively low but, nevertheless, it is there and we should look to remove it. However, what we do not think is appropriate in the UK circumstances is to put a deadline on that. That is partly because of the sheer amount that is there.

Some of the conversation we had earlier is about the potential for poor quality businesses to try to get around the regulations and to flout the rules. If we had a stronger drive to try to get asbestos out now we know that we would definitely be putting a group of workers, those workers who removed the asbestos, into a risky situation where they had to have significant effort made to protect them from potential exposure. For the people reoccupying buildings after the asbestos is removed, compared with undamaged asbestos present, their risk would probably be increased as well. Then we also have to do something with it. It must be disposed of and it must be disposed of safely.

Those factors taken together make us conclude that, on balance, it would not be the right thing for the UK at this time to set a deadline and drive people to remove it. It is important that it is monitored and that assurance is given in every building where it is present that that asbestos



HOUSE OF COMMONS

is maintained in good condition and that it is not damaged, that if it is damaged it is removed. However, we think that the scale and quantity of its presence in UK buildings means that the risk involved to a wide variety of people, if there was an accelerated drive to get it all out, would be higher than what we are doing now.

Q154 **Debbie Abrahams:** That is a very fair point. There is a balance between what you are saying and where we seem to be now, which is in no man's land.

My final question is: do we accept that 80% of occupational cancers are asbestos-related and, if so, do we have a figure in terms of the GDP that we spend on occupational cancers that are asbestos-related?

Professor Curran: I do not have a figure on GDP.

Q155 **Debbie Abrahams:** That might focus the mind, Minister, in terms of the action that needs to be taken. Chair, it is absolutely right that there should not be a rush around this. It needs to be properly planned and programmed. Thank you for your responses.

Chair: We need to speed up a little bit. Chris Stephens is next.

Q156 **Chris Stephens:** As someone who lost a friend and trade union colleague to asbestos-related cancer, I do take this issue very seriously. In saying that, I want to take you back very quickly to an answer to one of my earlier questions about when it comes to the number of inspections. The written evidence that we have says 893, but I do want to check that that does include non-licensable inspections and inspections of notifiable work. Would that be the case, or because of the pandemic was there just a focus on the licensable?

Sarah Albon: I think the 893 will be the licensed inspections.

Q157 **Chris Stephens:** There would not have been any inspections for the others during the pandemic?

Sarah Albon: I will have to write to you on that.

Q158 **Chris Stephens:** That would be helpful. Thank you.

I am going to move on to the asbestos management strategy. Minister, a number of organisations have written to the Committee and said that there needs to be an integrated cross-government, cross-regulator, long-term approach to managing asbestos and that will be especially important given the future retrofitting of buildings to address climate change. How is the DWP ministerial team working across Government to manage asbestos risks and opportunities from greening of the built environment?

Chloe Smith: That is quite a large question, so I will try to take sections of it in an orderly way. May I first give you my sympathies on the loss of your friend? That reminds us of the gravity of the issues we are talking about.



HOUSE OF COMMONS

The first thing to say regarding the Government's asbestos strategy—and then I will come on to the net zero point that you make at the end—is that of course we do have such a strategy which is, as Sarah has already recently outlined, to gradually and safely remove asbestos from the building stock. That is the strategy and, by its nature, that is a cross-government strategy because it exists in what we ask our regulator to do, a regulator that does indeed work for a number of Government Departments and Sarah could explain a little bit more how she does that.

That strategy is also substantiated of course by being given life through the regulations, which are owned by the entirety of the Government. What we already have is a cross-government goal and method of going about reaching that goal.

What we then also have are structures that we use to work with HSE to do that. I will come on to how I do that as Minister and if Sarah wanted to add anything more she would be very much able to.

As a government body, the HSE is unlucky enough to have me as their lead Minister. Prior to myself it was my colleague, the Minister for Employment, and we moved that between us in the normal way of sharing the duties of the Department. I meet very regularly with Sarah and with her chair, Sarah Newton. In addition to us, officials do that comprehensively as well across the full range of what the HSE does. There is much more that I can say about that but I will keep that at a summary level because I want to come on to your point about net zero, which is where you were hoping your question would then go.

The very concept of getting to net zero entails changes to buildings of various kinds and that is where the crossover comes with removing asbestos. Broadly, we want to be able to achieve our net zero ambitions while also, of course, maintaining a safe approach to the management of asbestos where it might be disturbed or where it remains in situ. Again, I refer to the comments Sarah just made about the risks that still are there when asbestos is in situ.

I would be working with colleagues in BEIS to be able to take an overview of both of those goals at one time. Perhaps I should pause there, and Sarah might be able to come in with more.

Sarah Albon: Only to say that we have a very healthy relationship between HSE and the various Government Departments that fund us. DWP is our lead Department and we funnel the main challenge around finances, value for money, and those kinds of conversations, through the DWP. As the Minister indicated, conversations happen at all levels between people working in HSE and the Department both on policy issues but on VFM and financing issues, as well as regularly at our level. It is a good balance between challenging and making sure that we are doing the right thing, and also giving us the independence to act as an independent regulator, as Parliament set us up to do.



Q159 Chris Stephens: I have been told by trade unions and Thompsons Solicitors about how successful HSE's Hidden Killer campaign was and the campaign materials and the reach that that had. Given what is happening with net zero and retrofitting, is that something HSE is considering doing again?

Sarah Albon: Absolutely and not simply redoing that campaign with the identical materials, but learning from it, repeating the bits of it that worked well, but also broadening what we do to target specific thoughts around the changes that will be made to the built environment because of the net zero campaign. Classically it is both an opportunity and a threat.

There is a potential threat there, if a lot of building work took place unconsidered and at the more cowboy end of the market, to the workers, to the homeowners and to everybody else. There is an opportunity for us to work with the building industry, as well as homeowners and others, to increase awareness of this as an issue and to help people safely manage what they do as well as helping them transition to better insulated greener homes.

Q160 Chris Stephens: What is the justification for there not being any worker representation in the Workplace Health Expert Committee?

Professor Curran: The Workplace Health Expert Committee was set up to be a technical group that looks at all health issues for HSE, and provides us with insight into new and emerging risk as well as risks in existing situations.

It was a very technical Committee and, therefore, it was agreed that that was not necessarily appropriate for that trades union representation or indeed any representation from industry. It was a purely technical group that looks at the research, the evidence, and reviews that on behalf of HSE to inform us about the issues that we need to be considering.

Chris Stephens: Trade unions have technical expertise too; I would add very strongly.

Professor Curran: Absolutely.

Q161 Chris Stephens: Can I ask that HSE look at having a workers' representative on that Committee and, if not, could it write to us about the actual engagement it has with trade unions on its work?

Professor Curran: Obviously the selection process for membership of work was fully open. I cannot remember if we received any applications from trade union representatives. We can certainly look at that.

Chris Stephens: I would ask the Minister to talk to that as well.

Q162 Nigel Mills: I am getting slightly puzzled now. I thought what you were telling us was if asbestos was in good condition and there was no other work happening we should just leave it and check it occasionally, and that will be fine. Then you tell me, Sarah, that it would be better to take



HOUSE OF COMMONS

it all out but that is too difficult, so we cannot. Then, Chloe, you said there was a strategy for the removal of all asbestos, which I cannot see. Perhaps we have a dream or an aspiration but we do not have a strategy for how to do it.

What is the plan? Is the plan just to stay in this holding pattern of: if it is in good condition and it has not otherwise been touched just leave it forever or, at some point, do we have to move from the holding pattern to some proactive work?

Sarah Albon: It is conceivable that, at some point, you would get to an amount of asbestos that was left in building stock that although in apparent good condition it felt manageable in terms of disposal removal activity and all the rest of it. You may want to in the future set a real hard-edged deadline or target to remove it.

Q163 **Nigel Mills:** How close are we to that?

Sarah Albon: Not close. We believe that at least 300,000 business premises will still contain asbestos now. Many more domestic premises on top of that.

Q164 **Nigel Mills:** What percentage reduction a year are we getting on that? Is it tiny?

Sarah Albon: I would think it is relatively small.

Q165 **Nigel Mills:** 1% a year?

Sarah Albon: If we think about the number of notifications up to us of licence removals, that is in the low tens of thousands annually. That will not necessarily mean in every case that an entire building, for example, has had all the asbestos removed from it.

I used to work in the main Parliament building some 20 years ago. I can certainly recall that in every single recess there would be other corridors taped off as chunks of asbestos was removed from that.

The fact that, say, 30,000 licence removals are carried out during the course of the year certainly does not mean that 10% of buildings have now had the asbestos cleared out of it. Quite often, it will be that work is being done on part of a building and that licence removal will be happening in that part. It does not mean that the whole building then has no asbestos in it.

Q166 **Nigel Mills:** So this glorious day when we think we are finally near enough, that we have capacity out there to set a target to get rid of the rest of this horrible stuff—that is going to be decades away, is basically what you are saying.

Sarah Albon: It is, realistically. It comes back to the extraordinarily high use that was made of asbestos in this country in the 1950s and 1960s, in particular. The building stock has significant amounts of it. Chris reminded us of the individual personal tragedies and I would not for a



HOUSE OF COMMONS

moment want to sound as if this is a cold, hard, technical conversation. In the UK we have one of the highest rates of death from mesothelioma and it is an absolute tragedy, but we have to have a risk-based and proportionate method now to deal with what is the legacy of 50, 60, 70 years ago decisions.

Q167 **Nigel Mills:** Can you help me on one more thing? How long do we think asbestos will stay safe, if it is not being disturbed? You are saying some of it has been there 50, 60, 70 years. Do we think it is capable of staying intact and safe for another few decades so this problem does not arrive?

Sarah Albon: That is why the duty to manage requires formally documented annual inspections.

Q168 **Nigel Mills:** I am not talking individual sites. I am talking in general as a material, do we think it is capable of lasting a century without breaking up?

Sarah Albon: I suppose my broader answer—Andrew might want to say more—is that, because it was a relatively new material that was widely used and then fairly quickly understood to be extremely carcinogenic, I don't think we know how long some of these materials left undisturbed remain undamaged. That is why it is so important that there are regular inspections.

Q169 **Nigel Mills:** What slightly worries me is you are gambling that we are going to get to a stage of: we need to get rid of this stuff quite quickly now because it is coming to the end of its safe life in buildings. Yet we are not making any effort to grow the capacity of the industry to remove it or have a plan to do it or have a strategy. We are hoping and praying that we do not ever need to get to that point until somehow it has to be a small enough problem that we can do that with the capacity we have.

Chloe Smith: I think that is a mischaracterisation of what Sarah has been saying this morning, and what Andrew and I have been supporting with as well. We do have a clearly stated goal that it is right to—over time and in the safest way—work towards there no longer being asbestos in non-domestic buildings. That is what the law does and that is what that goal I have been talking about does.

I do not think it is correct to characterise that as a hope and a prayer. Very clearly, it is supported by a programme of work that is there to enact that legislation, to enforce it and educate people and, in due course, this is, over the passage of years, an approach that we can all have confidence will continue to prevent deaths in the next 30 years' time.

Sarah Albon: That active monitoring; it is important that it is active. There could come a time when the asbestos present in buildings is gradually becoming more damaged than not and it becomes more urgent that it is removed.



HOUSE OF COMMONS

To go back to my point, it is important to remember that by removing it you disturb it. You definitely create a hazardous environment in which people have to have the amount of exposure monitored, monitored carefully, potentially you are injured, and then you have to dispose of it somehow into the environment. All of that has to be carefully thought about and managed. It is not easy to destroy or dispose of safely either.

Chloe Smith: It is being carefully managed, if we may emphasise that.

Q170 **Nigel Mills:** The problem is that puts me back in the puzzlement I started with. I thought you were convincing me that it is all fine and this stuff is not deteriorating. We can see that the stuff that is 70 years old is ageing better than the Queen and we need not worry about this. We have decades more and we can just leave it and that will not be a problem. Then you tell me that our plan, our goal, our aim is to get rid of it all and yet there is no strategy to get anywhere near that. In decades, that is the—

Sarah Albon: I do apologise for my obvious inability to communicate this clearly because I do not think there is a contradiction there. What I am saying is that it is a hazardous material. There is a potential risk always. It would be better if asbestos were not used in buildings. That would be a better situation, but it is widely used. Having looked carefully at it, we genuinely have concluded that the safest way for now—and for the foreseeable future in this country—is to remove what is damaged and to carefully monitor and safely maintain what is not. That gives the best balance of risk to people who need to both work with asbestos and live in buildings and work in buildings.

I am never going to sit here and say this is absolutely safe. It is an absolute carcinogen that is not safe.

Q171 **Chair:** You made a point about the clearly stated goal. Where is that clearly stated?

Chloe Smith: Well, by me today, among other places, but also through the regulations.

Chair: Therefore, there isn't somewhere else that we ought to be looking for it.

Q172 **Siobhan Baillie:** We talked about limits a little bit already today but, unlike other countries, the UK does not have a legislative limit for the amount of asbestos fibre that can be permitted in a building at a safe level for everyday use. You mentioned, when talking about comparisons with France, the difference with the UK is a significantly higher amount because we have used so much historically, so there is a clear difference with countries. People concerned about occupational exposure limits are following quite carefully the debates that are going on in Europe. Looking at the comparisons between the limits for various different countries I can understand why because it is quite stark.



HOUSE OF COMMONS

What is your view? Do you think Great Britain should be following this European work? I know that it has not reported fully yet at the EU level. Do you think we should be making changes to lower limits in Great Britain? To the Minister as well: what is the Government view on this?

Sarah Albon: It is important to separate the two things that we were talking about. The limits for occupational exposure are limits for people who are working directly with asbestos, about the amount of fibres that they can be exposed to during that work. We were talking about the fact that in France, in concluding that it should have a lower limit, it made an assumption that said, "What if somebody who works with asbestos works with it to this level every day of their working life for 30 years and they are exposed for eight hours a day? If that was their work pattern, what level would you need to get it down to in order for them to be safe?"

We have taken a different approach because we cannot find cohorts of people in occupations that do in fact work day in day out for eight hours a day for 30 years. However, the direct level of exposure that we allow in the four-hour period that we measure represents a peak of exposure, which is a tight control that we think is appropriate for the type of occupation.

When it comes to measuring background exposure for all of us going about our daily lives, we do not have that at all. The closest that we have to that is the clearance limit, which is where a firm has done work removing asbestos so that asbestos is known to be present in the work that it has done. There is a limit of the level of asbestos that can be left once the work is finished. That is a different level. It is a different measurement and it is for a different purpose. Effectively, that is saying that the area has been cleaned up to a satisfactory level, which allows the building to be reoccupied.

As far as I am aware—I stand to be corrected—no country has an environmental background limit that says, in the absence of any work or any disturbance or anything else, there is an amount of asbestos that is declared safe or acceptable. What some countries have introduced, and we had the conversation about France, is trying to use environmental level monitoring as a basis for understanding whether or not any further work should take place to either remove the asbestos present or some other form of intervention.

As Andrew explained earlier, we think that environmental monitoring is so difficult to get an accurate answer and requires quite significant technical know-how in what you are setting up on an experimental level of deliberate disturbance, placing of your monitor. It is not like a passive smoke monitor or CO₂ monitors that have been talked about so much during Covid—thinking about ventilation levels—that we think that it simply does not work as a method for giving a routine duty holder information about the level of asbestos that may or may not be being shed in their building.



Q173 **Siobhan Baillie:** We know that the campaign group Airtight on Asbestos are calling for our limits to follow best practice in Europe. Are you saying then, given where you think the UK is and because of a range of different reasons, that there is no point in following the CEHA's work, and the coming report and findings is unlikely to have any impact on this country's limit setting?

Sarah Albon: I would not want to say in advance of having seen a report that it will not have any impact on us because, as Andrew said, we are not sitting here saying we have everything definitely right and we have nothing to learn from others. We will absolutely read that report in detail and with interest to see if there is anything that highlights to us something that we can learn or should do differently.

From our understanding so far, we do not think any of those different limits or different ways of monitoring are better than things that we have in place in the UK at the moment.

Q174 **Siobhan Baillie:** Taking into account the interim findings that came out last year, is it?

Sarah Albon: Yes, I don't know, Andrew, if there is anything you wanted to add on a technical?

Professor Curran: I don't think there was anything that immediately jumped out but, as Sarah said, we keep these things under constant review. We are in constant dialogue with our European colleagues many of whom are providing the information to support the work that you are talking about. The programme of work that we are going to be part of in the spring, as I say, will help us better understand some of the assumptions that are made when those limits are set because that is important.

Understanding the basis on which those decisions are made is critical to understand how the data is being used, perhaps in a different way or from a different perspective, so that we can play that into our own internal conversations.

Q175 **Siobhan Baillie:** Minister, is there a Government view that diverges from that at all?

Chloe Smith: I do not think there is a great deal more I can add. I am confident in the work that Andrew and Sarah are describing. That is essentially how we get the right improvements in health that we are looking for.

Q176 **Siobhan Baillie:** Again, you have been talking at different points about air sampling because there are quite clear calls for more routine air sampling to measure asbestos findings. I would like to go over it again in full. It was your evidence that visual inspection is the best method of detecting releases of asbestos fibres; we will start with that.



Professor Curran: If you want an answer quickly, looking to see what state your asbestos is in is the best way to determine whether there is any damage that would cause fibres to be released.

One of the things often talked about is the measurement techniques that you use to do that. We recommend phased contrast microscopy during the clearance process, because what we want people to be able to do is to make rapid decisions about what to do if they find any fibres from that removal process.

If you were to use transmission and electron microscopy or scanning electron microscopy—which are better than phased contrast microscopy—you would have to wait quite a long time to get the results. You would not be able to make immediate interventions in those particular circumstances. For us, it is important that you use the right measurement technique for the thing that you are trying to address.

For example, you would not use an eight-place digital balance to weigh out the ingredients for a recipe. You would use something that gave you enough confidence that you were putting the right amount of ingredient in. It is the same here. Because phased contrast microscopy looks at all fibres, not just asbestos fibres, it will over-estimate risk. It will not underestimate it. In the context of clearance, you are more likely to find asbestos fibres than other fibres.

Therefore, it is the best measurement technique to use, in our view, to enable those rapid decisions to be made about what to do if you find levels above the recommended levels. For me, that is an important use of the right tools to do the right job.

Q177 **Siobhan Baillie:** I understand in the past HSE has used passive air-sampling to monitor for specific trades like plumbers. Are those studies still continuing?

Professor Curran: We have just completed a study looking at asbestos remover workers, and that will be published fairly soon. Again, when you are looking at a research question you may want to use a different measurement technique because you may be looking at something completely different. You do not need necessarily to make a decision on the spot. You are trying to understand a different question.

In that case we would most probably use transmission electron microscopy because we want to understand the specific nature of the fibres as opposed to making a decision on the spot, which an asbestos remover contractor would need to do.

Q178 **Siobhan Baillie:** Are you able to tell us anything today about what that study has told us about what asbestos people are inhaling?

Professor Curran: We were able to show that we could detect asbestos in the air from those activities and that some of those levels were higher than the limit for those activities. There are things that you could do in



HOUSE OF COMMONS

terms of promoting good practice to enable people to reduce those levels in that specific kind of activity, which was, as I say, asbestos removal.

Q179 **Siobhan Baillie:** What, if any, would be the benefits of greater use of electron microscopy of managing the risks of asbestos in non-domestic buildings compared with the phased contrast technologies?

Professor Curran: The difference between phased contrast microscopy and electron microscopy is that you are able to distinguish asbestos fibres from other fibre types. Again, it depends on what question you are asking in that particular circumstance. If you were using it to make decisions on the spot about how to intervene if levels are higher than those prescribed, phased contrast microscopy is the best method to use because it is deliverable, on site, in real time.

Transmission electron microscopy or scanning electron microscopy would not give you that timely intervention. However, if you are doing a research project or you are looking at the particular characteristics or particular fibre types, you would need to use transmission electron microscopy or scanning electron microscopy. It is about the use and the appropriate use for the job that you are trying to undertake.

Q180 **Siobhan Baillie:** I was giving the professor all of those questions, but does anyone else want to say something about this?

Sarah Albon: I am very happy to leave it to Andrew.

Q181 **Chair:** That brings to the end of our questions about asbestos. Minister, you said you had a completely stated goal. Am I right in understanding that goal has not been stated previously; it is a new goal that you have set out today?

Chloe Smith: No, I do not understand it to be a new goal. Admittedly, I do not think it is something that is in a strategy document that I can direct you to. All I am seeking to do is to restate the goal of our asbestos management across Government and as represented in the regulations.

Q182 **Chair:** Can we raise with you a couple of other points, which I think you have been told we would like to raise, arising particularly from recent court cases? Debbie Abrahams has the first of those.

Chloe Smith: If I may, Chair, do you intend to go on through Chamber question time? What is your timing?

Chair: I am hoping that we will be able to finish in the next 10 to 15 minutes.

Q183 **Debbie Abrahams:** It is in relation to the case TP and AR against the Department. You may be aware that there have been a number of cases that these two disabled individuals have brought against the Government in relation to the removal of severe disability premiums when they transitioned on to Universal Credit. Another court case unfortunately had to be brought against the Government, which they were successful in



HOUSE OF COMMONS

about 10 days ago, I think.

I note with some disappointment that the Government are again intending to appeal these. I just wondered exactly what the Department is thinking, given this has been found to be contrary to human rights law, they have been found wanting and have discriminated against disabled people in this regard. Why are the Government pursuing this?

Chloe Smith: There is only the most general point I could make because, as you will appreciate, as we do intend to appeal this, there is not going to be a great amount of detail I can go into today on the TP and AR number three judgment. The general point to make is that, like you, I want to be able to support the most vulnerable in our society and have a welfare system that is able to do that, that supports disabled people.

As you know, in the design of Universal Credit there is the intention to be able to target and support correctly the most disabled. That is the point that is there in the broader Universal Credit architecture. Beyond that I do not think I am going to be able to go into more details on that particular judgment.

Q184 **Debbie Abrahams:** I cannot leave it unchallenged and I apologise, Minister—I know you are new to the role—but there was no allowance around disability premiums in the Universal Credit architecture. They were completely removed. This is why TP and AR have been successful in their court cases; on numerous court cases going back a number of years now. These were removed when they transferred to Universal Credit. There is no equivalent that is allowed.

Again, I am sorry, I know you are new in your role—and I have huge personal regard for you—but the Government are not providing the same support in terms of UC compared to legacy benefits. I hate that phrase because most people have paid, as TP and AR when they were well, were working and were paying into the system. It is not a benefit. Again, the Government have not made sure that this is available to them and have been found wanting on a number of occasions.

I express in the strongest terms that the Government need to think again, and certainly in terms of their appeal.

Chloe Smith: I can just substantiate the point I make in that through Universal Credit. Disabled people in receipt of the LCW and WRA addition, the design there is that they do receive more than double the equivalent monthly rates that would be there in the same circumstances on employment and support allowance. That is why I refer to targeting support for the most disabled. I think that is right and that is the goal we ought to have.

As you correctly note, the point in dispute in the court case includes about transitional protection. The very nature of having transitional protection does acknowledge that the new system has some differences



HOUSE OF COMMONS

to the old system. I do not think we ought to be debating whether it is identical to the old system because that is not quite the point.

I am sorry, I do not think there is more I can say to you here about the appeal or the nature of the argument beyond that, other than the points I have just added, there to substantiate my earlier point.

Q185 Chair: Can I ask you about another court case, which the Department lost last week? This was touched on in the Westminster Hall debate yesterday. The case about whether it had properly consulted disabled people on the National Strategy for Disabled People and the court concluded that it had not.

In a report in January last year, the Department's Social Security Advisory Committee said this, "DWP officials themselves acknowledge that the Department is not trusted by many disabled people and by some of the organisations, which are led by or work with disabled people". The SSAC is saying officials acknowledge that. Do you acknowledge that problem?

Chloe Smith: I did so in fact yesterday, in the debate that we were having in Westminster Hall. I pointed out that our Green Paper sets out to build greater trust, and I quoted from the Green Paper. It is there on record that the Department wants to do more to build trust in its services and to get its services right, which is the subject then of the Green Paper that we gave a lot of time to debating to yesterday.

Q186 Chair: You acknowledge that there is a problem or has been a problem.

Chloe Smith: Yes, as I say, because we say how we want to address that and we have said that in the Green Paper. There is much more to do that I will be bringing forward that seeks to do this.

Going on to the National Disability Strategy point. I do think it is fair to recognise that—first, again, the same legal point applies, which is that we would seek to appeal that and therefore we need to be able to consider our next steps carefully. It is worth placing on record here today that the way that the judgment found a number of different things, indeed found in favour of the Government on two points and in favour of the claimants on two points. I am sure you have absorbed that detail.

As such, we think it is correct to be able to continue to say that we went to extensive lengths to listen to disabled people in the construction of that strategy and that the things we said we would do in the strategy are the right things to do and we are working hard to do them.

Q187 Chair: For the Department to have won that case last week the judge would have had to agree with the Department that the survey was not a consultation but an information-gathering exercise. Surely the Department should be consulting properly, not doing something that is a bit different in order to avoid the legal obligations that go with consultation?



HOUSE OF COMMONS

Chloe Smith: I do not think that is the case because the judge dismissed the claimant's claim that the Secretary of State was subject to a duty to consult. That point was answered by the judge.

Q188 **Chair:** Sorry, the judge agreed with the Department that it did not have a duty to consult, but surely the Department wants to consult.

Chloe Smith: The Department wants very much to listen to disabled persons, yes, which is why we then did that. We did precisely that. The technical point of whether that needs to be in the form of a Gunning principle consultation was decided by the court.

What we did, very proudly, was go out to listen to thousands of disabled people and to use what they told us in the form of the strategy. I think it is fair to say as well, in terms that parliamentarians understand and deal with every day, that every strategy does not have to be in the form of a proposition that you could consult upon. This strategy is in the format of 100-plus commitments from a range of Government Departments, which we intend to do, and that in many cases we have an additional evidence basis for and that are the right things to do.

However, much of this was the subject of the court judgment and, as I say, we would like to be able to appeal that.

Q189 **Chair:** You have acknowledged that there is a problem about trust in the Department on the part of disabled people, but the Committee plans to publish tomorrow the NatCen report on disabled people's experience of the benefit system, which the Secretary of State in breach of the Government protocol on social research decided not to publish. Does building trust require the Department to stop trying to bury uncomfortable truths?

Chloe Smith: We are not trying to bury uncomfortable truths. What we are doing here is in connection to the Green Paper, in particular, that we have already spoken about and the intention to be able to publish a White Paper in due course; a natural progression from Green Paper to White Paper. Therefore, we think that there is a quite legitimate space for policy work, which is a recognised concept of course in Government terms. When you were a Minister you will no doubt have found yourself arguing the very same thing: that it is right and proper to have space in which to do policy work that is informed by various sources of evidence.

As you heard the Secretary of State say in front of this Committee before, we do think that argument applies to this report. We have since said that we would like to be able to publish that report ourselves alongside the White Paper. In other words, at the end of that policy development. Although I acknowledge the news that you have just delivered to me this morning about your intention to publish it tomorrow.

Q190 **Chair:** I do not think we have been told, or certainly I have not been told formally, that there was an intention to publish it with the White Paper. The Government protocol on social research adopted in 2015 makes the



HOUSE OF COMMONS

point that products from Government social research analysis would be made publicly available and that this should be done no more than 12 weeks following agreement of final outputs, which would have been before Christmas 2020. Why is the protocol not being observed?

Chloe Smith: The protocol is a form of guidance to Ministers. In this case—and as I think the Secretary of State already explained in her appearance before your Committee—Ministers have to be able to consider research and consider publication on a case-by-case basis. Informed admittedly by that protocol, but it is guidance rather than an obligation.

As I understand it, the Secretary of State clearly explained that we think that there is a legitimate need for enough time for policy formulation. As such, we are drawing on the uses of that research, and a lot more besides, in our formulation of the White Paper and therefore, aside from the actions of the Committee, would have looked forward to publishing it at that point.

Chair: I am interested to hear that you think the protocol is a voluntary document; I do not think those who are responsible for it see it in that way. Anyway, you have made the Department's position clear.

Can I thank you all very much for the evidence you have given to us this morning? Very interesting evidence on asbestos and we will be reflecting carefully on what you have told us as we draw our report over the next few weeks. Thank you very much.