



House of Commons  
Work and Pensions Committee

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# The Health and Safety Executive's approach to asbestos management

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**Sixth Report of Session 2021–22**

*Report, together with formal minutes relating  
to the report*

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## Summary

Asbestos-related illness is one of the great workplace tragedies of modern times. The importation, supply and use of asbestos was completely banned in the UK over 20 years ago but its legacy lives on. Asbestos is the single greatest cause of work-related deaths in the UK. The Health and Safety Executive (HSE) has reported that there were over 5,000 asbestos-related deaths in 2019, including from cancers like mesothelioma. The heavy use of brown asbestos is thought to be a key reason why the UK has one of the highest mesothelioma rates in the world. The extreme exposures of the mid- to late twentieth century in sectors such as construction and shipbuilding may be behind us, but asbestos is still in around 300,000 non-domestic buildings according to HSE, and in many more homes.

### Control of asbestos regulations

Managing and working with asbestos in non-domestic buildings is now regulated under the Control of Asbestos Regulations 2012.<sup>1</sup> These regulations are made under the Health and Safety at Work etc Act 1974 and apply only in Great Britain (GB). Northern Ireland and Gibraltar have separate legislation covering their territories. HSE, an executive non-departmental public body of the Department for Work and Pensions (DWP), has a key role in implementing these regulations and is currently reviewing whether they are meeting their intended objectives. It says it will use the findings from our inquiry to inform this review.

### The asbestos risk today

Understanding the extent to which asbestos fibres are being released from the fabric of buildings remains an important task today. Analysis of fibres in lungs shows that the lifetime risk from mesothelioma—a disease strongly associated with past asbestos exposure—has reduced considerably for people whose working lives began after the mid-1980s when bans on asbestos started to be introduced. The most recent data from these studies shows a continuing decline in asbestos exposure but the case numbers are small and unreliable. We know relatively little about current exposure levels, but we heard worrying accounts of people who continue to be exposed to asbestos fibres. We think HSE should do more to gather a systematic picture of current exposure levels.

### Taking a strategic approach

The current asbestos regulations say that asbestos that is in good condition, well-protected and unlikely to be disturbed, can be left in place in buildings. These buildings will not, however, last forever and a policy of waiting for materials containing asbestos to deteriorate before removing them is not sustainable in the long term. The TUC, the 'Airtight on Asbestos' Campaign and others, have said a stronger and proactive programme of asbestos removal is required. Large-scale removal is not, however, without its own risk and uncertainty.

<sup>1</sup> [The Control of Asbestos Regulations 2012 \(legislation.gov.uk\)](https://www.legislation.gov.uk)

HSE has been slow to invest in research to understand better the costs and benefits of more wholesale removal of asbestos and options for its safer removal. This is becoming a more urgent task. The likely dramatic increase in retrofitting of buildings in response to net zero ambitions means that more asbestos-containing material will be disturbed in the coming decades, thus changing the cost-benefit analysis. Simple reliance on a set of regulations which devolve asbestos management to individual dutyholders—the building owners or managers responsible for maintenance—will not be good enough. We need a pan-government and ‘system-wide’ strategy for the long-term removal of asbestos, founded on strong evidence of what is best from a scientific, epidemiological, and behavioural point of view.

The Minister for Disabled People, Health and Work, Chloe Smith, told us on 2 February that the Government has “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.”<sup>2</sup> Sarah Albon, Chief Executive of HSE, also said that “we should look to remove it”.<sup>3</sup> We agree with this ambition but greatly regret that neither HSE nor the Government has articulated a clear and comprehensive strategy for achieving this. There is no written down, fully developed, and long-term plan to match the Government’s goal, one that is founded on an analysis of costs and benefits and integrates with wider government policy. Moreover, the Government has so far failed to signal its intent by setting a clear timeframe for the removal of most, if not all, asbestos.

We recommend that a deadline now be set for the removal of asbestos from non-domestic buildings within 40 years. The Government and HSE should develop and publish a strategic plan to achieve this, focusing on removing the highest risk asbestos first, and the early removal from the highest risk settings including schools. This plan should, in the first instance, commit to improving urgently the evidence base for safe asbestos removal and disposal, considering relative costs and benefits. It should integrate with—and take full account of—proposals for the upgrading of the built environment linked to net zero targets and wider waste management strategies.

### **Compliance with the duty to manage asbestos**

In the meantime, we heard that HSE is not doing enough to monitor compliance with the current asbestos regulations. HSE collects some data from its inspections, but these cover a tiny fraction of the non-domestic premises that contain asbestos. HSE said that its recent inspection results showed that four out of five construction firms were fully complying with the regulations. Other data we heard is, however, less positive. For example, the Institution of Occupational Safety and Health told us that of 500 construction workers responding to its survey, a third had never checked the asbestos register—a key source of information on the location of asbestos—before starting work on a new site. Industry experts told us that there was a real gap in knowledge about asbestos regulations compliance. A central register of information on asbestos in buildings could help to shed light on the true level of compliance and could contribute to a more effective risk-based and targeted enforcement regime. It would also provide important background data to support a longer-term strategic approach to managing

2 [Q169](#)

3 [Q153](#)

the asbestos legacy. We recommend that HSE works with others in government to develop a central digital register of asbestos in all non-domestic buildings. In the first instance, the concept of a central register could be tested using asbestos data from public buildings such as schools and hospitals.

### **HSE enforcement**

HSE experienced a near halving of its government funding, in real terms, between 2010/11 and 2019/20. This was partly mitigated by changes which enable HSE to recover some costs from people and organisations found to be in breach of the law. Nonetheless, it is not entirely surprising that HSE asbestos enforcement activity has reduced in recent years. What is surprising, however, is that the level of decline is much greater than for HSE's enforcement work overall. HSE says that part of the recent reduction in asbestos enforcement activity stems from it diverting fully trained inspectors to help train new inspectors. It says that it expects to increase the number of asbestos-related inspections in 2022/23. This is welcome but now needs to be sustained over the longer term. We recommend that HSE commits to a sustained increase in inspection and enforcement activity. Repeating our recommendation from June 2020, the Government and DWP should ensure that it provides adequate funding to HSE to support this increased programme of work over the medium term.

### **International developments**

The direction of travel in Europe is towards tighter regulation of asbestos and lower exposure limits for workers. HSE has said that European proposals may not necessarily be grounded in the real-world experience of asbestos exposure. It also told us that part of the problem in Great Britain is that asbestos is so widespread. Our concern is that an asbestos regulatory policy which prioritises only that which is immediately practical risks tolerating poorer health standards and higher costs over the longer-term. HSE should ensure that its current review of the Control of Asbestos Regulations includes a thorough written assessment of moves towards more stringent asbestos occupational exposure limits in Europe.

# 1 Introduction

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## Background on asbestos

1. Asbestos is a naturally occurring mineral and was used in Great Britain (GB) extensively for about 150 years until the late 1990s, including for fireproofing and insulation.<sup>4</sup> The importation, supply and use of asbestos was banned from 1999, with blue (crocidolite) and brown (amosite) asbestos banned from 1985.<sup>5</sup> While some asbestos has since been removed, HSE said in 2017 that “it is still present in a large number of buildings.”<sup>6</sup> In its guidance, HSE says that asbestos may be found in any building built before the year 2000.<sup>7</sup>

## Impacts on health

2. Asbestos is a category 1 human carcinogen and the single greatest cause of work-related deaths in the UK each year.<sup>8</sup> Inhalation of asbestos fibres can cause a range of lung diseases, with the three main fatal diseases being mesothelioma (a cancer of the lining of the lung), lung cancer and asbestosis (a non-malignant condition which is a form of pneumoconiosis).<sup>9</sup> HSE estimates that the total annual cost of deaths from mesothelioma is £3.4 billion and around £3.1 billion for deaths from asbestos-related lung cancer, with most of these costs relating to the monetisation of ‘pain, grief and suffering’.<sup>10</sup> HSE says that “the only effective safeguard is to avoid or minimise exposure to asbestos fibres.”<sup>11</sup>

## Trends in asbestos-related illness and deaths

3. The heavy use of brown asbestos is thought to be a key reason why the UK has one of the highest mesothelioma rates in the world.<sup>12</sup> National Statistics produced by HSE show that there are “over 5,000 asbestos-related disease deaths per year, including mesothelioma, lung cancer and asbestosis.”<sup>13</sup> In 2019, nearly 2,400 people died from mesothelioma, with a similar number of lung cancer deaths linked to past exposures to asbestos.<sup>14</sup> Asbestos-related deaths increased dramatically between 1980 and 2015, driven in large part by the very big increase in mesothelioma cases (Box 1).<sup>15</sup> These statistics show early evidence that deaths from asbestos-related illness may now have peaked.

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4 [Post Implementation Review of the Control of Asbestos Regulations 2012 \(publishing.service.gov.uk\)](https://publishing.service.gov.uk)

5 [Post Implementation Review of the Control of Asbestos Regulations 2012 \(publishing.service.gov.uk\)](https://publishing.service.gov.uk)

6 [Post Implementation Review of the Control of Asbestos Regulations 2012 \(publishing.service.gov.uk\)](https://publishing.service.gov.uk)

7 [Where can you find asbestos? \(hse.gov.uk\)](https://www.hse.gov.uk)

8 [HSE's 19–20 Annual Report and Accounts and Asbestos \(hse.gov.uk\)](https://www.hse.gov.uk)

9 [Asbestosis, mesothelioma, asbestos related lung cancer and non-malignant pleural disease in Great Britain 2021 \(hse.gov.uk\)](https://www.hse.gov.uk)

10 [Correspondence with the Health and Safety Executive related to their approach to asbestos management](https://www.hse.gov.uk)

11 [Post Implementation Review of the Control of Asbestos Regulations 2012 \(publishing.service.gov.uk\)](https://publishing.service.gov.uk)

12 [Britain's death toll from asbestos at crisis level, figures reveal | Health | The Guardian](https://www.theguardian.com)

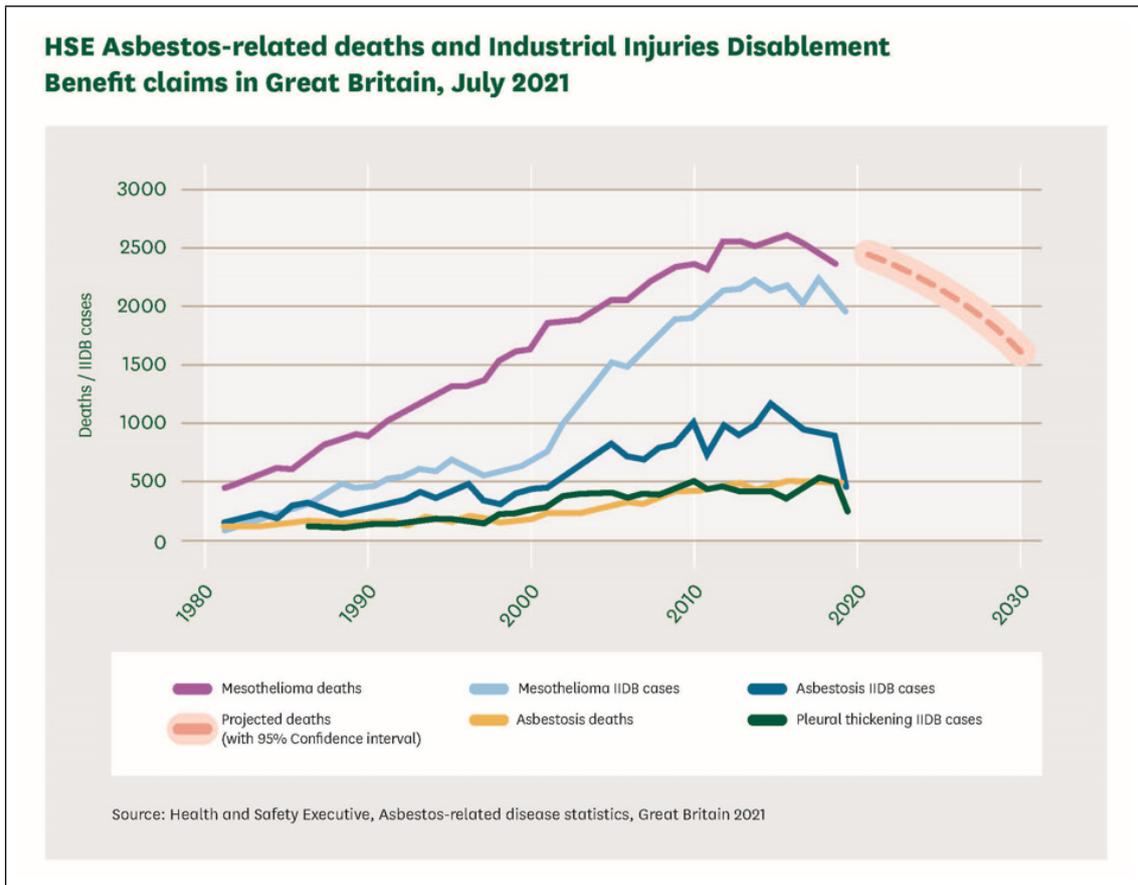
13 [Asbestosis, mesothelioma, asbestos related lung cancer and non-malignant pleural disease in Great Britain 2021 \(hse.gov.uk\)](https://www.hse.gov.uk)

14 [Asbestosis, mesothelioma, asbestos related lung cancer and non-malignant pleural disease in Great Britain 2021 \(hse.gov.uk\)](https://www.hse.gov.uk)

15 [Asbestosis, mesothelioma, asbestos related lung cancer and non-malignant pleural disease in Great Britain 2021 \(hse.gov.uk\)](https://www.hse.gov.uk)

4. Typically, there is a long delay between the initial exposure to asbestos fibres and the onset of asbestos-related disease. The average latency period is around 35 years.<sup>16</sup> A combination of knowing how asbestos fibre inhalation affects the likelihood of developing terminal mesothelioma in the future and knowing when the use of asbestos was banned in GB, enables HSE to predict the future trajectory of mesothelioma deaths. It predicts that mesothelioma deaths will fall through to at least 2030 (the end of its forecast period), albeit from the very high levels reached in the first fifteen years of this century.<sup>17</sup>

**Box 1**



5. Box 1 also shows the upward trajectory of claims for Industrial Injuries Disablement Benefit in Great Britain (IIDB). Joanne Gordon from the Asbestos Victims Support Groups’ Forum told us how much Forum members valued their relationship with DWP’s Phoenix House in Barrow-in-Furness, which has specialised in processing claims for IIDB. On 17 March, DWP announced that it planned to close its Barrow office as part of its “strategic ambition for its back of house services.”<sup>18</sup> This leaves some uncertainty about how that expertise will be retained and we have asked for clarification from DWP.

16 [P4 Post Implementation Review of the Control of Asbestos Regulations 2012 \(publishing.service.gov.uk\)](https://publishing.service.gov.uk)  
 17 [Asbestosis, mesothelioma, asbestos related lung cancer and non-malignant pleural disease in Great Britain 2021 \(hse.gov.uk\)](https://hse.gov.uk)  
 18 [Q104 and HCWS700 Written Statement by Parliamentary Under Secretary of State for Employment March 2022](#)

## Number of buildings containing asbestos

6. In 2017, HSE said that it was estimated that there were, in 2002, “about half a million non-domestic premises” that “contained some form of asbestos” in Great Britain.<sup>19</sup> When we questioned her in February, Sarah Albon, Chief Executive of HSE, told us that “at least 300,000 business premises” still contained asbestos.<sup>20</sup> Subsequently, HSE clarified that this was an estimate for non-domestic premises containing asbestos. It described its latest estimate as “provisional and “within a range of 210,000 and 410,000 with a best estimate of 310,000.”<sup>21</sup> As HSE acknowledges, estimates of the number of buildings affected remain “highly uncertain”.<sup>22</sup> It says that it is planning to use Ordnance Survey data on building age due in 2023 to “refresh” its estimates. However, this data will show that the building is of an age when asbestos was used, but it will not detect whether asbestos is, in fact, present.<sup>23</sup>

## Control of asbestos regulations 2012

7. Its dangers and continued presence in buildings means that asbestos should be subject to effective regulation. The manufacture of asbestos materials was first regulated in the 1930s with the scope of regulations widening in the late twentieth century.<sup>24</sup> The Control of Asbestos at Work Regulations 2002<sup>25</sup> introduced a specific duty to manage asbestos in premises to control exposure to workers and others.<sup>26</sup> The Control of Asbestos Regulations 2006 merged all asbestos regulations into one consolidated set.<sup>27</sup>

8. The latest Control of Asbestos Regulations were introduced in April 2012 and apply to all non-domestic premises (including ‘common areas’ of certain domestic buildings), regardless of the nature of business or industry.<sup>28</sup> They are made under the Health and Safety at Work etc Act 1974, address health risks and apply only in Great Britain. Northern Ireland and Gibraltar have separate legislation covering their territories.<sup>29</sup>

9. Along with local authorities and the Office of Rail and Road, the HSE has an important role in implementing the asbestos regulations and their supporting framework.<sup>30</sup> The HSE:

- Issues a code of practice and guidance on asbestos management and conducts research.
- Operates a statutory asbestos licensing regime—granting and renewing licences to businesses to carry out higher-risk asbestos work. HSE says that it processed all asbestos licence applications ‘to time’ in 2020/21.<sup>31</sup>

19 P4 in [Post Implementation Review of the Control of Asbestos Regulations 2012 \(publishing.service.gov.uk\)](https://publishing.service.gov.uk)

20 [Q163](#)

21 [Correspondence with the Health and Safety Executive related to their approach to asbestos management](#)

22 [Correspondence with the Health and Safety Executive related to their approach to asbestos management](#)

23 [Correspondence with the Health and Safety Executive related to their approach to asbestos management](#)

24 [Table 2 in Post Implementation Review of the Control of Asbestos Regulations 2012 \(publishing.service.gov.uk\)](#)

25 [Control of Asbestos at Work Regulations 2002 \(legislation.gov.uk\)](#)

26 [Table 2 in Post Implementation Review of the Control of Asbestos Regulations 2012 \(publishing.service.gov.uk\)](#)

27 [Table 2 in Post Implementation Review of the Control of Asbestos Regulations 2012 \(publishing.service.gov.uk\)](#)

28 [Control of Asbestos Regulations 2012 \(hse.gov.uk\)](#)

29 [Health and Safety at Work etc Act 1974 – legislation explained \(hse.gov.uk\)](#) and [Post Implementation Review of the Control of Asbestos Regulations 2012 \(publishing.service.gov.uk\)](#)

30 [Notifiable Non-Licensed Work \(NNLW\) \(hse.gov.uk\)](#)

31 [Health and Safety Executive Annual Report and Accounts 2020/21 \(hse.gov.uk\)](#)

- Enforces the regulatory regime for asbestos. As part of this it maintains an inspection programme for all notified licensed asbestos removal work to check compliance with Control of Asbestos Regulations 2012.<sup>32</sup>
10. HSE's Approved Code of Practice and guidance on asbestos provides information to:
- 'dutyholders' who have the duty to manage asbestos in line with the regulations and will be either the owner of non-domestic premises or the person that has responsibility for the maintenance or repair of those premises; and to
  - employers whose employees are involved in, or exposed to, work which disturbs, or is likely to disturb, asbestos, and employers whose employees conduct asbestos sampling and laboratory analysis.<sup>33</sup>

### Post implementation review of asbestos regulations

11. HSE is required to undertake five-yearly post implementation reviews of its regulations. HSE's first review, in 2017, of the Control of Asbestos Regulations 2012 concluded that they had met their objectives and that "Government intervention by regulation [was] still required and remains the most effective way to control the risks of exposure to asbestos."<sup>34</sup> The 2017 review also recommended that there should be a clearer distinction between the categories of licensable, non-licensable and notifiable work involving asbestos.<sup>35</sup> The review said that dutyholder guidance on asbestos management plans and guidance for asbestos contractors on work plans should be improved.<sup>36</sup> HSE has since implemented a 'step-by-step' guide on managing asbestos to support dutyholders.<sup>37</sup>

12. HSE conducted an initial consultation exercise in 2021 to inform its second post implementation statutory review of the asbestos regulations due to report this year.<sup>38</sup> In her appearance before us in February, Sarah Albon said that the Executive would not be reaching its final conclusions until it has seen our report.<sup>39</sup> In further correspondence she confirmed that our inquiry findings will be considered when "identifying appropriate next steps in this area."<sup>40</sup>

### Our inquiry

13. Our inquiry examines HSE's approach to asbestos management. We received 49 written submissions. In three oral hearings, we heard from organisations representing people suffering with asbestos-related illness, union representatives and campaigners, representatives from Germany, France and the Netherlands, asbestos industry spokespersons, health and safety professional bodies and academics. We also heard from the Minister for Disabled People, Health and Work and officials at HSE. We are very grateful to everyone who has contributed.

32 [Asbestos - Enforcement \(hse.gov.uk\)](https://www.hse.gov.uk/asbestos-enforcement/)

33 [Managing and working with asbestos \(hse.gov.uk\)](https://www.hse.gov.uk/working-with-asbestos/)

34 P23 in [Post Implementation Review of the Control of Asbestos Regulations 2012 \(publishing.service.gov.uk\)](https://www.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/614442/post-implementation-review-of-the-control-of-asbestos-regulations-2012.pdf)

35 P12 and P23 in [Post Implementation Review of the Control of Asbestos Regulations 2012 \(publishing.service.gov.uk\)](https://www.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/614442/post-implementation-review-of-the-control-of-asbestos-regulations-2012.pdf)

36 P23 in [Post Implementation Review of the Control of Asbestos Regulations 2012 \(publishing.service.gov.uk\)](https://www.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/614442/post-implementation-review-of-the-control-of-asbestos-regulations-2012.pdf)

37 [Managing my asbestos introduction \(hse.gov.uk\)](https://www.hse.gov.uk/working-with-asbestos/)

38 Health and Safety Executive (HSE) ([ASB0026](https://www.asb0026.com/))

39 [Q98](#)

40 [Correspondence with the Health and Safety Executive related to their approach to asbestos management](#)

14. **Asbestos-related illness is one of the great workplace tragedies of modern times. Extensive use of asbestos in the twentieth century accounts for many thousands of deaths. The extreme exposures of the mid- to late twentieth century may be behind us, but its legacy lives on. Asbestos remains in many of our buildings. The current five-yearly statutory review of the asbestos regulations is an opportune moment for us to assess whether the regulatory framework—and HSE's contribution to this—is working as effectively as it might.**

15. *Werecommend that HSE and Government use the conclusions and recommendations from our report to inform both its immediate post implementation review of the asbestos regulations and its longer-term approach to asbestos management.*

## 2 The asbestos risk today

16. The risk of getting an asbestos-related illness like mesothelioma depends on the cumulative exposure to, and inhalation of, asbestos fibres. It can take many years before exposure to asbestos leads to a related illness. This means that attempts to assess the level of asbestos risk today need to disentangle the effects of past events and exposures. Put simply, a retired teacher suffering from mesothelioma today may have been exposed to asbestos as a child or as a young adult serving a construction apprenticeship 50 years ago, and not necessarily as a teaching professional working in schools in the first part of this century.

### *Epidemiological analysis of the lifetime risks of developing asbestos-related illness*

17. Most analysis across different birth cohorts of the lifetime risks of developing asbestos-related illness leading to death has tended to target mesothelioma. This at least partly reflects the very clear relationship between the level of exposure to asbestos fibres and the likelihood of developing mesothelioma later in life.<sup>41</sup> HSE-sponsored analysis of asbestos fibres in lungs by Clare Gilham and Professor Julian Peto et al from the London School of Hygiene and Tropical Medicine (LSHTM) has, for example, examined the lifetime risk of developing mesothelioma. Their work predicts that the risk has reduced markedly for people born in the 1960s and who have had no occupational exposure to asbestos, when compared with people born in the 1940s.<sup>42</sup> Construction workers born in the 1940s who worked through the period of peak brown asbestos use (1960–1975) are at very high risk of developing mesothelioma (1 in 17 for carpenters, 1 in 50 for plumbers, electricians, painters and decorators, and about 1 in 100 for other construction workers).<sup>43</sup>

18. Professor Peto and colleagues at the LSHTM have also estimated the lifetime risk of developing mesothelioma in people born in the late 1980s whose working life started after the ban on the use of asbestos at the turn of the century. Their analysis records low levels of asbestos fibres in lungs for this age cohort. However, Professor Peto and colleagues regard this data as unreliable because the number of cases so far examined for this group is small.<sup>44</sup>

### *The limits of comparisons of risk between occupations*

19. HSE reports data which compares mesothelioma mortality for an occupation with the average rate across all occupations.<sup>45</sup> This analysis—called proportional mortality ratios (PMR)—helps to identify those occupations that have higher than expected asbestos-related deaths, in this case from mesothelioma. Several witnesses and evidence submissions referred to the findings and methods associated with this data. The asbestos

41 [Asbestosis, mesothelioma, asbestos related lung cancer and non-malignant pleural disease in Great Britain 2021 \(hse.gov.uk\)](https://www.hse.gov.uk/asbestos/0116) and [0116 Evidence of dose-response in the causation of mesothelioma from environmental exposure | Occupational & Environmental Medicine \(bmj.com\)](https://www.bmj.com/content/361/bmj.n1116)

42 Professor Julian Peto FRS FMedSci (Professor of Epidemiology at London School of Hygiene and Tropical Medicine) ([ASB0036](#))

43 Professor Julian Peto FRS FMedSci (Professor of Epidemiology at London School of Hygiene and Tropical Medicine) ([ASB0036](#)) and Health and Safety Executive (HSE) ([ASB0026](#))

44 Professor Julian Peto FRS FMedSci (Professor of Epidemiology at London School of Hygiene and Tropical Medicine) ([ASB0036](#))

45 [Mesothelioma mortality by occupation, statistics for Great Britain, 2021 \(hse.gov.uk\)](https://www.hse.gov.uk/asbestos/mortality)

campaigner Charles Pickles told us, for example, that “female primary school teachers now have one of the highest prevalence of mesothelioma as an occupational group.”<sup>46</sup> HSE’s latest statistics for the period 2011–19 show:

- **For males**—relative to the average level in Great Britain as a whole—elevated mesothelioma deaths for those whose last recorded occupation involved building-related activities (for example, ‘construction and building trades’).
- **For females**—relative to the average level in Great Britain as a whole—elevated mesothelioma deaths for those whose last recorded occupation included ‘elementary trades and related occupations’, ‘administrative occupations’ and ‘teaching and educational professionals’. HSE says that elevated rates for ‘teaching and educational professionals’ were not observed in the period 2001–10, indicating what it has described as “an increasing trend” over time.<sup>47</sup>

20. In his written evidence to the inquiry, Dr Garry Burdett, a retired former Health & Safety Laboratory Principal Scientist, said that it was important to recognise that this analysis does not reflect the *current* level of risk for teachers and other workers because of the long latency of asbestos-related disease.<sup>48</sup> Professor Peto told us that the “50-year lag” means that this analysis “tells you what happened to teachers born in 1950”.<sup>49</sup> He said that “the excess [in mesothelioma deaths] among teachers is confined to teachers who were born before 1955, in other words, teachers who were working during the period up to the late 1970s when asbestos was being installed in schools in vast quantities”.<sup>50</sup> He also said that, while useful, PMRs “may overestimate [the level of risk] for occupations which some people join after higher risk exposure in a previous occupation.”<sup>51</sup> This is because the death certificate, which HSE uses for its data, only records the last occupation of the deceased, which may not be the relevant occupation for past exposure to asbestos. In research from 2009, Professor Peto and others reported that 39% of female teachers with mesothelioma had also worked in other jobs where they might have been exposed to asbestos, compared with just 8% of teachers in a control group.<sup>52</sup>

21. Robin Howie, a health and safety consultant and former President of the British Occupational Hygiene Society, has reworked HSE analysis of proportional mortality ratios, challenging its methodology. His alternative analysis has been used by others, including the ‘Airtight on Asbestos’ campaign.<sup>53</sup> Mr Howie’s critique centres on the way it compares mesothelioma deaths as a proportion of all deaths in an individual occupation with rates for all occupations.<sup>54</sup> Mr Howie argues that this method obscures the level of risk for some occupations like teachers and nurses because the comparison with all occupations includes groups like carpenters whose mesothelioma rates are exceptionally high.<sup>55</sup> Instead, Mr Howie compares the proportion of deaths from mesothelioma for teachers and nurses with a hypothetical rate that would apply if people in these professions

46 [Q2](#)

47 [Mesothelioma mortality by occupation, statistics for Great Britain, 2021 \(hse.gov.uk\)](#)

48 Dr Garry Burdett (Fellow at Retired) ([ASB0017](#))

49 [Q69](#)

50 [Q62](#)

51 Professor Julian Peto FRS FMedSci ([ASB0042](#))

52 Professor Julian Peto FRS FMedSci ([ASB0042](#))

53 [Don’t Breathe In: Bridging the Asbestos Safety Gap - ResPublica](#)

54 Assessment of mesothelioma risk in teaching and nursing professions Robin Howie (Occupational Hygienist at Robin Howie Associates) ([ASB0021](#))

55 British Occupational Hygiene Society ([ASB0041](#))

were not exposed to any asbestos, using HSE information from 2003. He does this as part of several alternative calculations aimed at estimating the additional contribution of work-related exposure through these occupations.<sup>56</sup> Mr Howie's analysis leads him to conclude that "teachers and nurses had about 5 and 3 times respectively more mesothelioma deaths than expected in populations not exposed to asbestos".<sup>57</sup>

22. Professor Curran, Chief Scientific Adviser at the HSE, disagreed with Robin Howie's argument, in particular his comparison with a hypothetical population that had not been exposed to asbestos to estimate the risk from some occupations. Professor Curran said that "30 to 40 years ago ... there was a lot more asbestos used for building and there was a lot more asbestos used in manufacturing".<sup>58</sup> He said that this means, therefore, that there would have been "a lot more asbestos in the environment generally" and this, in turn, will have led to more "background levels of mesothelioma" in the general population.<sup>59</sup> For HSE, establishing an "unexposed reference category", given the 'real world' level of environmental exposure at that time, is a position that it does "not agree with".<sup>60</sup>

### *Using other data to measure current asbestos exposure*

23. Professor John Cherrie, Emeritus Professor of Human Health at Heriot-Watt University and principal scientist at the Institute of Occupational Medicine, told us that "although we know that the exposures are most probably less than they were in the past, we have very little idea about current situations".<sup>61</sup> He said that there was "no systematically collected information" on how many people "may be exposed or the levels of exposure that they may experience."<sup>62</sup> Moreover, he added that there was "no attempt to systematically collate that evidence and use it as intelligence to understand what the problem might be for the whole of the UK."<sup>63</sup>

24. Professor Curran acknowledged that HSE "could do more" with "more resource or more analytical capability" but said that its recent research measuring asbestos fibre exposures during licensed asbestos removal work was an example of what it was doing to improve its data.<sup>64</sup> HSE's research is, however, the first analysis of removal worker exposures since research it did in 1999.<sup>65</sup> Sarah Albon said that this analysis had "identified a reduction in average [asbestos fibre] concentrations" compared to earlier work.<sup>66</sup> The research study itself made clear that such comparisons are not straightforward because of differences in the materials removed and in measurement techniques.<sup>67</sup> Despite the volunteer workers knowing that they were being observed, the study still saw some practices that deviated from HSE guidance during the later stages of removal work.<sup>68</sup>

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56 Assessment of mesothelioma risk in teaching and nursing professions Robin Howie (Occupational Hygienist at Robin Howie Associates) ([ASB0021](#)); Robin Howie ([ASB0043](#)) and Robin Howie Associates ([ASB0048](#))

57 Robin Howie ([ASB0043](#)) and [Winter Journal 2017.pdf \(rehis.com\)](#)

58 [Q153](#)

59 [Q153](#)

60 [Q153](#)

61 [Q61](#)

62 [Q61](#)

63 [Q68](#)

64 [Q108](#) and [Q131](#)

65 [Asbestos exposures of workers in the licensed asbestos removal industry \(hse.gov.uk\)](#)

66 [Correspondence with the Health and Safety Executive related to their approach to asbestos management](#)

67 [Asbestos exposures of workers in the licensed asbestos removal industry \(hse.gov.uk\)](#)

68 [Asbestos exposures of workers in the licensed asbestos removal industry \(hse.gov.uk\)](#)

### Contemporary exposure risks in schools

25. The Committee on Carcinogenicity of Chemicals in Food, Consumer Products and the Environment has previously concluded that children are more vulnerable to developing mesothelioma than people exposed to an equivalent dose later in life. The Committee said that:

Because of differences in life expectancy, for a given dose of asbestos the lifetime risk of developing mesothelioma is predicted to be about 3.5 times greater for a child first exposed at age 5 compared to an adult first exposed at age 25 and about 5 times greater when compared to an adult first exposed at age 30.<sup>69</sup>

In this context, the Joint Union Asbestos Committee, a group of education unions, and others, have raised strong concerns about the risk of exposures in certain schools.<sup>70</sup> The level of asbestos exposure risk in schools has been subject to more detailed analysis by HSE in the past. It conducted two air measurement studies, the first in 1986 and the second in 2006, in schools known to contain asbestos.<sup>71</sup> The first study involved four schools and the second looked at seven schools. The more recent study “did not detect any asbestos fibres”. The 1986 study counted 30 fibres, mainly chrysotile.<sup>72</sup> Sarah Albon told us that HSE’s school studies had not been intended to be representative of the situation in all schools and had instead targeted schools with particular higher-risk construction techniques.<sup>73</sup> Professor Curran also told us that “to do the large-scale studies that think about every single potential opportunity for exposure in every single school type” would be “an extremely large and probably unfeasible study to deliver.”<sup>74</sup> HSE, nevertheless, accepts that its measurement research in schools “is not particularly extensive.”<sup>75</sup>

### Worrying anecdotal accounts

26. We heard from witnesses who said that exposure to asbestos continues today. Liz Darlison, Chief Executive of the charity Mesothelioma UK, said that there is still “a sinister risk of exposure to asbestos that is grossly underestimated in our country.”<sup>76</sup> Joanne Gordon from the Asbestos Victims Support Groups’ Forum told us of one phone call she had received:

[...] It was somebody who worked for a cleaning contract company, and they had been informed that they had been exposed to asbestos. They had gone into the company and asbestos had been damaged by builders or contractors, whoever, in that company. They had tried to clear it up but it had not been cleared up properly, so when the cleaning contractors came

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69 [CC/2012/ \(publishing.service.gov.uk\)](https://www.publishing.service.gov.uk)

70 [Joint Union Asbestos Committee \(ASB0011\)](#)

71 [Correspondence with the Health and Safety Executive related to their approach to asbestos management](#). HSE has also undertaken inspection work to assess schools’ management of asbestos. See, for example: [Asbestos in schools ‘CLASP’ Working Group \(hse.gov.uk\)](#)

72 [Correspondence with the Health and Safety Executive related to their approach to asbestos management](#)

73 [Q134](#)

74 [Q136](#)

75 [Correspondence with the Health and Safety Executive related to their approach to asbestos management](#)

76 [Q31](#)

in they cleaned up the rest of that asbestos. They then had to empty the hoovers. This is just one example. This is happening all the time: people are damaging the asbestos that is still in situ.<sup>77</sup>

Liz Darlison also described a phone call to Mesothelioma UK's information line received just a few days before her appearance before us. The call was "from a lady who had asbestos dust left on her six-year-old son's bed by people who went into her house to do renovation work."<sup>78</sup>

27. Tony Hood, who leads Thompsons Solicitors' national strategy for asbestos, told us that "women and younger men are less aware of the dangers of asbestos".<sup>79</sup> He said that this lack of awareness "increases the risk of asbestos being disturbed" and therefore, exposure "continues to present a future danger".<sup>80</sup> He told us that "accidental disturbances by contractors and others is commonplace".<sup>81</sup>

28. Joanne Gordon also said that the cohort of people that her organisations are supporting has changed over time. She gave one example of a 27-year-old man who had been diagnosed and whose "exposure [to asbestos] would have either been from school or more recently."<sup>82</sup> Liz Darlison told us about two other cases involving young people recently supported by Mesothelioma UK nurses:

This is Mags Portman. Mags died in February 2019. She was 44 years old, a mother of two young sons and an award-winning doctor. She was diagnosed with Meso and was exposed in the NHS. This is Helen Bone. It is difficult to pick her out because she is so young and beautiful. She is 39 and spent 21 years working in the NHS. She was diagnosed in April this year with mesothelioma and is currently receiving chemotherapy. She has been at the sharp end of the Covid pandemic because she is a critical care nurse.<sup>83</sup>

**29. Progress made since the gradual imposition of restrictions on the use of asbestos and its eventual ban in 1999 are no reason for complacency. Understanding the extent to which asbestos fibres are still being released from the fabric of buildings remains vital and requires different methods of analysis. Past measurement of fibres in lungs has shown that the lifetime risk from mesothelioma is substantially lower for people born in the late 1960s. For people born in the late 1980s, the risks appear even lower, but the numbers sampled are small and patterns of exposure may be subject to wide variation over time and between people.**

**30. Recent HSE data on the relative risk of mesothelioma deaths shows elevated rates for women whose last occupation was education and teaching. However, limitations in death certificate information means that the earlier occupational history of these people—which may be key to understanding the cause of their disease—is not known. Moreover, the long latency period before asbestos-related illness develops means that HSE data on relative occupational risk tells us little about asbestos exposures in work settings today. We know relatively little about current levels but, worryingly, we heard**

77 [Q32](#)

78 [Q38](#)

79 [Q32](#)

80 [Q32](#)

81 Thompsons Solicitors ([ASB0009](#))

82 [Q33](#)

83 [Q36](#)

accounts from several sources of recent exposures in the workplace and in the home. Our view is that HSE's efforts to develop the evidence on current asbestos exposure levels in non-domestic buildings are relatively piecemeal. A more structured approach to collecting data and assessing current exposure levels is needed.

31. *We recommend that HSE develops and implements a robust research framework for the systematic measurement of current asbestos exposures in non-domestic buildings, using a range of measurement and sampling techniques and informed by international experiences and approaches. It should ensure that adequate consideration is given to exposure measurement in schools and other public buildings. We recommend that HSE publishes its framework by October 2022 and produces findings at frequent intervals thereafter.*

32. *We also recommend that the Government investigates opportunities to improve the occupational information recorded on death certificates.*

## 3 A strategic approach to asbestos management

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### Managing 'in situ' or removal

33. The Approved Code of Practice accompanying the asbestos regulations says that where asbestos is in good condition, well-protected and unlikely to be disturbed, it can be left in place by the dutyholder.<sup>84</sup>

34. We heard competing views on whether the Government, HSE and the asbestos regulations should have a stronger emphasis on asbestos removal. Trade unions, some victim representatives and campaigning organisations told us that they favoured removal where possible:

- The TUC has said that the advice to date that asbestos in good condition and unlikely to be disturbed can be left in place “was always seen as a temporary measure”. It said that workplaces should now have “a programme of identifying, managing and safely removing and disposing of all asbestos”.<sup>85</sup>
- The GMB union said that the current asbestos regulations should be revised “to remove the presumption that encapsulated asbestos left in situ is safer than removal” because “dutyholders can adopt a loose definition of ‘in good condition’, to justify inaction and avoid the cost of remediation.”<sup>86</sup>
- The Communication Workers Union said that its “strongly held view” was that “the ongoing asbestos crisis in the UK will not be solved by simply measuring asbestos levels and managing asbestos kept in situ”.<sup>87</sup>
- The Asbestos Victims Support Groups Forum said that the current regulatory approach to the removal of asbestos “gives unscrupulous dutyholders too much leeway to retain asbestos indefinitely”. In its view, “sooner or later [asbestos containing materials] will inevitably deteriorate or be disturbed ... putting lives at risk”.<sup>88</sup>
- The All-Party Parliamentary Group on Occupational Safety and Health said in its 2015 report that “retaining a policy of managing asbestos in place [was] no longer appropriate and must be changed”.<sup>89</sup> The report continued that “the only way [to]... eradicate mesothelioma in Britain [was] by removing asbestos”.<sup>90</sup> It called for “a clear timetable for the eradication of asbestos in every single workplace in Britain” by “no later than 2035.”<sup>91</sup>
- Speaking in March 2020, Charles Pickles said that the duty to manage asbestos needed “beefing up ... to bring about an evidence-based, risk-based, phased

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84 P37 in [Managing and working with asbestos \(hse.gov.uk\)](#)

85 Trades Union Congress ([ASB0030](#))

86 GMB Union ([ASB0029](#))

87 Communication Workers Union ([ASB0032](#))

88 Asbestos Victims' Support Groups Forum, DAST ([ASB0002](#))

89 [asbestoseradication.pdf \(tuc.org.uk\)](#)

90 [asbestoseradication.pdf \(tuc.org.uk\)](#)

91 [asbestoseradication.pdf \(tuc.org.uk\)](#)

removal.” He said that it had “got to be phased because there’s a finite amount of money.”<sup>92</sup> He told us in November 2021 that “... the current regulations do not keep us safe” and as buildings continue to age, “the more likely they are to release their fibres.”<sup>93</sup> He said that there were concerns associated with prefabricated, system-built ‘CLASP’ schools constructed around 60 years ago, explaining that their age, their use, and type of asbestos meant that the risks were “too high for a simple policy of management in situ.”<sup>94</sup> The Joint Union Asbestos Committee has also called for the demolition and replacement of CLASP-type buildings that cannot be made safe.<sup>95</sup>

35. Others expressed more caution about a general and urgent programme of asbestos removal. Professor Peto told us in December 2021 that he was concerned that removing asbestos at scale would risk increasing exposures. He said that there was “very strong evidence that the serious environmental exposures in buildings occurred during or soon after [asbestos]... was being installed”.<sup>96</sup> By extension, he said that “there is a real danger that you will recreate the problem by removing it.”<sup>97</sup> He added that “there were experiments done in the 1980s showing that “when you took a building where you pulled out all the asbestos, the level went up enormously during the removal” and “it was higher when the building was reoccupied six months later”.<sup>98</sup> He told us that it was not simply a question that “asbestos causes cancer and we have to pull it all out”.<sup>99</sup>

36. The ‘Airtight on Asbestos’ campaign said that Professor Peto’s argument that a programme of removal may lead to increased, unintended exposure was “based on conjecture with little or no evidence.”<sup>100</sup> In further written evidence, Professor Peto reiterated his objection to a national programme of asbestos removal—as well as air monitoring—without “considering the cost-benefit implications” and, in the context of schools, having more data on current exposure levels for teachers and students.<sup>101</sup> He said, however, that pilot research could be undertaken where “a few CLASP schools in which asbestos removal is planned and a random sample of other schools” are subjected to “systematic long-term air sampling” using electron microscopy “before and after asbestos removal”.<sup>102</sup> He said that this could be combined with “further studies on asbestos lung burdens in teachers born since 1975 and young people born since 1995”, and that a study of this kind would help to improve understanding of “difficult questions”, including the “possibility that most asbestos is inhaled during occasional heavy exposures that cannot be measured reliably.”<sup>103</sup>

37. The professional body, the Institution of Occupational Safety and Health (IOSH), also said that there were “hazards and risks associated with both ‘in situ’ [management]

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92 [Campaign Launch Parliamentary Event \(airtightonasbestos.uk\)](https://airtightonasbestos.uk)

93 [Q2](#)

94 [Q2](#)

95 Joint Union Asbestos Committee ([ASB0011](#))

96 [Q73](#)

97 [Q73](#)

98 Burdett GJ, Jaffrey SA, Rood AP. *Airborne asbestos fibre levels in buildings: a summary of UK measurements*. In: Non-occupational exposure to mineral fibres. IARC Scientific Publications 1989;90: 277–90. [IARC Publications](#) and [Q73](#)

99 [Q73](#)

100 Airtight on Asbestos ([ASB0039](#))

101 Professor Julian Peto FRS FMedSci ([ASB0042](#))

102 Professor Julian Peto FRS FMedSci ([ASB0042](#))

103 Professor Julian Peto FRS FMedSci ([ASB0042](#))

and removal and disposal”.<sup>104</sup> The Institute of Occupational Measurement (IOM), a not-for-profit research body, has also said that there needs to be “a well-designed research programme on comparative risks, to clarify whether and under what circumstances the risks involved in asbestos management outweigh the risks from accelerated removal and re-use of the buildings”.<sup>105</sup> It said that “there is limited evidence about these issues”, but that it “should be possible to collect data to estimate the risks to health from different strategies or scenarios.”<sup>106</sup> Professor John Cherrie told us that IOM had “been advocating ... systematic assessment of the potential future risks for asbestos and using this as a way of exploring what the benefits or detriments might be of having some eradication programme.”<sup>107</sup> He said that “we are removing asbestos from buildings slowly as time goes on because of the process of demolishing buildings or remediating buildings” but on the question of whether this process should be going faster or slower, he said that “we just do not have the evidence to say one way or the other.”<sup>108</sup>

38. Meanwhile, Professor Kevin Bampton, Chief Executive of the British Occupational Hygiene Society, the professional body, also questioned the current capacity of the asbestos market to deliver a more accelerated programme of removal safely, describing arrangements for the disposal of asbestos as “a postcode lottery”.<sup>109</sup> He added that “if we set the clock ticking, we have to make sure that there are some fire escapes.”<sup>110</sup>

39. HSE said that removal of asbestos-containing materials should be “actively considered if the risks associated with removal are outweighed by the risks associated with the asbestos-containing materials remaining in place.”<sup>111</sup> It told us it had not mandated a general removal of asbestos-containing materials in Great Britain because of the risks to doing so:

[...] HSE does not mandate removal of all asbestos-containing materials in GB as the act of removal is a dangerous task and would expose those workers to this significantly increased risk. If GB were to embark on a ... large-scale removal programme, careful consideration needs to be given to the balance between the risks of exposure that arise from removal against the risk associated with leaving in situ. More information is needed about the quantity, distribution and type of asbestos present in GB buildings, the availability of skilled asbestos removers, and the impact on the asbestos waste handling chain.<sup>112</sup>

40. At a stakeholder workshop in 2015, facilitated by HSE, three future research priorities on asbestos were identified.<sup>113</sup> Two of the three areas relate to the question of whether asbestos should be managed in situ or removed, considering all the risks and benefits and the scope for safe removal practices. HSE told us that its “research capability has

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104 Institution of Occupational Safety and Health (IOSH) ([ASB0040](#))

105 Institute of Occupational Medicine ([ASB0006](#))

106 Institute of Occupational Medicine ([ASB0006](#))

107 [Q73](#)

108 [Q73](#)

109 [Q73](#)

110 [Q73](#)

111 Health and Safety Executive (HSE) ([ASB0026](#))

112 Health and Safety Executive (HSE) ([ASB0026](#))

113 See the report: [Managing Asbestos-Containing Materials in the Built Environment: Report of a Health and Safety Executive and Government Office for Science Workshop | Annals of Work Exposures and Health | Oxford Academic \(oup.com\)](#)

been restricted in the past year due to COVID meaning that progress [in addressing these research themes] has been limited.”<sup>114</sup> Progress in the years prior to the pandemic was also relatively limited. It said that it was “planning to re-start ... work shortly” on assessing the comparative risk of managing asbestos in situ versus removal, indicating that it does not plan to use results from this analysis in its current statutory review of the asbestos regulations.<sup>115</sup> On research intended to build “the evidence base on the effectiveness of asbestos management and safe removal”, HSE said that there were currently “no costed proposals for future work”, following its completion of research measuring the personal exposures of licensed asbestos removal workers (see Chapter 2 above).<sup>116</sup>

41. Sarah Albon said that “I don’t think we know how long some of these [asbestos-containing] materials left undisturbed remain undamaged”, but she said:

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.<sup>117</sup>

42. The Minister for Disabled People, Health and Work, Chloe Smith MP, told us on 2 February that the Government had “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.”<sup>118</sup> However, she also made clear that this goal was not part of “a strategy document that I can direct you to.”<sup>119</sup> Moreover, she made clear that it was the Government’s view that:

[...] 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.<sup>120</sup>

## Long-term integrated strategy

43. Liz Darlison told us that a “national taskforce” was needed to address the asbestos legacy that was much broader than HSE’s regulatory role. She said that “a 40-year vision for ridding our country of this carcinogen that is ubiquitous throughout” was needed, building on the example of the French.<sup>121</sup> Nicolas Bessot from the French Labour Ministry told us that in France they have a “general plan that says we have 40 years in which to remove asbestos from every building.”<sup>122</sup> In Poland there is a national ‘Programme for Asbestos Abatement’ which aims, proactively, to remove all asbestos.<sup>123</sup> The Polish programme includes government financial subsidies to building owners.<sup>124</sup>

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114 Health and Safety Executive (HSE) ([ASB0026](#))

115 [Correspondence with the Health and Safety Executive related to their approach to asbestos management](#)

116 [Correspondence with the Health and Safety Executive related to their approach to asbestos management](#)

117 [Q153](#) and [Q168](#)

118 [Q169](#)

119 [Q181](#)

120 [Q148](#)

121 [Q47](#)

122 [Q25](#)

123 [Correspondence with the Health and Safety Executive related to their approach to asbestos management](#)

124 [Correspondence with the Health and Safety Executive related to their approach to asbestos management](#)

44. The British Occupational Hygiene Society has also argued that “asbestos requires a national cross-departmental strategy”.<sup>125</sup> It said that “consideration needs to be given to future trends, particularly the development of the Green Economy” and the likely impact of these trends on workplace exposure to asbestos fibres.<sup>126</sup> Professor Bampton said that “joined-up government” was needed.<sup>127</sup> He said that “buildings do not last forever” and “what is safe now, secure and better undisturbed, becomes disturbed at some point.”<sup>128</sup> The British Occupational Hygiene Society has also said that improved fiscal and financial incentives for safe asbestos removal would be “necessary complements to a more effective regulatory regime”.<sup>129</sup> It added that “there is a huge, missed, opportunity to integrate regulatory systems for better asbestos control”.<sup>130</sup>

45. Some witnesses also referred us to what they see as a gap in the asbestos regulations around social housing. While the common areas of certain residential buildings will be covered by the asbestos regulations, individual domestic premises are not (for example, flats, rooms or houses).<sup>131</sup> Social housing is subject to wider regulation and landlords will be expected to carry out maintenance work properly.<sup>132</sup> Nevertheless, the Asbestos Testing and Consultancy Association, the professional trade body representing asbestos surveyors and analysts, has said that the failure of asbestos regulations to cover all areas within social housing was their “biggest shortfall”.<sup>133</sup> The union Unite has also said that it had “a particular concern around social housing” because of “the very poor state of this housing stock”.<sup>134</sup> Meanwhile, Joanne Gordon told us that her members had concerns about asbestos management in social housing. She gave one recent example:

[...] only on Monday did a woman phone up who had builders into her rented accommodation. They said that they did not know if there was any asbestos, but they were going to do the job anyway ... they found that it was asbestos. Those builders probably do not even know ...<sup>135</sup>

46. IOSH has also said that a transition to net-zero will lead to large-scale retrofitting in buildings and that “consequently, large amounts of asbestos will be disturbed”.<sup>136</sup> It too recommends that “approaches are taken as part of the wider management of buildings”.<sup>137</sup> In his evidence to us, Nicolas Bessot also acknowledged the dangers of the retrofitting of buildings.<sup>138</sup> He said that this had led to the French strengthening their asbestos regulations in 2017 such that owners of companies or enterprises wanting to do work “that could release some fibres” must have their buildings checked by a “licensed contractor” before the work starts.<sup>139</sup> Any subsequent work on the building should then follow the contractor’s recommendations. The new regulation came into force in 2020.<sup>140</sup>

125 British Occupational Hygiene Society ([ASB0025](#))

126 British Occupational Hygiene Society ([ASB0025](#))

127 [Q73](#)

128 [Q73](#) and British Occupational Hygiene Society ([ASB0025](#))

129 British Occupational Hygiene Society ([ASB0025](#))

130 British Occupational Hygiene Society ([ASB0025](#))

131 [Asbestos campaign - duty to manage \(hse.gov.uk\)](#)

132 [Shelter Legal England - Asbestos in housing - Shelter England](#)

133 ATaC - Asbestos Testing and Consultancy Association ([ASB0022](#))

134 Unite Union ([ASB0028](#))

135 [Q32](#)

136 Institution of Occupational Safety and Health (IOSH) ([ASB0040](#))

137 Institution of Occupational Safety and Health (IOSH) ([ASB0040](#))

138 [Q13](#)

139 [Q13](#)

140 [Q13](#)

47. Sarah Albon said that HSE was working with other government departments on addressing the risks of large-scale retrofitting of buildings:

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.<sup>141</sup>

48. Chloe Smith also said that the Government's asbestos management strategy was "a cross-government strategy", that is "given life through the [asbestos] regulations".<sup>142</sup> She said that she "would be working with colleagues in BEIS [Department for Business, Energy and Industrial Strategy] to be able to take an overview of both of those goals [of achieving net zero and safe management of asbestos] at one time."<sup>143</sup>

**49. Under the Control of Asbestos Regulations 2012, asbestos-containing materials that are in good condition and are unlikely to be disturbed can be left in place by building dutyholders. Buildings containing asbestos will not last forever and, as HSE acknowledges, we do not know how long some of these materials, left undisturbed, remain undamaged. Some, including the TUC, have called for a stronger programme of asbestos removal. They argue that a policy of management in situ was always a temporary solution and that accidental disturbances by contractors and others will always happen. They believe that the current regime gives unscrupulous dutyholders too much flexibility to turn a blind eye when confronted with the cost of asbestos removal.**

**50. Wholesale removal is not, however, without its own risk and uncertainty. Despite this, HSE has been slow to invest in research to better understand the costs and benefits of removal and to evaluate options for safer removal. This is becoming a more urgent task. The likely dramatic increase in retrofitting of buildings in response to net zero ambitions means that more asbestos-containing material will be disturbed in the coming decades, thus changing the cost-benefit analysis. Simple reliance on a set of regulations which devolve asbestos management to individual dutyholders will not be good enough. There is a need for a cross-government and 'system-wide' strategy for the long-term removal of asbestos, founded on strong evidence of what is best from a scientific, epidemiological, financial, and behavioural point of view.**

**51. The Minister and HSE told us that their goal was to see asbestos gradually and safely removed from GB's buildings. We agree with its ambition but greatly regret that neither HSE nor the Government has articulated a clear and comprehensive strategy for achieving this. There is no written down, fully developed, and long-term plan to match the Government's goal, one that is founded on an analysis of costs and benefits**

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141 [Q141](#)

142 [Q158](#)

143 [Q158](#)

and integrates with wider government policy. Moreover, the Government has so far failed to signal its intent by setting a clear timeframe for the removal of most, if not all, asbestos.

52. *We recommend that a deadline now be set for the removal of asbestos from non-domestic buildings, within 40 years. The Government and HSE should develop and publish a strategic plan to achieve this, focusing on removing the highest risk asbestos first, and the early removal from the highest risk settings including schools. This plan should, in the first instance, commit to improving urgently the evidence around safer asbestos removal and disposal, considering relative costs and benefits. It should integrate with—and take full account of—proposals for the upgrading of the built environment linked to net zero targets and wider waste management strategies.*

## Regulation 4

53. Regulation 4 in the Control of Asbestos Regulations (2012) requires the dutyholder to manage the risk of asbestos by:

- Assessing whether any asbestos containing materials are present, and if found, recording the amount, their location and condition.
- Producing and maintaining up-to-date records of the location and condition of all asbestos-containing materials.
- Assessing the risk of the materials identified and preparing a management plan that sets out how the risk will be managed.
- Implementing, reviewing, and monitoring the plan so that it remains up to date; with plans reviewed at least every 12 months.
- Providing information on the location and condition of the asbestos-containing materials to anyone who is liable to work on or disturb them.<sup>144</sup>

54. The regulations do not specify how frequently buildings suspected of containing asbestos should be surveyed or inspected to check the condition of the asbestos. The Approved Code of Practice accompanying the asbestos regulations says that the frequency of inspections will depend on the location of the asbestos-containing materials and factors such as building use.<sup>145</sup> However, asbestos management plans, drawn up following an asbestos survey, should be reviewed at least every 12 months.<sup>146</sup>

55. In this chapter we consider recent campaign calls for dutyholders to make more use of routine environmental air monitoring, to help them manage asbestos. We also consider how information on asbestos in buildings is shared with users and contractors working on site. Finally, we consider whether there is clear evidence of dutyholder compliance with Regulation 4.

144 [The Control of Asbestos Regulations 2012 \(legislation.gov.uk\)](https://www.legislation.gov.uk); [Managing and working with asbestos \(hse.gov.uk\)](https://www.hse.gov.uk) and [Asbestos campaign - duty to manage \(hse.gov.uk\)](https://www.hse.gov.uk)

145 Paragraph 144 in [Managing and working with asbestos \(hse.gov.uk\)](https://www.hse.gov.uk)

146 Paragraphs 143–144 in [Managing and working with asbestos \(hse.gov.uk\)](https://www.hse.gov.uk)

## Monitoring asbestos

56. Any identified or suspected asbestos-containing material recorded in the asbestos management plan must be inspected, visually, and its condition assessed periodically by the dutyholder.<sup>147</sup> The asbestos regulations do not require routine “ambient” monitoring of air for asbestos fibres. In 2019, the ‘Airtight on Asbestos’ campaign led by the thinktank ResPublica and supported by the asbestos campaigner, Charles Pickles, recommended that HSE also require dutyholders to perform “periodic sensitive air monitoring” of the most high risk buildings to ensure their safety.<sup>148</sup> In its written evidence, the Campaign said that it was “not always possible to visually identify if asbestos has been disturbed”, citing the example of system-built ‘CLASP’ schools, where “the most dangerous forms of asbestos (amosite—brown asbestos) are contained in the fabric of buildings (e.g. lagging steel frames) and concealed by panels”.<sup>149</sup> The Joint Union Asbestos Committee, a group of education unions, also said in its written evidence that the absence of regulations requiring routine environmental measurement of asbestos fibres means that “the risk from inaccessible asbestos is not known”.<sup>150</sup>

57. The ‘Airtight on Asbestos’ campaign has said that such environmental measurement would be consistent with best practice in Europe, including in France where regular environmental air monitoring is used to monitor some higher-risk categories of asbestos-containing materials.<sup>151</sup> Nicolas Bessot from the French Ministry of Labour, Employment and Integration told us that his government saw air measurement as “important” because “asbestos fibres cannot be seen.” He said that, for them, “measurement” was “a key part of the war against asbestos.”<sup>152</sup>

58. Asbestos industry representatives we heard from took a different view. Darren Evans, Management Committee member of the Asbestos Testing and Consultancy Association, said that visual inspection was “the most important element” because “it is when asbestos is disturbed that fibres are released”.<sup>153</sup> Graham O’Mahony, Chair of the UK Asbestos Training Association said that he could not “see any benefit in doing air testing in a building or in a room where the asbestos is in good condition”.<sup>154</sup> Ruth Wilkinson, Head of Health and Safety (Policy and Operations) at IOSH, said that she was “in the same place on visual inspection versus air sampling”.<sup>155</sup> For her, it was “important we have visual inspections and use air sampling where there is a need to do so, where there might have been disturbance and there might need to be an assurance to re-enter a place where you had removal”.<sup>156</sup> Meanwhile, the TUC also doubts the added value of an enhanced air

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147 [Managing and working with asbestos \(hse.gov.uk\)](#) and [Q131](#)

148 [Airtight on Asbestos \(ASB0016\)](#) and <https://www.respublica.org.uk/our-work/publications/dont-breathe-in-bridging-the-asbestos-safety-gap/>

149 [Airtight on Asbestos \(ASB0039\)](#). ‘CLASP’ (Consortium of Local Authorities Special Programme) was a prefabricated, light-gauge steel building system. See: [CLASP - Designing Buildings](#)

150 [Joint Union Asbestos Committee \(ASB0044\)](#)

151 [Air today, gone tomorrow July 2020](#) and [Supplementary comments from the ‘Airtight on Asbestos’ Campaign - Politics.co.uk](#) and [Airtight on Asbestos \(ASB0039\)](#)

152 [Q21](#)

153 [Q96](#)

154 [Q96](#)

155 [Q96](#)

156 [Q96](#)

monitoring regime. It says that “the ongoing asbestos crisis will not be solved by simply measuring asbestos levels” and argues instead that “a commitment to eradicate asbestos from public buildings and remove the risk of exposure” is needed.<sup>157</sup>

59. Professor Julian Peto has also questioned the practicality of routine air sampling. He told us that he did “not think it [was] technically possible to make air measurements that give you any accurate idea of what the cumulative exposure for a building occupant is going to be over the next 10 years”.<sup>158</sup> Professor Peto said that it was his view that cumulative exposure—key from a disease risk perspective—could best be assessed “by measuring people’s lungs”.<sup>159</sup> The Joint Union Asbestos Committee and the ‘Airtight on Asbestos’ campaign both wrote to us after hearing Professor Peto’s evidence. They questioned the contribution of analysis of fibres in lungs—which measures the effect of past exposures—for the specific purpose of proactive asbestos management in individual locations like schools.<sup>160</sup>

60. In its response, HSE has said that it has “no evidence that the approach taken in France offers additional benefits to the approach in GB”.<sup>161</sup> It says that the key determinant of whether fibres are released is the physical condition of asbestos-containing materials which can be assessed through visual examination.<sup>162</sup> In her evidence to us, Sarah Albon told us that “there is sometimes a misunderstanding by some people who want to understand why there isn’t more routine air quality monitoring.”<sup>163</sup> Ms Albon said that it was HSE’s view that routine air monitoring for asbestos fibres was “a very poor method for being a warning ... “ and asbestos that has not been damaged was “very unlikely to be shedding fibres that can be inhaled and harm people”.<sup>164</sup> She said that “the nature of asbestos and the fact that asbestos fibres are quite heavy and they settle very quickly” means that unless air monitoring is carefully timed there is a risk that it can give false assurance.<sup>165</sup> Robin Howie, however, said that there was evidence to show that asbestos fibres can, in fact, “remain airborne in affected buildings for a long period”.<sup>166</sup> HSE argued differently. It said that its evidence showed that “airborne asbestos fibres resulting from physical damage decrease and settle by 50% after 10 minutes and by 90% after 60 minutes”, though it acknowledges that smaller fibres take longer to settle.<sup>167</sup> It concludes, therefore, that:

[...] there is little value in undertaking ambient air monitoring in buildings, unless it is combined with appropriate simulated dust disturbance activities.<sup>168</sup>

61. Ms Albon told us that, as far as she was aware, no country had introduced an environmental background exposure limit for asbestos “that says, in the absence of any work or any disturbance or anything else, there is an amount of asbestos that is declared

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157 Trades Union Congress ([ASB0030](#))

158 [Q74](#)

159 [Q74](#)

160 Joint Union Asbestos Committee ([ASB0044](#)) and Airtight on Asbestos ([ASB0039](#))

161 Health and Safety Executive (HSE) ([ASB0026](#))

162 Health and Safety Executive (HSE) ([ASB0026](#))

163 [Q131](#)

164 [Q131](#)

165 [Q131](#)

166 Robin Howie Associates ([ASB0048](#))

167 Health and Safety Executive (HSE) ([ASB0026](#)) and Health and Safety Executive (HSE) ([ASB0049](#))

168 Health and Safety Executive (HSE) ([ASB0026](#))

safe or acceptable".<sup>169</sup> She said that what some countries, like France, had introduced was the idea of using environmental level monitoring to understand "whether or not any further work should take place to either remove the asbestos present or some other form of intervention."<sup>170</sup> Professor Curran said that HSE was continuing to participate in EU forums to further "test our own approaches".<sup>171</sup>

**62. We are unconvinced that a significant further expansion in the use of air monitoring for the routine measurement of asbestos fibres is needed. Clearly, such monitoring is an important component both in assessing sites following asbestos removal work and, potentially, in informing management decisions where, for example, asbestos-containing material is damaged or obscured. It also has an important role as part of any systematic and carefully sampled research programme measuring fibre release. Nevertheless, for routine operational purposes, the balance of opinion we have heard is that regular visual inspection should continue to be the priority.**

*63. We recommend HSE work with others in the UK and devolved governments to continue to review and share the evidence relating to routine, environmental, air monitoring of asbestos fibres. We ask that HSE writes to us in 12 months' time with an update on Government's latest assessment of these developments.*

## Communicating asbestos risk

64. The asbestos regulations require dutyholders in non-domestic buildings to inform users and contractors who are liable to disturb asbestos of its location and condition.<sup>172</sup> Several witnesses reported that information about the whereabouts and condition of asbestos in buildings was poorly communicated:

- The Joint Union Asbestos Committee said that its evidence "indicates that dutyholders are, in practice, failing to consult with the occupants about the level of disturbance [of asbestos]."<sup>173</sup>
- Darren Evans said that surveys recording the location of asbestos are often "just placed on a shelf". He described it as "a tick box" and said there was "a lack of understanding and real awareness" about the "crux of that management plan" and the "requirement to prevent disturbance by anybody visiting your premises, contractors, your maintenance staff et cetera."<sup>174</sup>
- Charles Pickles also told us that paper-based survey information on asbestos in buildings was often not accessible to building users. He said that "a paper survey under the caretaker's desk is totally untransparent" and was "a major flaw in the existing regime."<sup>175</sup>
- IOSH described "two major exposures" which resulted from "a licensed contractor using a non-licensed subcontractor who was not included in the

169 [Q172](#)

170 [Q172](#)

171 [Q148](#)

172 P27 in [Managing and working with asbestos \(hse.gov.uk\)](#)

173 Joint Union Asbestos Committee ([ASB0011](#))

174 [Q87](#)

175 [Q16](#)

client's control procedures".<sup>176</sup> IOSH also said that it knew of large sites where "the asbestos register comprised three lever arch folders packed with survey plans and drawings" that, for any dutyholder or other layperson, or contractor going on site "was a complex task to interpret."<sup>177</sup>

65. Professor Kevin Bampton told us that the communication of asbestos risk was "problematic".<sup>178</sup> He made the comparison with energy performance certificates where clear information on energy efficiency is routinely included when premises or goods are purchased. He said that no equivalent arrangement was in place for asbestos and that opportunities to draw on other building information technologies had been missed.<sup>179</sup> In this context, Charles Pickles told us that digital 'QR codes' could be used to improve the communication of digitally-stored asbestos information to building users.<sup>180</sup>

**66. Information about asbestos within buildings is often poorly communicated to users and contractors by dutyholders. Surveys and management plans which include critical information on asbestos are not always maintained as living and accessible documents. Opportunities to exploit digital technologies to improve communications on asbestos risks are being missed.**

*67. We recommend that HSE strengthens its work with, and guidance to, dutyholders to make clear their obligations to communicate asbestos information and risks to building contractors and users. We also recommend that HSE works with others in Government to sponsor improvements in how information on asbestos in buildings is communicated and used, drawing on lessons from the use of digital technologies in building management and in the health response to the pandemic.*

## Compliance with the duty to manage

68. Dutyholders and their organisations must bear the cost of complying with asbestos regulations. This means that their compliance cannot be assumed. Professor Kevin Bampton told us that the level of oversight by the HSE was "insufficient to ensure that we know just how much asbestos is being disturbed and how well it is being managed".<sup>181</sup> He said that there was "a real gap in the knowledge" and he did not think that anyone "could definitively tell you what is really going on".<sup>182</sup> Darren Evans had a similar view. He said that "HSE is hugely underfunded and under-resourced", and that there are asbestos "regulations that we are assuming are being followed, but we do not know".<sup>183</sup>

69. Graham O'Mahony thought the regulations were "reasonably effective" but told us that one of the biggest problems with them was the cost of compliance for building dutyholders and owners. He said that:

The ultimate control is what it is going to cost. With asbestos, it is a double-edged sword; it is a double cost for a lot of organisations ... there is no saving for the building owner in removing asbestos. If a building owner

176 Institution of Occupational Safety and Health (IOSH) ([ASB0040](#))

177 Institution of Occupational Safety and Health (IOSH) ([ASB0040](#))

178 [Q68](#)

179 [Q68](#)

180 [Q16](#)

181 [Q65](#)

182 [Q65](#)

183 [Q84](#)

decided to put new low LED lighting into their building, they are obviously going to reduce their energy costs, but with asbestos there is a massive cost in management and a lot of dutyholders will face the double cost of removal and reinstatement.<sup>184</sup>

70. Professor Bampton told us that “there is quite a lot of anecdotal evidence from analysts to suggest that things are not managed as they should be, and they are certainly not monitored as they should be.”<sup>185</sup> Ruth Wilkinson said that her particular concern was with small and medium-sized enterprises and “how are we monitoring and checking what is going on there”.<sup>186</sup> IOSH commissioned a survey of 500 construction workers in 2018. It found that a third (32%) of survey respondents had never checked the asbestos register before starting work on a new site.<sup>187</sup>

71. Unite said that “there is not universal compliance with the regulations, with many organisations failing to identify where asbestos is in a building or allowing buildings to fall into disrepair.”<sup>188</sup> The TUC also said that “the asbestos regulations, however good they are, are simply not being complied with.”<sup>189</sup> Thompsons Solicitors, who specialise in asbestos work, said that its own ‘asbestos exposure register’, which it maintains on behalf of UK unions, demonstrates that the “current asbestos regulations are not being complied with”.<sup>190</sup>

72. The Joint Union Asbestos Committee described the results from an information request to system-built ‘CLASP’ schools in 2021. These schools were constructed with significant asbestos-containing materials. Of 60 schools responding, 37 said that they had “an up-to-date survey” of asbestos but only 17 had “identified all asbestos locations” with dutyholders imposing survey restrictions such as “the omission of areas above a certain height”.<sup>191</sup>

73. Sarah Albon told us that HSE is not resourced to inspect a representative proportion of business or organisations.<sup>192</sup> She said that it tries to “target [its]... interventions, whether that be inspection, communication or education, to those areas of greatest risk.”<sup>193</sup> Ms Albon said that data from its latest construction industry inspection campaign (undertaken in October 2021) showed that, of just over a thousand inspections completed, there was “sustained compliance in 83% of the sites” where asbestos was considered and “really poor levels of compliance in just 4%” of sites, with 13% of sites “mostly okay but with some areas for improvement”.<sup>194</sup>

74. HSE also described how it was working with the Department for Education (DfE) to improve asbestos management in Schools in England. It referred to DfE’s plans to collect updated condition data on all government-funded schools and Further Education colleges

184 [Q84](#)

185 [Q65](#)

186 [Q84](#)

187 IOSH, “Uncertainty and ignorance” risks more asbestos deaths, <https://iosh.com/more/news-listing/uncertainty-and-ignorance-risks-more-asbestos-deaths/>, webpage

188 Unite Union ([ASB0028](#))

189 Trades Union Congress ([ASB0030](#))

190 Thompsons Solicitors ([ASB0009](#))

191 P15 in [Continuing government failure leads to rise in school mesothelioma deaths: \(the-juac.co.uk\)](#) and Joint Union Asbestos Committee ([ASB0044](#))

192 [Q147](#)

193 [Q147](#) and page 18 of [HSE Annual Report 2020–21](#)

194 [Q104](#)

in England as part of its 'CDC2 programme'. It said that this exercise will include "a specific assurance section covering asbestos duty to manage".<sup>195</sup> The CDC2 Programme Guide (March 2021) makes clear, however, that surveying teams will check the existence of an asbestos register and management plan but "will not review the content."<sup>196</sup>

### **A national register**

75. We asked witnesses whether the idea of a central digital register of information on asbestos in non-domestic buildings, possibly targeting public buildings in the first instance, would help to improve information on asbestos and how effectively it was being managed. The 'Airtight on Asbestos' campaign, supported by one of our witnesses, Charles Pickles, has previously recommended that a central register of all asbestos in public buildings be developed.<sup>197</sup> The Asbestos Register campaign, originally launched in 2001, has also said that a national register "would probably do more to focus the attention of those responsible (the 'dutyholder') for the safety of asbestos in buildings than any other single measure."<sup>198</sup> The TUC agrees that a national register would be useful and would "certainly help target sites for removal and provide transparency to workers and others accessing sites".<sup>199</sup> But it also believes that "maintaining a record of asbestos presence in all public buildings would be an extraordinarily expensive exercise for HSE."<sup>200</sup>

76. The British Occupational Hygiene Society has similarly questioned whether HSE would be best placed to develop a national database, but acknowledges its potential value, especially if linked with other data, for example on injuries and enforcement.<sup>201</sup> Others have suggested that the level of investment to implement a national, digital, database would be relatively modest. The UK National Asbestos Register (UKNAR), a community interest company set up in 2020 by consultants Andrew Paten and David Ungood-Thomas to pursue the idea, has said that "as little as a million pounds would be required to commission and build something fit for purpose", with dutyholders with asbestos-containing materials "paying an annual licence fee for £100-£200/year per building".<sup>202</sup> UKNAR says that "updated information can easily be uploaded into systems online by dutyholders or their consultants while Application Programming Interfaces can now be developed and used to ensure this happens seamlessly between large systems".<sup>203</sup>

77. As reported in HSE analysis, Poland created a national "base" database in 2017.<sup>204</sup> Professor Alex Burdorf from Erasmus MC in Rotterdam told us that there was a "national inventory" for schools in the Netherlands which the public can access but he said that this did not include other public buildings.<sup>205</sup> HSE also referred us to a Dutch web-based

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195 [Correspondence with the Health and Safety Executive related to their approach to asbestos management](#)

196 P13 in [CDC2 Programme Guide](#) ([publishing.service.gov.uk](https://publishing.service.gov.uk))

197 <https://www.respublica.org.uk/our-work/publications/dont-breathe-in-bridging-the-asbestos-safety-gap/>

198 [Asbestosregister.com](#) (ASB0031)

199 Trades Union Congress (ASB0030)

200 Trades Union Congress (ASB0030)

201 British Occupational Hygiene Society (ASB0025)

202 UKNAR CIC (ASB0023)

203 UKNAR CIC (ASB0023)

204 [Correspondence with the Health and Safety Executive related to their approach to asbestos management](#)

205 [Q14](#)

system called 'LAVS' where asbestos survey, management and removal information is uploaded and tracked by industry participants.<sup>206</sup> HSE says that this system is "intended to simplify procedures and allow transparency."<sup>207</sup>

78. Professor Thomas Kuhlbusch from the German Federal Institute for Occupational Hygiene and Health (BAuA) said that there was no public register of asbestos in Germany but that this topic was the subject of much debate, with those in favour saying that it would improve transparency.<sup>208</sup> He said that arguments against concentrated on whether the register would be kept up to date.<sup>209</sup> In France, Nicolas Bessot said that there was "no general database on asbestos" but the French were "working on an asbestos removal plan" which was expected to be available in 2022.<sup>210</sup> He said that they were also "thinking about a general database" to record building assessments conducted by licensed contractors but no decision had been taken, partly because of its "enormous" cost.<sup>211</sup>

79. Charles Pickles told us that a national database would improve accountability but argued that it was not HSE's job to maintain a database. He said that it was his estimate that "the top 10 asbestos databases contain 80% or thereabouts of the UK's records" and that it was "a question of getting these 10 databases to talk to one another".<sup>212</sup> Mr Pickles thought that "schools would be a good place to start" in developing a national register.<sup>213</sup>

80. Darren Evans said that his trade association supported the concept of a national digital register and said that it may "highlight the omissions".<sup>214</sup> Ruth Wilkinson also said that IOSH would "support a register for transparency purposes".<sup>215</sup> She said that there needed to be "a clear process in place" to ensure that the register contained good information and that caution would need to be exercised in how its contents were disseminated given its potential to cause anxiety among building users.<sup>216</sup>

81. Sarah Albon told us that "any register is going to be as good as the data provided" and there was a risk of "garbage in, garbage out."<sup>217</sup> She said that holding data centrally that are already held separately for individual buildings "would be costly to do" and may prove "burdensome" for dutyholders to update on a regular basis.<sup>218</sup> She added that "it would be quite hard to audit" and "hard to see what further benefit would be had and by whom for holding the data at a national level".<sup>219</sup> The Minister for Disabled People, Health and Work, Chloe Smith MP, said that she did "not want to see a national register dilute the responsibilities that are laid on dutyholders."<sup>220</sup>

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206 [Correspondence with the Health and Safety Executive related to their approach to asbestos management](#)

207 [Correspondence with the Health and Safety Executive related to their approach to asbestos management](#)

208 [Q15](#)

209 [Q15](#)

210 [Q15](#)

211 [Q15](#)

212 [Q16](#)

213 [Q17](#)

214 [Q95](#)

215 [Q95](#)

216 [Q95](#)

217 [Q137](#) and [Q139](#)

218 [Q137](#)

219 [Q137](#)

220 [Q138](#)

82. Whether building dutyholders are complying with the requirements of the Control of Asbestos Regulations is largely unknown. HSE collects some data from its programme of inspections, but these cover a tiny fraction of the non-domestic premises that contain asbestos. HSE doubts whether a central register of information on asbestos would give it better compliance data. Our view is that the exercise of reporting data centrally will, in some cases, cause dutyholders to commission surveys and update records of asbestos in their premises if they know their data is being shared centrally and may be subject to external review. The resulting database would offer a sampling frame for enforcement activity and could be analysed to inform a risk-based and targeted enforcement approach. It would also provide important background data to support a longer-term strategic approach to managing the asbestos legacy. We acknowledge, however, that it would be for others in government, such as the Government Digital Service, to lead on developing a central register and the concept would need careful testing.

83. *We recommend that HSE works with others in government to develop a central digital register of asbestos in non-domestic buildings, describing its location and type. In the first instance, the concept of a central register could be tested using asbestos data from public buildings such as schools and hospitals. In the meantime, we also recommend that HSE conducts research which complements its inspection programme to identify the extent to which dutyholders are, in fact, complying with their obligations under the asbestos regulations.*

## 4 HSE's enforcement and campaigning

### HSE inspections and enforcement

84. HSE has a portfolio of inspection and enforcement options. In 2020/21, it conducted 5,500 health and safety (non-COVID-19) inspections across targeted industry sectors, with around a fifth of these in the construction sector.<sup>221</sup> These inspections will consider the role of dutyholders. HSE says that it takes a risk-based approach when deciding which dutyholders to inspect, prioritising inspections based on the nature of work involving asbestos-containing materials and the characteristics of the person or organisation doing the work.<sup>222</sup>

85. Specific inspection arrangements are in place for licensed asbestos removal contractors. In 2012/13, HSE conducted 1,520 inspections of licensed asbestos removal contractor work to check compliance with asbestos regulations.<sup>223</sup> In 2019/20, the year leading up to the pandemic, HSE conducted 907 inspections of work by licensed asbestos removal contractors, 40% fewer than in 2012/13.<sup>224</sup> In 2020/21, HSE conducted 890 inspections of work by some 380 licensed asbestos removal contractors.<sup>225</sup>

86. If HSE finds significant breaches following an inspection, it can use a range of enforcement tools to secure compliance with the law.<sup>226</sup> These include:

- **Improvement notices**—specifying the remedial action and the date to complete any action in circumstances where an inspector is of the opinion that there is a breach of the law.
- **Prohibition notices**—stopping an activity immediately when an inspector is of the opinion that there is a risk of serious personal injury associated with a work activity or process, or where a serious deficiency in measures is identified. There does not need to be a breach of the law.
- **Prosecution**—in cases where there is a serious breach of law. HSE says that sentencing guideline changes in February 2016 have meant that prosecutions are taking longer for health and safety cases.<sup>227</sup> In 2019/20, HSE prosecuted 11 cases under the asbestos regulations, some 3% of all HSE health and safety prosecutions. It achieved at least one conviction in nine cases, a conviction rate of 82% with an average penalty of £3,063 per offence.<sup>228</sup>
- **Revocation of asbestos licences**—where an asbestos contractor has breached health and safety law in relation to asbestos.

221 P18 and P40 in [Health and Safety Executive Annual Report and Accounts 2020/21 \(hse.gov.uk\)](https://www.hse.gov.uk/aboutus/reports/1213/ar1213.pdf)

222 Health and Safety Executive (HSE) (ASB0026)

223 P12 in <https://www.hse.gov.uk/aboutus/reports/1213/ar1213.pdf>

224 Health and Safety Executive (HSE) (ASB0026)

225 Q115 and [Correspondence with the Health and Safety Executive related to their approach to asbestos management](#)

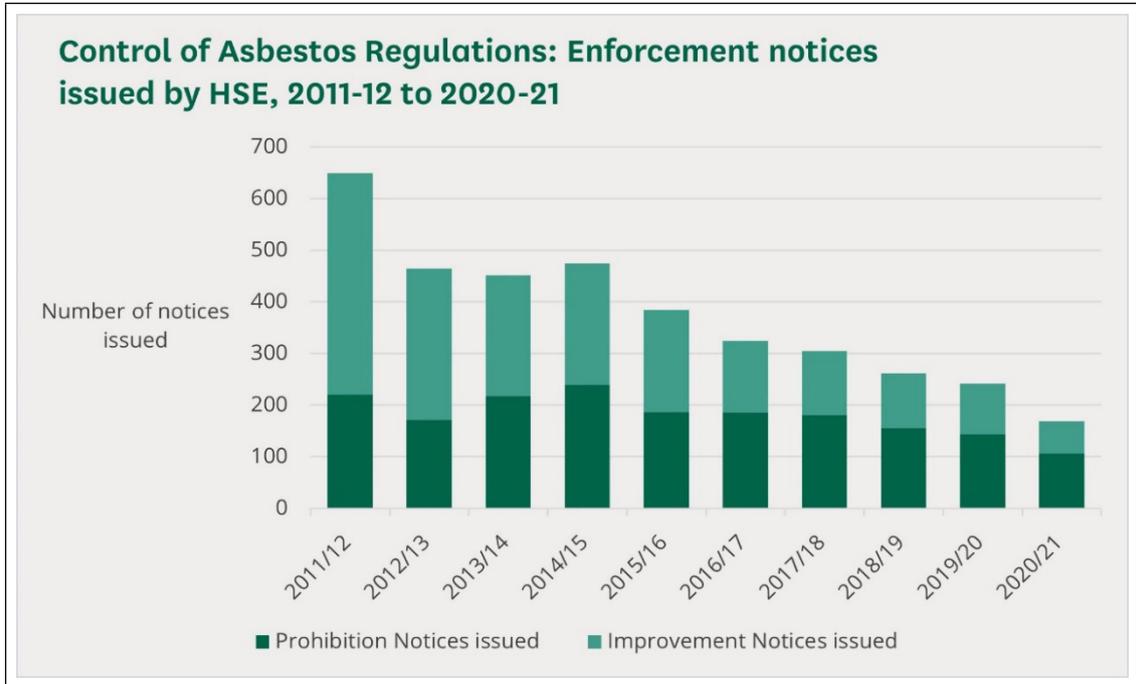
226 [Types of notice - Notices - Enforcement Guide \(England & Wales\) \(hse.gov.uk\)](#); [Enforcement Management Model - Operational \(hse.gov.uk\)](#) and Health and Safety Executive (HSE) (ASB0026)

227 Health and Safety Executive (HSE) (ASB0026)

228 Health and Safety Executive (HSE) (ASB0026)

87. HSE has issued fewer enforcement notices over time (Box 2). Between 2011/12 and 2018/19, the number of asbestos enforcement notices issued fell by 60%.<sup>229</sup> By comparison, total enforcement notices issued across all areas of HSE's business fell by 10% (from 9,910 to 8,935 notices) over the same period.<sup>230</sup>

**Box 2**



Source: Work and Pensions Committee analysis of HSE data

88. The British Occupational Hygiene Society judged that “in the absence of a national sense of priority over asbestos”, HSE uses its “limited funds to prioritise the engagements they have with dutyholders and those undertaking [asbestos] work”.<sup>231</sup> This means that the “market takes a risk-based approach to compliance”.<sup>232</sup> Darren Evans agreed. He said that “there are lots of people out there taking an informed view that they are unlikely to be visited and therefore corners are cut”.<sup>233</sup>

89. The GMB union said that HSE had “received many years of ‘flat cash settlements’ (irrespective of inflation, therefore real terms budget cuts)” and argued that “these cuts must be reversed, and HSE’s resources boosted beyond Year 2000 levels” if it is “to maximise its effectiveness as a regulator”.<sup>234</sup> Gill Reed from the Joint Union Asbestos Committee also said that “fundamentally, we have to challenge this issue of [HSE] funding.”<sup>235</sup>

90. In 2010/11, HSE received £213 million in government funding and £124 million from other income.<sup>236</sup> In 2019/20, in the year immediately prior to the pandemic, HSE received

229 Health and Safety Executive (HSE) ([ASB0026](#))

230 Figure 5 in [HSE Annual Report and Accounts 2013/14](#) and [Statistics - Enforcement \(hse.gov.uk\)](#)

231 British Occupational Hygiene Society ([ASB0025](#))

232 British Occupational Hygiene Society ([ASB0025](#))

233 [Q92](#)

234 GMB Union ([ASB0029](#))

235 [Q48](#)

236 P68 and P81 for 2010/11 in [HSE Annual Report and Accounts 2011/12](#)

£136 million in government funding, and £95 million from other income.<sup>237</sup> Therefore, between 2010/11 and 2019/20, government funding of HSE reduced by 46% in real terms (2019/20 prices). In our June 2020 report on DWP's response to the coronavirus outbreak, we said that Government needed to develop "a clear medium and long-term plan for future funding of the HSE".<sup>238</sup> The Government response to our recommendation was silent on the longer-term level of funding for HSE and its spending review from October 2021 made no mention of HSE funding.<sup>239</sup>

91. HSE's income in 2019/20 includes around £15 million of cost recovery through its fee for intervention policy which it implemented in October 2012.<sup>240</sup> The policy enables HSE to recover some of its costs of regulatory work from those who break the law in a significant or material way, applying a 'polluter pays' principle.<sup>241</sup> Its introduction followed an earlier government consultation on reforms to the health and safety system.<sup>242</sup> HSE commissioned an 'independent review panel' chaired by Professor Alan Harding from Liverpool University to consider the first 18 months' operation of its 'Fee for Intervention' model. This panel reported in June 2014.<sup>243</sup> It concluded that there was "no compelling evidence" to suggest that HSE had used its fee for intervention as a "cash cow, solely to generate revenue".<sup>244</sup>

92. 'Fee for intervention' cannot be charged for licensed asbestos removal work because the licensing fee paid by contractors approved to carry out this work includes an element for the costs of inspection.<sup>245</sup> Darren Evans acknowledged that HSE could not earn additional fee in licensed asbestos removal cases but was not sure whether it had discouraged further HSE inspection activity, compared with other areas of HSE's business.<sup>246</sup> Gill Reed suggested that part of the reason for the decline in enforcement activity may, in fact, reflect a wider shift in health and safety policy prompted by Lord Young of Gaffham's 2010 report, *Common Sense, Common Safety*.<sup>247</sup> This report defined many building environments, such as offices and schools, as "low hazard" workplaces despite what Ms Reed described as the "real" asbestos "risk in these buildings today".<sup>248</sup>

93. Sarah Albon said that she believed that the reduction in enforcement notices issued over time was partly because of improving compliance.<sup>249</sup> However, she also acknowledged that HSE had undertaken fewer inspections in recent years, a first step to enforcement actions.<sup>250</sup> She explained that this was because of reduced inspector capacity and the need to train new recruits.<sup>251</sup> She said that the fee for intervention did not distort where

237 Figure 4 in [Health and Safety Executive Annual Report and Accounts 2019/20 \(hse.gov.uk\)](https://www.hse.gov.uk/annual-report/2019-20).

238 [DWP's response to the coronavirus outbreak \(parliament.uk\)](https://www.parliament.uk/business/committees/committees-a-z/commons-secondary/dwp-sub-committees/dwp-response-to-the-coronavirus-outbreak/)

239 [DWP's response to the coronavirus outbreak: Government Response to the Committee's First Report of Session 2019–2021 \(parliament.uk\)](https://www.parliament.uk/business/committees/committees-a-z/commons-secondary/dwp-sub-committees/dwp-response-to-the-coronavirus-outbreak/) and [BUDGET 2021: Protecting the jobs and livelihoods of the British people \(publishing.service.gov.uk\)](https://www.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/90443/budget-2021-protecting-the-jobs-and-livelihoods-of-the-british-people.pdf)

240 [hse47.pdf](https://www.hse.gov.uk/annual-report/2019-20) and [Table 22 in Health and Safety Executive Annual Report and Accounts 2019/20 \(hse.gov.uk\)](https://www.hse.gov.uk/annual-report/2019-20)

241 [HSE: Fee for Intervention and Independent-ffi-review-panel-final-report-2014.pdf \(hse.gov.uk\)](https://www.hse.gov.uk/annual-report/2019-20)

242 [good-health-and-safety.pdf \(publishing.service.gov.uk\)](https://www.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/90443/good-health-and-safety.pdf)

243 [independent-ffi-review-panel-final-report-2014.pdf \(hse.gov.uk\)](https://www.hse.gov.uk/annual-report/2019-20)

244 P2 in [independent-ffi-review-panel-final-report-2014.pdf \(hse.gov.uk\)](https://www.hse.gov.uk/annual-report/2019-20)

245 Paragraph 10 in [hse47.pdf](https://www.hse.gov.uk/annual-report/2019-20)

246 [Q93](#)

247 [Q48](#) and [Common Sense, Common Safety \(publishing.service.gov.uk\)](https://www.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/90443/common-sense-common-safety.pdf)

248 [Common Sense, Common Safety \(publishing.service.gov.uk\)](https://www.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/90443/common-sense-common-safety.pdf) and [Q48](#)

249 [Q109](#)

250 [Q109](#)

251 [Q109](#)

HSE put its inspection and enforcement resources.<sup>252</sup> She expected to “see numbers of inspections increasing again” over the next few years.<sup>253</sup> She added that the Executive “planned a further 400 inspections” in 2022/23 which would focus specifically on “the duty to manage” under the asbestos regulations.<sup>254</sup>

94. **HSE has experienced significant cuts in government funding. Lower grant funding has been partly mitigated by the introduction of its fee for intervention ‘cost recovery’ model but this cannot be used to target inspections of licensed asbestos removal work. It is not surprising, therefore, that HSE’s asbestos enforcement activity has reduced in recent years. However, the scale of decline is remarkable when compared with HSE’s enforcement activity overall, despite no specific and compelling evidence that compliance with the asbestos regulations has improved dramatically during this time. HSE accepts that part of the recent reduction in asbestos enforcement work stems from having to divert experienced inspectors to support the training of new recruits which reduced capacity. It says that it expects to increase the number of asbestos inspections in 2022/23. This is welcome but needs to be sustained over the longer term, not least because fulfilment of the Government’s net zero ambitions presents considerable asbestos exposure risks as buildings are updated.**

95. *We recommend that HSE commits to a sustained increase in inspection and enforcement activity targeting compliance with the Control of Asbestos Regulations. Repeating our recommendation from June 2020, the Government and DWP should ensure that it provides adequate funding to HSE to support this increased programme of work over the medium term. HSE should also identify wider lessons from its planned inspection programme for dutyholders in 2022/23, considering whether it needs to specify minimum knowledge, training or other requirements for people performing this critical role.*

## HSE engagement and behavioural campaigns

### Stakeholder engagement

96. As part of its work to promote compliance with the asbestos regulations, HSE also participates in networks such as:

- The HSE-hosted Construction Industry Advisory Committee (CONIAC) and the HSE-chaired Asbestos Network. CONIAC’s core aim is to stimulate action aimed at securing better health and safety outcomes in the construction industry. It includes representatives from construction trade unions, trade associations and professional bodies. HSE says that asbestos is discussed at the ‘Tackling Ill Health’ working group.<sup>255</sup> Since 2020, CONIAC has been the lead occupational health and safety advisor to the Construction Leadership Council (CLC), the Government-backed body charged with exercising sector leadership.<sup>256</sup>

252 [Q113](#)

253 [Qq109–111](#)

254 [Q110](#)

255 Health and Safety Executive (HSE) ([ASB0026](#))

256 Health and Safety Executive (HSE) ([ASB0026](#))

- The Asbestos Network which includes trade union, professional accreditation body, trade association (surveying, analysts, training, licensed asbestos removal), other enforcement agency (waste and local authority) and property management representatives. According to HSE, the Asbestos Network exchanges information on asbestos and has working groups to address specific topics like the practical management of asbestos in buildings and technical standards.<sup>257</sup>
- Technical and scientific working groups such as the International Standards Organisation and the Partnership for European Research in Occupational Safety and Health. In the UK, HSE says that it works with the British Occupational Hygiene Society's Faculty of Asbestos Assessment and Management and with the Federation of Decontamination Equipment Manufacturers.<sup>258</sup>

97. The Teacher's Union, the NASUWT, has said that "HSE does engage with external stakeholders on the subject of asbestos" but its "main problem" is "a lack of enforcement activity".<sup>259</sup> The Asbestos Testing and Consultancy Association has also said that real change "will only come about through enforcement and this simply isn't happening due to resource issues."<sup>260</sup> The British Occupational Hygiene Society has said that "HSE's stakeholder engagement is exemplary and would make other regulatory agencies seem disconnected".<sup>261</sup> But, like others, it says that "the issue is the very thin resource available to HSE to address ... fatal health exposures."<sup>262</sup>

### Campaign work

98. HSE says that it also conducts advertising campaigns and works with government departments, such as DfE, and devolved nations.<sup>263</sup> These interventions are intended to raise awareness and improve asbestos management practices. Graham O'Mahony said that HSE campaigns had "been very successful."<sup>264</sup> However, he said that "it is a shame" and "maybe it is down to resources" that HSE campaigns like 'Hidden Killer', which targeted tradespeople at risk of asbestos exposure, had not continued.<sup>265</sup> The GMB union agreed that campaigns such as 'Hidden Killer' had done "a tremendous job of raising awareness in those trades at highest risk".<sup>266</sup> Thompsons Solicitors told us that whatever the reasons for its demise, 'Hidden Killer' "appeared to have good prospects of success (until its untimely halt)".<sup>267</sup>

99. Witnesses also raised concerns about the adequacy of campaigning work which targets building dutyholders. Graham O'Mahony told us that "there is no specific regulation to force or impose upon dutyholders that they must hold a level of knowledge or awareness" relating to asbestos management.<sup>268</sup> He said that he would like to see "a campaign or guidance from the HSE to make sure that people are competent, rather than

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257 Health and Safety Executive (HSE) ([ASB0026](#))

258 Health and Safety Executive (HSE) ([ASB0026](#))

259 NASUWT - The Teachers' Union ([ASB0024](#))

260 ATaC - Asbestos Testing and Consultancy Association ([ASB0022](#))

261 British Occupational Hygiene Society ([ASB0025](#))

262 British Occupational Hygiene Society ([ASB0025](#))

263 Health and Safety Executive (HSE) ([ASB0026](#))

264 [Q94](#)

265 [Q94](#)

266 GMB Union ([ASB0029](#))

267 Thompsons Solicitors ([ASB0009](#))

268 [Q88](#)

just believing they are ... based on their own individual assessments.”<sup>269</sup> IOSH also said that there was “no oversight of the competency of the dutyholder”.<sup>270</sup> The Asbestos Testing and Consultancy Association has said that “HSE’s asbestos campaigning activities have ceased, and the responsibility conceded to organisations such as IOSH”.<sup>271</sup> The Association concludes that “HSE appear to have been unable to make the political fight to do more with regards to asbestos risk.”<sup>272</sup>

100. Sarah Albon told us that HSE continues to influence behaviours using social media but she acknowledged that “it is quite difficult to make people appreciate the seriousness and importance of a risk that can seem so distant”.<sup>273</sup> She said that campaign work often showed improved understanding—of around 10%—but that the ephemeral nature of social media prevents HSE from doing any “structured resurveying of the same people” to see if they are still acting on campaigning information “say two years or five years later”.<sup>274</sup>

101. **HSE promotes understanding of the dangers of asbestos, technical knowledge exchange and compliance with the asbestos regulations through its participation in domestic and international networks. HSE has also previously invested in significant campaigns targeting those occupations most likely to be exposed to asbestos. Campaigns such as ‘Hidden Killer’ were widely regarded as successful. However, HSE has invested less in this behavioural work in recent years, seemingly because of a lack of resources. Witnesses also described an absence of similar interventions targeting dutyholders. For those campaigning activities that do continue—through social media for example—HSE cannot say with certainty what their long-term impact is.**

102. *HSE should commit to investing more in sustained campaigning work across a range of media, using multiple interventions and synchronising with the development of its wider strategy for asbestos management. It should employ robust evaluation methods to test what messages and which methods achieve the greatest impact on the behaviours of dutyholders and tradespeople.*

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269 [Q88](#)

270 Institution of Occupational Safety and Health (IOSH) ([ASB0040](#))

271 ATaC - Asbestos Testing and Consultancy Association ([ASB0022](#))

272 ATaC - Asbestos Testing and Consultancy Association ([ASB0022](#))

273 [Q106](#)

274 [Q107](#)

## 5 Regulating the asbestos industry

### Work with asbestos and exposure limits

103. In addition to the duty to manage asbestos (Regulation 4), the asbestos regulations place legal duties on those responsible for work with asbestos.<sup>275</sup> These duties apply to employers, employees and self-employed people who carry out work deliberately liable to disturb asbestos, or who conduct ancillary work, or who supervise such work (Regulation 3). Box 3 below describes the key roles of those who work in the asbestos industry. An important principle within the regulations is that no building work liable to disturb asbestos should be undertaken on non-domestic buildings without first conducting a risk assessment informed by work to identify the presence of asbestos.<sup>276</sup>

#### Box 3: Key roles in the asbestos industry

**Surveyor**—a “suitably trained person” who surveys premises to identify any asbestos-containing materials. A surveyor supports a building dutyholder in fulfilling their asbestos management obligations. HSE “strongly recommends using accredited surveyors” but this is not a legal requirement.

**Licensed asbestos removal contractor** and their workers—a contractor approved by the HSE to conduct licensed asbestos removal work.

**Analyst**—an asbestos analyst must be appointed for licensed asbestos removal projects to complete a quality assurance check of work undertaken. This is a four-stage clearance procedure which includes air tests to check asbestos fibre levels before removal sites are handed back to building users. Asbestos analysts performing this role must be UK Accreditation Service (UKAS)-accredited. Analysts can also carry out sampling to identify asbestos-containing materials for surveyors.

Source: [Managing and working with asbestos \(hse.gov.uk\)](https://www.hse.gov.uk/management/) and [Correspondence with the Health and Safety Executive related to their approach to asbestos management](#)

104. The asbestos regulations and guidance also specify a level of airborne fibres (fibres/cubic centimetres)—a ‘control limit’—which must not be exceeded during work involving asbestos.<sup>277</sup> This limit, together with a separate short-term exposure limit, serves to define how asbestos work is categorised and the level of controls needed to perform it (for example, whether it must be done by a licensed contractor). In addition, the guidance describes a ‘clearance’ exposure limit following any work completed which should be achieved before an asbestos site can be handed back to its users.<sup>278</sup> The asbestos guidance makes clear that these occupational exposure limits do not represent a safe level of airborne asbestos fibres and the objective should always be to reduce fibre levels to “as low as is reasonably practicable.”<sup>279</sup> Annex 1 sets out the fibre exposure limits that currently apply in an occupational setting in Great Britain.

275 [Managing and working with asbestos \(hse.gov.uk\)](https://www.hse.gov.uk/management/)

276 [Managing and working with asbestos \(hse.gov.uk\)](https://www.hse.gov.uk/management/)

277 [Managing and working with asbestos \(hse.gov.uk\)](https://www.hse.gov.uk/management/)

278 [Managing and working with asbestos \(hse.gov.uk\)](https://www.hse.gov.uk/management/)

279 [Control of Asbestos Regulations 2012 \(hse.gov.uk\)](https://www.hse.gov.uk/management/) and Regulations 11 and 17 - see [Managing and working with asbestos \(hse.gov.uk\)](https://www.hse.gov.uk/management/)

## Categories of asbestos work

105. A risk assessment should be undertaken before removal work involving asbestos-containing materials is started.<sup>280</sup> Work assessed to be higher risk must only be done by licensed contractors and must be notified to HSE or other enforcement authority at least 14 days before work is due to start. This is called 'licensable work'.<sup>281</sup> Work falling into this category is of a type and scale that means that either concentrations of asbestos fibres in the air during the work are likely to exceed the 'control limit' (0.1 fibres per cubic centimetre), or otherwise involves higher-risk asbestos-containing materials.<sup>282</sup>

106. 'Non-licensable' work does not need to be undertaken by a licensed contractor.<sup>283</sup> This work is expected to be of short duration and produce only sporadic and low intensity asbestos fibre exposure that does not exceed the control limit.<sup>284</sup> Some 'non-licensable' work is classified as 'notifiable work' and subject to additional regulatory steps, including the need to notify the relevant regulator online that the work is being done and the need to keep a register of it. There is no minimum notice period for this third category of work and no need to wait for permission from the enforcing authority.<sup>285</sup>

107. IOSH said that the definition of licensable work for asbestos was "vague and could put non-professional asbestos removal operatives at risk".<sup>286</sup> It said that it was "quite hard to say what is short duration and what is not", in advance of starting work involving asbestos-containing materials.<sup>287</sup> IOSH said that in some cases dutyholders will adopt a cautionary approach and commission licensed contractors where there is uncertainty, but it also said that there were other occasions where licensed contractors were "not used at all when they really should have been".<sup>288</sup> It told us that more clarity around the distinction between licensable and non-licensable work was needed.<sup>289</sup>

108. Brian Gardner, Director of Ethos Environmental Ltd, a health and safety consultancy, said in his written evidence to us that the people "at most risk are still those actively working with asbestos, whether in the licensed industry or broader building trades undertaking non-licensed work".<sup>290</sup> He said that those undertaking non-licensed work had "received almost no support in terms of reliable ongoing evaluations of their actual exposure risk".<sup>291</sup> The British Occupational Hygiene Society has said that a "credible monitoring" regime is required which also targets smaller construction businesses, energy and insulation installers and waste management workers.<sup>292</sup>

109. We also heard concerns about the category of non-licensed work that is also 'notifiable' under the asbestos regulations. Darren Evans said that there was little clarity about what HSE did with the information it received about non-licensed asbestos work. He said that "whether or not HSE checks on those people and their competency and visits

280 See Regulation 6 in [Managing and working with asbestos \(hse.gov.uk\)](#)

281 [Licensable work with asbestos \(hse.gov.uk\)](#)

282 [Licensable work with asbestos \(hse.gov.uk\)](#)

283 [Non-licensed work with asbestos \(hse.gov.uk\)](#)

284 [Non-licensed work with asbestos \(hse.gov.uk\)](#)

285 [Notifiable Non-Licensed Work \(NNLW\) \(hse.gov.uk\)](#)

286 Institution of Occupational Safety and Health (IOSH) ([ASB0040](#))

287 Institution of Occupational Safety and Health (IOSH) ([ASB0040](#))

288 Institution of Occupational Safety and Health (IOSH) ([ASB0040](#))

289 Institution of Occupational Safety and Health (IOSH) ([ASB0040](#))

290 Dr Brian Gardner (Director at Ethos Environmental Ltd) ([ASB0013](#))

291 Dr Brian Gardner (Director at Ethos Environmental Ltd) ([ASB0013](#))

292 British Occupational Hygiene Society ([ASB0025](#))

the sites, I have no clue.”<sup>293</sup> He told us that analysts were “not obligated to go and check these non-licensed sites and do any monitoring”.<sup>294</sup> Graham O’Mahony told us that the addition of a third category of asbestos material (notifiable non-licensed work) in the 2012 asbestos regulations, prompted by European Union requirements, had “confused things even more”.<sup>295</sup> He also said that he did not know how HSE used the information notified to it and did not believe that the regulator conducted site visits before asbestos removal in these cases.<sup>296</sup>

110. Professor Curran told us that “the most important reason” for having the three categories of asbestos work was to reflect “a risk-based perspective” given the ubiquity of asbestos in the built environment.<sup>297</sup> In subsequent written evidence, HSE said that it did “not have figures on how many of these notifications [of non-licensed work] directly resulted in an inspection” but it did use the information gathered “to inform future interventions”.<sup>298</sup> HSE also said that its focus was on inspecting licensed work but it did assess some non-licensed work as part of routine inspections.<sup>299</sup>

**111. Currently in Great Britain, some asbestos removal work does not need to be undertaken by a licensed contractor but some of this will still need to be notified to HSE before work starts. The three-way categorisation of work is confusing and of questionable value. Reducing the number of categories and requiring a greater proportion of asbestos removal to be done by licensed contractors—possibly by further tightening the control limit on expected asbestos fibre exposures or reducing the types and conditions of asbestos materials that are exempted from licensed work—could lead to fewer accidental exposures and better disposal practices. There is, however, a risk that extending the requirement to use licensed contractors could have unintended consequences and any changes will need to be considered carefully. HSE should use its five-yearly review of the asbestos regulations to assess the merits of the current categorisation of asbestos works.**

*112. We recommend that HSE considers how it could consolidate, tighten, and simplify the current categorisation of asbestos works as part of its 2022 statutory review of the Control of Asbestos Regulations. Its review should carefully assess the net behavioural impacts and costs of any changes.*

## Quality and independence

113. HSE’s regulatory model for asbestos places significant reliance on the asbestos industry to ensure safe practices. Professor Kevin Bampton told us that he had “huge respect for HSE” but it had “very limited resource” and “not a lot of capability” to monitor the asbestos industry.<sup>300</sup> As such, he said that HSE was “reliant on an industry, and the industry is reliant on its clients’ desire to pay ... and the urgency with which clients want to get things

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293 [Q91](#)

294 [Q90](#)

295 [Q91](#)

296 [Q91](#)

297 [Q121](#)

298 [Correspondence with the Health and Safety Executive related to their approach to asbestos management](#)

299 [Correspondence with the Health and Safety Executive related to their approach to asbestos management](#)

300 [Q76](#)

moving.”<sup>301</sup> It is important, therefore, that controls are in place to help mitigate significant quality risks in circumstances where, according to Professor Bampton, “everyone wants to do asbestos assessment as cheaply as possible to avoid any risks [and] to cut down costs”.<sup>302</sup>

### Survey quality

114. The asbestos regulations permit a dutyholder to appoint a third party to carry out an asbestos survey on their behalf to locate and assess asbestos-containing materials. The Approved Code of Practice accompanying the asbestos regulations says that a dutyholder can assess the suitability of a surveyor “by checking that they are accredited ... to undertake surveys”.<sup>303</sup> HSE’s code of practice “strongly recommends using [UKAS] accredited surveyors” but does not make this mandatory.<sup>304</sup> In contrast, the code of practice states that analysts involved in site clearance certification and material analysis following licensed asbestos work should be UKAS-accredited.<sup>305</sup>

115. Despite HSE’s clear recommendation, it remains the case that, according to Darren Evans, “any old Joe can go out and do a survey”.<sup>306</sup> He said that his analyst members, on the other hand, “must be” accredited by UKAS and “have to be audited”. He added that “the playing field is not level at all” and this was “one of the things that needs to be put right”.<sup>307</sup> The British Occupational Hygiene Society has also raised concerns about the quality of asbestos surveys and reports carried out by contractors on behalf of building dutyholders. It says that these “may be seen as a tick-box exercise” which leaves dutyholders not fully apprised of their risks and opportunities.<sup>308</sup> A national standard for these reports, would, it says, “assist the dutyholder, the asbestos removal industry and the regulator.”<sup>309</sup>

116. In oral evidence, Sarah Albon said that we “would probably have to ask UKAS” about why the asbestos regulations require analysts to be UKAS-accredited but not surveyors, despite HSE’s oversight of the overall asbestos regulatory regime.<sup>310</sup> HSE subsequently explained that it had considered the accreditation of surveyors “around 2004” but this had not been taken forward because non-regulatory alternatives were considered less burdensome.<sup>311</sup> It added that subsequent voluntary certification schemes had not succeeded because of low take-up.<sup>312</sup> HSE says that surveyor competence “remains an important issue for HSE” and accreditation “could be considered as part of any future work in this area.”<sup>313</sup>

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301 [Q76](#)

302 [Q76](#)

303 Guidance 4 in [Managing and working with asbestos \(hse.gov.uk\)](#)

304 Guidance 4 in [Managing and working with asbestos \(hse.gov.uk\)](#)

305 [Managing and working with asbestos \(hse.gov.uk\)](#)

306 [Q96](#)

307 [Q96](#)

308 British Occupational Hygiene Society ([ASB0025](#))

309 British Occupational Hygiene Society ([ASB0025](#))

310 [Q114](#)

311 [Correspondence with the Health and Safety Executive related to their approach to asbestos management](#)

312 [Correspondence with the Health and Safety Executive related to their approach to asbestos management](#)

313 [Correspondence with the Health and Safety Executive related to their approach to asbestos management](#)

### Independence of analysts

117. Analysts are commissioned to conduct air sampling following the completion of work involving asbestos containing materials. This is to check that sites are clear of asbestos before they are handed back to the building user. The Analysts' Guide for Asbestos says that it is "strongly recommended" that analysts providing site clearance certification are "independently sourced and employed by the building owner or occupier (i.e. building client) in control of the premises".<sup>314</sup> Professor Kevin Bampton told us that, in practice, "contractors quite often appoint the analysts" and this was "an unhealthy potential relationship".<sup>315</sup> Darren Evans, who represents the analyst industry, described this as analysts "getting paid [by removal contractors] to mark their homework".<sup>316</sup> He said that analysts "can be put under pressure" and "until we separate the appointment of the analyst to quality check the work ... there will always be a perceived, if not real, conflict of interest."<sup>317</sup>

118. Dr Brian Gardner, a consultant himself, said that:

few people realise that the laboratory providing this fibre-counting service is often (~50% of the time) engaged and paid directly by the licenced contractor—the organisation whose performance they are meant to be auditing. The contractor may not quite "mark their own homework"—but they certainly closely hold the purse strings for those who do.

The consequence of this is 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) ...

[...] Sadly, the industry is still rife with bad practice, fraud and inducements, an elephant in the room that HSE seem powerless to address...<sup>318</sup>

119. Dr Gardner said that the solution to this was to make it mandatory for the dutyholder to appoint an inspecting analyst and testing laboratory that is independent of the removal contractor.<sup>319</sup> Sarah Albon told us the Executive had "never seen any sign or suggestion in the various inspections" to indicate "under-marking" by analysts.<sup>320</sup> She added that HSE had "confidence" that licensed asbestos removers were "overwhelmingly working to the right standard" and that they were "not seeking to somehow find some analyst who would be complicit in cutting corners."<sup>321</sup> Nevertheless, HSE's own inspection programme with analysts conducted in 2015 revealed some concern among the profession about the quality and independence of their analysis, with around a quarter of these analysts always or mostly commissioned by licenced asbestos contractors.<sup>322</sup>

314 Para 1.22 in [HSG248 \(hse.gov.uk\)](#)

315 [Q67](#)

316 [Q96](#)

317 [Q96](#)

318 Dr Brian Gardner (Director at Ethos Environmental Ltd) ([ASB0013](#))

319 Dr Brian Gardner (Director at Ethos Environmental Ltd) ([ASB0013](#))

320 [Q117](#)

321 [Q117](#)

322 Para 6.3 in [asbestos-analysts-project-report-2015.pdf \(hse.gov.uk\)](#)

120. Asbestos surveyors have an important role in helping dutyholders to identify and manage asbestos in premises. We have heard concerns about the variable quality of surveys. It is not clear to us why the regulatory and quality requirements for asbestos surveyors should be less stringent than for analysts who must be UKAS-accredited.

121. Despite their requirement to be accredited, the work of analysts continues to be compromised by regulatory arrangements which allow licensed asbestos contractors to commission their own analysts to check their work. We heard disturbing accounts from several sources that the current model undermines the independence of this critical quality check. Witnesses told us that one simple way of improving standards would be to make it a requirement for the building owner or client to employ the analyst in all circumstances.

122. *We recommend that HSE makes it mandatory for all people conducting asbestos surveys to be accredited by a recognised accreditation body. We also recommend that HSE assesses the impact of making it a legal requirement for building owners or occupiers to commission accredited asbestos analysts to check asbestos work done on their premises and, by extension, making it illegal for asbestos removal contractors to do so.*

## Limiting asbestos exposures

123. There is, currently, a wider debate in Europe about whether the regulatory framework around asbestos needs to be strengthened.<sup>323</sup> In this context, there are proposals—at European Union and country levels—to lower fibre exposure limits for people working with asbestos (see **Annex 1** on exposure limits in Great Britain and **Annex 2** on the three European countries we engaged as part of our inquiry).<sup>324</sup> In October 2021, the European Parliament adopted a resolution of its Committee on Employment and Social Affairs which, as well as calling on the European Commission to present a “European Strategy for the removal of all asbestos”, also recommends lowering occupational exposure limits across the EU to 0.001 fibres/cm<sup>3</sup>.<sup>325</sup> The European Commission’s programme for 2022 is expected to include policy measures intended to strengthen controls around asbestos.<sup>326</sup> Some countries have already adopted lower exposure limits for asbestos. For example, Professor Burdorf, told us that the Netherlands had adopted a “very stringent occupational... exposure limit based on a societal decision ... not ... to accept the risk”.<sup>327</sup>

124. The Faculty of Asbestos Assessment and Management, the professional body supported by the British Occupational Hygiene Society, has said that lowering occupational limits “would be likely to have unintended consequences” and could “require more costly and time-consuming measurement methods”.<sup>328</sup> In particular, its concern is that tightened exposure limits could lead, unintentionally, to reduced monitoring of worker exposure

323 See for example: [Texts adopted - Protecting workers from asbestos - Wednesday, 20 October 2021 \(europa.eu\)](#)

324 [Texts adopted - Protecting workers from asbestos - Wednesday, 20 October 2021 \(europa.eu\)](#)

325 [Protecting workers from asbestos | Legislative train schedule | European Parliament \(europa.eu\)](#) and [Texts adopted - Protecting workers from asbestos - Wednesday, 20 October 2021 \(europa.eu\)](#)

326 [Europe EU 2022 work programme](#)

327 [Q24](#)

328 [FAAM responds to ECHA's recommendation on Asbestos Workplace Exposure Limits - British Occupational Hygiene Society \(BOHS\)](#)

and increased illegal movement of asbestos materials.<sup>329</sup> Professor Curran told us that the drive to lower occupational limits in parts of Europe may not be based on 'real-world' behaviours. He said that it was "about balancing that risk-hazard issue" and "thinking pragmatically" about likely patterns of exposure for people working with asbestos, rather than relying on "a theoretical construct".<sup>330</sup> Sarah Albon also said that the UK had used "significantly increased amounts of asbestos" compared with many parts of Europe and this was a relevant consideration in decisions about exposure limits and wider asbestos policy.<sup>331</sup>

### *Use of microscopy*

125. The concentration of asbestos fibres in the air is measured using microscopes. Currently, HSE requires the use of World Health Organisation Phase Contrast Microscopy (PCM) for asbestos fibre measurement.<sup>332</sup> The 'Airtight on Asbestos' campaign has said that magnification limits with PCM mean that this technology cannot measure resolutions beyond 0.01 fibres/cm<sup>3</sup>, the current measurement threshold following completion of works involving asbestos-containing materials.<sup>333</sup> SOCOTEC Asbestos Limited, a UKAS-accredited surveying and testing organisation, has said, in its view, that this means that asbestos analysts are not really meeting the fundamental regulatory requirement to reduce fibre exposure to "as low as reasonably practicable".<sup>334</sup> Other microscopy technologies are available, including Transmission Electron Microscopy (TEM) and Scanning Electron Microscopy (SEM). The 'Airtight on Asbestos' campaign has said that TEM analysis is not as expensive as sometimes claimed and referred to data from the French asbestos consultants, ITGA, who, it said, had estimated the cost per sample at around €80.<sup>335</sup>

126. HSE accepts that electron microscopy can enable more fine-grained analysis and "better resolution" which, in turn, has "analytical advantages".<sup>336</sup> However, it says that electron microscopy is "much more expensive" and "less practical", partly because of limited laboratory capacity in Great Britain.<sup>337</sup> Professor Curran told us that the Executive continued to recommend the use of PCM following asbestos removal because "we want people to be able to ... make rapid decisions about what to do if they find any fibres from that removal process".<sup>338</sup> He said that electron microscopy technologies could not provide instant results meaning that people "would not be able to make immediate interventions".<sup>339</sup> Nevertheless, Professor Curran acknowledged that electron microscopy was important for research purposes and had recently been used for HSE's analysis examining exposures for asbestos removal workers.<sup>340</sup>

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329 [FAAM responds to ECHA's recommendation on Asbestos Workplace Exposure Limits - British Occupational Hygiene Society \(BOHS\)](#)

330 [Q152](#)

331 [Q153](#)

332 Health and Safety Executive (HSE) ([ASB0026](#))

333 Airtight on Asbestos ([ASB0016](#))

334 SOCOTEC Asbestos Ltd ([ASB0004](#))

335 Airtight on Asbestos ([ASB0039](#))

336 Health and Safety Executive (HSE) ([ASB0026](#))

337 Health and Safety Executive (HSE) ([ASB0026](#))

338 [Q176](#)

339 [Q176](#)

340 [Qq177-179](#)

127. HSE has an important role in monitoring international developments in approaches to managing asbestos risk, assessing the balance of evidence, and commissioning its own research to understand workplace patterns of asbestos exposure and behaviour. The direction of travel in Europe is towards tighter regulation of asbestos and lower exposure limits which rely on greater use of electron microscopy techniques. These changes may have practical and financial consequences for the way asbestos is managed, including when and how it should be removed. HSE has said that developments in Europe may not necessarily be grounded in the real-world experience of asbestos exposure and a more pragmatic approach is warranted. It also told us that part of the problem in Great Britain is that asbestos is so widespread. Our concern is that an asbestos regulatory policy which prioritises only that which is immediately practical risks tolerating poorer health standards and higher costs over the longer-term.

*128. We recommend HSE ensures its current review of the Control of Asbestos Regulations includes a thorough written assessment of moves towards more stringent asbestos occupational exposure limits in Europe. It should carefully consider their application to the GB context, taking full account of costs and benefits. It should ensure that the extent of the asbestos legacy in Great Britain is not seen as reason to tolerate poorer health standards.*

# Conclusions and recommendations

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## Introduction

1. Asbestos-related illness is one of the great workplace tragedies of modern times. Extensive use of asbestos in the twentieth century accounts for many thousands of deaths. The extreme exposures of the mid- to late twentieth century may be behind us, but its legacy lives on. Asbestos remains in many of our buildings. The current five-yearly statutory review of the asbestos regulations is an opportune moment for us to assess whether the regulatory framework—and HSE's contribution to this—is working as effectively as it might. (Paragraph 14)
2. *We recommend that HSE and Government use the conclusions and recommendations from our report to inform both its immediate post implementation review of the asbestos regulations and its longer-term approach to asbestos management.* (Paragraph 15)

## The asbestos risk today

3. Progress made since the gradual imposition of restrictions on the use of asbestos and its eventual ban in 1999 are no reason for complacency. Understanding the extent to which asbestos fibres are still being released from the fabric of buildings remains vital and requires different methods of analysis. Past measurement of fibres in lungs has shown that the lifetime risk from mesothelioma is substantially lower for people born in the late 1960s. For people born in the late 1980s, the risks appear even lower, but the numbers sampled are small and patterns of exposure may be subject to wide variation over time and between people. (Paragraph 29)
4. Recent HSE data on the relative risk of mesothelioma deaths shows elevated rates for women whose last occupation was education and teaching. However, limitations in death certificate information means that the earlier occupational history of these people—which may be key to understanding the cause of their disease—is not known. Moreover, the long latency period before asbestos-related illness develops means that HSE data on relative occupational risk tells us little about asbestos exposures in work settings today. We know relatively little about current levels but, worryingly, we heard accounts from several sources of recent exposures in the workplace and in the home. Our view is that HSE's efforts to develop the evidence on current asbestos exposure levels in non-domestic buildings are relatively piecemeal. A more structured approach to collecting data and assessing current exposure levels is needed. (Paragraph 30)
5. *We recommend that HSE develops and implements a robust research framework for the systematic measurement of current asbestos exposures in non-domestic buildings, using a range of measurement and sampling techniques and informed by international experiences and approaches. It should ensure that adequate consideration is given to exposure measurement in schools and other public buildings. We recommend that HSE publishes its framework by October 2022 and produces findings at frequent intervals thereafter.* (Paragraph 31)

6. *We also recommend that the Government investigates opportunities to improve the occupational information recorded on death certificates.* (Paragraph 32)

### A strategic approach to asbestos management

7. Under the Control of Asbestos Regulations 2012, asbestos-containing materials that are in good condition and are unlikely to be disturbed can be left in place by building dutyholders. Buildings containing asbestos will not last forever and, as HSE acknowledges, we do not know how long some of these materials, left undisturbed, remain undamaged. Some, including the TUC, have called for a stronger programme of asbestos removal. They argue that a policy of management in situ was always a temporary solution and that accidental disturbances by contractors and others will always happen. They believe that the current regime gives unscrupulous dutyholders too much flexibility to turn a blind eye when confronted with the cost of asbestos removal. (Paragraph 49)
8. Wholesale removal is not, however, without its own risk and uncertainty. Despite this, HSE has been slow to invest in research to better understand the costs and benefits of removal and to evaluate options for safer removal. This is becoming a more urgent task. The likely dramatic increase in retrofitting of buildings in response to net zero ambitions means that more asbestos-containing material will be disturbed in the coming decades, thus changing the cost-benefit analysis. Simple reliance on a set of regulations which devolve asbestos management to individual dutyholders will not be good enough. There is a need for a cross-government and 'system-wide' strategy for the long-term removal of asbestos, founded on strong evidence of what is best from a scientific, epidemiological, financial, and behavioural point of view. (Paragraph 50)
9. The Minister and HSE told us that their goal was to see asbestos gradually and safely removed from GB's buildings. We agree with its ambition but greatly regret that neither HSE nor the Government has articulated a clear and comprehensive strategy for achieving this. There is no written down, fully developed, and long-term plan to match the Government's goal, one that is founded on an analysis of costs and benefits and integrates with wider government policy. Moreover, the Government has so far failed to signal its intent by setting a clear timeframe for the removal of most, if not all, asbestos. (Paragraph 51)
10. *We recommend that a deadline now be set for the removal of asbestos from non-domestic buildings, within 40 years. The Government and HSE should develop and publish a strategic plan to achieve this, focusing on removing the highest risk asbestos first, and the early removal from the highest risk settings including schools. This plan should, in the first instance, commit to improving urgently the evidence around safer asbestos removal and disposal, considering relative costs and benefits. It should integrate with—and take full account of—proposals for the upgrading of the built environment linked to net zero targets and wider waste management strategies.* (Paragraph 52)
11. We are unconvinced that a significant further expansion in the use of air monitoring for the routine measurement of asbestos fibres is needed. Clearly, such monitoring is an important component both in assessing sites following asbestos removal work

and, potentially, in informing management decisions where, for example, asbestos-containing material is damaged or obscured. It also has an important role as part of any systematic and carefully sampled research programme measuring fibre release. Nevertheless, for routine operational purposes, the balance of opinion we have heard is that regular visual inspection should continue to be the priority. (Paragraph 62)

12. *We recommend HSE work with others in the UK and devolved governments to continue to review and share the evidence relating to routine, environmental, air monitoring of asbestos fibres. We ask that HSE writes to us in 12 months' time with an update on Government's latest assessment of these developments.* (Paragraph 63)
13. Information about asbestos within buildings is often poorly communicated to users and contractors by dutyholders. Surveys and management plans which include critical information on asbestos are not always maintained as living and accessible documents. Opportunities to exploit digital technologies to improve communications on asbestos risks are being missed. (Paragraph 66)
14. *We recommend that HSE strengthens its work with, and guidance to, dutyholders to make clear their obligations to communicate asbestos information and risks to building contractors and users. We also recommend that HSE works with others in Government to sponsor improvements in how information on asbestos in buildings is communicated and used, drawing on lessons from the use of digital technologies in building management and in the health response to the pandemic.* (Paragraph 67)
15. Whether building dutyholders are complying with the requirements of the Control of Asbestos Regulations is largely unknown. HSE collects some data from its programme of inspections, but these cover a tiny fraction of the non-domestic premises that contain asbestos. HSE doubts whether a central register of information on asbestos would give it better compliance data. Our view is that the exercise of reporting data centrally will, in some cases, cause dutyholders to commission surveys and update records of asbestos in their premises if they know their data is being shared centrally and may be subject to external review. The resulting database would offer a sampling frame for enforcement activity and could be analysed to inform a risk-based and targeted enforcement approach. It would also provide important background data to support a longer-term strategic approach to managing the asbestos legacy. We acknowledge, however, that it would be for others in government, such as the Government Digital Service, to lead on developing a central register and the concept would need careful testing. (Paragraph 82)
16. *We recommend that HSE works with others in government to develop a central digital register of asbestos in non-domestic buildings, describing its location and type. In the first instance, the concept of a central register could be tested using asbestos data from public buildings such as schools and hospitals. In the meantime, we also recommend that HSE conducts research which complements its inspection programme to identify the extent to which dutyholders are, in fact, complying with their obligations under the asbestos regulations.* (Paragraph 83)

## HSE's enforcement and campaigning

17. HSE has experienced significant cuts in government funding. Lower grant funding has been partly mitigated by the introduction of its fee for intervention 'cost recovery' model but this cannot be used to target inspections of licensed asbestos removal work. It is not surprising, therefore, that HSE's asbestos enforcement activity has reduced in recent years. However, the scale of decline is remarkable when compared with HSE's enforcement activity overall, despite no specific and compelling evidence that compliance with the asbestos regulations has improved dramatically during this time. HSE accepts that part of the recent reduction in asbestos enforcement work stems from having to divert experienced inspectors to support the training of new recruits which reduced capacity. It says that it expects to increase the number of asbestos inspections in 2022/23. This is welcome but needs to be sustained over the longer term, not least because fulfilment of the Government's net zero ambitions presents considerable asbestos exposure risks as buildings are updated. (Paragraph 94)
18. *We recommend that HSE commits to a sustained increase in inspection and enforcement activity targeting compliance with the Control of Asbestos Regulations. Repeating our recommendation from June 2020, the Government and DWP should ensure that it provides adequate funding to HSE to support this increased programme of work over the medium term. HSE should also identify wider lessons from its planned inspection programme for dutyholders in 2022/23, considering whether it needs to specify minimum knowledge, training or other requirements for people performing this critical role.* (Paragraph 95)
19. HSE promotes understanding of the dangers of asbestos, technical knowledge exchange and compliance with the asbestos regulations through its participation in domestic and international networks. HSE has also previously invested in significant campaigns targeting those occupations most likely to be exposed to asbestos. Campaigns such as 'Hidden Killer' were widely regarded as successful. However, HSE has invested less in this behavioural work in recent years, seemingly because of a lack of resources. Witnesses also described an absence of similar interventions targeting dutyholders. For those campaigning activities that do continue—through social media for example—HSE cannot say with certainty what their long-term impact is. (Paragraph 101)
20. *HSE should commit to investing more in sustained campaigning work across a range of media, using multiple interventions and synchronising with the development of its wider strategy for asbestos management. It should employ robust evaluation methods to test what messages and which methods achieve the greatest impact on the behaviours of dutyholders and tradespeople.* (Paragraph 102)

## Regulating the asbestos industry

21. Currently in Great Britain, some asbestos removal work does not need to be undertaken by a licensed contractor but some of this will still need to be notified to HSE before work starts. The three-way categorisation of work is confusing and of questionable value. Reducing the number of categories and requiring a greater proportion of asbestos removal to be done by licensed contractors—possibly by

further tightening the control limit on expected asbestos fibre exposures or reducing the types and conditions of asbestos materials that are exempted from licensed work—could lead to fewer accidental exposures and better disposal practices. There is, however, a risk that extending the requirement to use licensed contractors could have unintended consequences and any changes will need to be considered carefully. HSE should use its five-yearly review of the asbestos regulations to assess the merits of the current categorisation of asbestos works. (Paragraph 111)

22. *We recommend that HSE considers how it could consolidate, tighten, and simplify the current categorisation of asbestos works as part of its 2022 statutory review of the Control of Asbestos Regulations. Its review should carefully assess the net behavioural impacts and costs of any changes.* (Paragraph 112)
23. Asbestos surveyors have an important role in helping dutyholders to identify and manage asbestos in premises. We have heard concerns about the variable quality of surveys. It is not clear to us why the regulatory and quality requirements for asbestos surveyors should be less stringent than for analysts who must be UKAS-accredited. (Paragraph 120)
24. Despite their requirement to be accredited, the work of analysts continues to be compromised by regulatory arrangements which allow licensed asbestos contractors to commission their own analysts to check their work. We heard disturbing accounts from several sources that the current model undermines the independence of this critical quality check. Witnesses told us that one simple way of improving standards would be to make it a requirement for the building owner or client to employ the analyst in all circumstances. (Paragraph 121)
25. *We recommend that HSE makes it mandatory for all people conducting asbestos surveys to be accredited by a recognised accreditation body. We also recommend that HSE assesses the impact of making it a legal requirement for building owners or occupiers to commission accredited asbestos analysts to check asbestos work done on their premises and, by extension, making it illegal for asbestos removal contractors to do so.* (Paragraph 122)
26. HSE has an important role in monitoring international developments in approaches to managing asbestos risk, assessing the balance of evidence, and commissioning its own research to understand workplace patterns of asbestos exposure and behaviour. The direction of travel in Europe is towards tighter regulation of asbestos and lower exposure limits which rely on greater use of electron microscopy techniques. These changes may have practical and financial consequences for the way asbestos is managed, including when and how it should be removed. HSE has said that developments in Europe may not necessarily be grounded in the real-world experience of asbestos exposure and a more pragmatic approach is warranted. It also told us that part of the problem in Great Britain is that asbestos is so widespread. Our concern is that an asbestos regulatory policy which prioritises only that which is immediately practical risks tolerating poorer health standards and higher costs over the longer-term. (Paragraph 127)
27. *We recommend HSE ensures its current review of the Control of Asbestos Regulations includes a thorough written assessment of moves towards more stringent asbestos*

*occupational exposure limits in Europe. It should carefully consider their application to the GB context, taking full account of costs and benefits. It should ensure that the extent of the asbestos legacy in Great Britain is not seen as reason to tolerate poorer health standards. (Paragraph 128)*

## Annex 1: Asbestos exposure limits

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1) The fibre exposure limits that currently apply in an occupational setting in Great Britain are:

- **An exposure 'control limit' of 0.1 asbestos fibres per cubic centimetre (cm<sup>3</sup>)** of air, averaged over a continuous 4-hour period. This value is important for determining the practices that employers need to follow under the asbestos regulations. For example, it helps to determine whether work involving asbestos-containing materials needs to be licensed (and subject to additional restrictions on who can do that work) and whether respiratory protective equipment needs to be provided to employees.
- **A 'short-term exposure limit' of 0.6 asbestos fibres/cm<sup>3</sup>** of air. This is the threshold for determining whether exposure to asbestos fibres from work involving asbestos-containing materials is considered sporadic and of low intensity. If work involving asbestos is with lower-risk materials (for example, asbestos cement products), is not expected to exceed the control limit of 0.1 fibres/cm<sup>3</sup> and is not expected to breach the short-term exposure limit of 0.6 fibres/cm<sup>3</sup>, then it does not need to be licensed and carried out by a HSE-licensed contractor.
- **A clearance limit of 0.01 asbestos fibres/cm<sup>3</sup>** of air following completion of work involving asbestos containing materials and subsequent site cleaning. A level below this threshold should be achieved before a site can be cleared for handing back to the owner/occupier. HSE's Code of Practice says that achievement of this level should be regarded "as a transient indication of site cleanliness, in conjunction with the thorough visual inspection, and not as an acceptable, permanent environmental level."<sup>341</sup>

## Annex 2: International approaches

1) The table below gives further details on the approaches to regulating asbestos taken in Germany, The Netherlands and France. It is based on additional evidence supplied by our witnesses Professor Thomas Kuhlbusch (Germany), Professor Alex Burdorf (The Netherlands) and Nicolas Bessot (France).<sup>342</sup> We are very grateful for their time in supporting our inquiry.

Question	Great Britain	Germany	The Netherlands	France
Government Ministries and Agencies responsible for asbestos policy and regulation?	<p>Department for Work and Pensions and the Health and Safety Executive.</p> <p>Office of Rail and Road and local authorities are also responsible for the enforcement of asbestos regulations.</p>	<p>Federal Ministry of Interior and Community is responsible for policy and the regulatory regime where not related to asbestos work.</p> <p>The Federal Ministry of Labour and Social Affairs is responsible for policy and the regulatory regime relating to construction and building repair works involving asbestos-containing materials.</p> <p>Linked to the Federal Ministry of Labour and Social Affairs, the Higher Federal Institute for Occupational Safety and Health (BAuA) conducts research and advises government ministries on work safety regulation, including on asbestos.</p> <p>German Federal States are responsible for the enforcement of asbestos regulations.</p>	<p>Ministry of Social Affairs and Employment</p> <p>The Social and Economic Council of the Netherlands, made up of employers, employees and independent experts also provides advice.</p>	<p>Ministry of Health (where no planned building work)</p> <p>Ministry of Labour (where building work scheduled which may involve asbestos-containing materials)</p> <p>Regional health agencies and General Management of Labour through decentralised Labour Inspectors are responsible for the enforcement of regulations. Company auditors also have a role as part of accounts certification.</p>

342 Nicolas Bessot ([ASB0046](#)); Prof Dr Thomas Kuhlbusch ([ASB0045](#)); Prof. Alex Burdorf ([ASB0047](#)); [Managing and working with asbestos \(hse.gov.uk\)](#) and [Licensable work with asbestos \(hse.gov.uk\)](#)

Question	Great Britain	Germany	The Netherlands	France
Occupational exposure limit(s) (fibres/cm <sup>3</sup> ) for asbestos?	<p>0.1 f/cm<sup>3</sup> control limit (0.6 f/cm<sup>3</sup> short-term exposure limit).</p> <p>0.01 f/cm<sup>3</sup> clearance level indicator following removal of asbestos and before handing cleared site back for general occupancy.</p>	<p>0.1 f/cm<sup>3</sup> (tolerance concentration)</p> <p>0.01 f/cm<sup>3</sup> (acceptance concentration)</p> <p>In Germany a distinction is made between 'tolerance' and 'acceptance' where the former must not be exceeded, and the latter should be achieved.</p> <p>Reducing the acceptance concentration to 0.001 f/cm<sup>3</sup> is being discussed.</p> <p>0.0005 f/cm<sup>3</sup> (clearance level indicator following removal of asbestos and before handing cleared site back for general occupancy)</p>	<p>0.002 f/cm<sup>3</sup> (since Jan 2017)</p> <p>Regulations also make clear that employers are required to reduce asbestos exposure levels to "as low as technically possible".</p> <p>The occupational exposure limit for asbestos is legally binding (and not advisory).</p>	<p>0.01 f/cm<sup>3</sup></p> <p>Regulations also make clear that employers are required to reduce asbestos exposure levels to "as low as technically possible" and therefore to achieve "exposure well below" the occupational exposure limit.</p> <p>0.005 f/cm<sup>3</sup> (clearance level indicator following removal of asbestos, referred to in labour code). Reducing this limit to 0.002 f/cm<sup>3</sup> is being discussed.</p>
Environmental exposure limit(s) for asbestos (fibres/cm <sup>3</sup> )?	No environmental limit value.	No environmental limit value.	<p>0.0028 f/cm<sup>3</sup> Chrysotile (white asbestos)</p> <p>0.0003 f/cm<sup>3</sup> Amphibole (includes amosite or brown asbestos)</p> <p>Described as a "desirable limit, used for evaluation in accidental asbestos release"</p>	<p>0.005 f/cm<sup>3</sup></p> <p>Described as "a threshold beyond which the owner of a building must take certain actions (such as removing certain materials or products containing asbestos)"</p> <p>Lowering the environmental exposure limit to 0.002 f/cm<sup>3</sup> is being discussed.</p>

Question	Great Britain	Germany	The Netherlands	France
Can asbestos remain in situ if found?	Asbestos containing material can stay in buildings if the asbestos is in good condition, well-protected and unlikely to be disturbed.	<p>Asbestos containing material can stay in buildings if the asbestos is intact and firmly embedded, and no release of asbestos fibres can be expected.</p> <p>Asbestos must be removed from any building once it is handled (what constitutes 'handling' is defined in guidance).</p>	<p>Asbestos containing material can stay in buildings if the asbestos is intact and no release of asbestos fibres can be expected.</p> <p>Asbestos must be removed if there is a risk of fibre release from friable material, or when buildings are being renovated or retrofitted.</p>	<p>Asbestos containing material can stay in buildings if the asbestos is intact and no release of asbestos fibres is expected (above 0.005 f/cm<sup>3</sup>).</p> <p>If the asbestos-containing material is degraded and is releasing more than 0.005 f/cm<sup>3</sup> then the building owner will be required to reduce the exposure risk. This may include removal.</p> <p>Where building works are scheduled including removal of building components, and if asbestos is present in the scope of the operation and in those components, then this asbestos must be removed even if it is in good condition.</p> <p>Where it is deemed acceptable to leave asbestos in situ, depending on the category of material, the regulations may require building owners to have asbestos reviewed at least every 3 years to assess its condition.</p>

Question	Great Britain	Germany	The Netherlands	France
Do asbestos surveyors of non-domestic buildings have to be accredited or certified?	No formal certification or accreditation is legally required.	No formal certification or accreditation is legally required.	Yes ('Ascert' scheme).	Yes. Two levels of certification operate (including a certification requirement for training providers).
Is an asbestos management plan required for non-domestic buildings?	Yes	Advised, but not required.	Yes, as part of the 'Risk Inventory and Evaluation' for the building.	Yes, as part of an asbestos technical file
Is routine air monitoring of asbestos conducted in non-domestic buildings in addition to visual inspection?	No. Air sampling is used for risk assessment work and following completion of works involving asbestos-containing materials to check that clearance levels have been achieved.	No. Air sampling is used for risk assessment work and following completion of works involving asbestos-containing materials to check that clearance levels have been achieved.	No. Air sampling usually limited to evaluating the level of risk after visual discovery.	Yes, for some categories of asbestos-containing materials, to ensure that fibre values are less than 0.005 f/cm <sup>3</sup> .
When air monitoring of asbestos fibres is conducted, what microscopy technology is routinely and mostly used for this?	Phase contrast microscopy.	Scanning electron microscopy most frequently used method  Phase contrast microscopy is also used for the analysis of asbestos in air in workplaces	Phase contrast microscopy is used for "regular situations".  Scanning electron microscopy is used "for high-risk situations that require notification to the national asbestos tracking system for removal of asbestos."	Transmission electron microscopy

Question	Great Britain	Germany	The Netherlands	France
Is a national register of asbestos in non-domestic buildings maintained?	No	No	Yes, two national registers of asbestos in public buildings:  -Digital asbestos register: consultancy run; not open access; technical drawings etc.  -Inventory of asbestos in primary and secondary schools: map of school buildings with asbestos information; open access.	No
Do contractors removing asbestos need to be licensed?	Yes, for work expected to exceed the control limit of 0.1 f/cm <sup>3</sup> , or the short-term exposure limit or involving certain higher risk asbestos-containing materials such as asbestos insulating board.  No, for lower risk work not expected to exceed the control limit or the short-term exposure limit or, for example, involving asbestos cement products.	Yes	Yes Some exceptions where asbestos volume is small and deemed low risk.	Yes

# Formal minutes

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**Wednesday 30 March 2022**

## **Members present:**

Rt Hon Stephen Timms, in the Chair

Debbie Abrahams

Siobhan Baillie

Steve McCabe

Nigel Mills

Selaine Saxby

Dr Ben Spencer

Chris Stephens

Sir Desmond Swayne

Draft Report (*The Health and Safety Executive's approach to asbestos management*), proposed by the Chair, brought up and read.

*Ordered*, That the draft Report be read a second time, paragraph by paragraph.

Paragraphs 1 to 128 read and agreed to.

Summary agreed to.

Annexes agreed to.

*Resolved*, That the Report be the Sixth Report of the Committee to the House.

*Ordered*, That the Chair make the Report to the House.

*Ordered*, That embargoed copies of the Report be made available, in accordance with the provisions of Standing Order No. 134.

## **Adjournment**

[Adjourned till Wednesday 20 April at 9.00 am.]

## Witnesses

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The following witnesses gave evidence. Transcripts can be viewed on the [inquiry publications page](#) of the Committee's website.

### Wednesday 17 November 2021

**Prof. Thomas Kuhlbusch**, Head of Hazardous Substances Management, The Federal Institute for Occupational Hygiene and Health (BAuA), Germany; **Prof. Alex Burdorf**, Head of Department of Public Health, Erasmus MC, Rotterdam, The Netherlands; **Nicolas Bessot**, Head of the Office of Chemical, Physical, Biological and Occupational Diseases, Ministry of Labour, Employment and Integration, France; **Charles Pickles**, Asbestos campaigner, The Airtight on Asbestos Campaign

[Q1–29](#)

**Gill Reed**, Technical Adviser, The Joint Union Asbestos Committee; **Tony Hood**, National Head of Asbestos Strategy, Thompsons Solicitors; **Joanne Gordon**, Chair, The Asbestos Victims Support Groups' Forum UK; **Liz Darlison**, Chief Executive Officer, Mesothelioma UK

[Q30–57](#)

### Wednesday 15 December 2021

**Prof Julian Peto**, Professor of Epidemiology, London School of Hygiene and Tropical Medicine; **Clare Gilham**, Assistant Professor, London School of Hygiene and Tropical Medicine; **Prof John Cherrie**, Emeritus Professor of Human Health, Heriot Watt University; **Prof Kevin Bampton**, Chief Executive Officer, British Occupational Hygiene Society and the Faculty of Asbestos Assessment and Management

[Q58–82](#)

**Darren Evans**, Management Committee Member, Asbestos Testing and Consultancy Association; **Ruth Wilkinson**, Head of Health and Safety (Policy and Operations), Institution of Occupational Safety and Health; **Graham O'Mahony**, Chair, UK Asbestos Training Association

[Q83–96](#)

### Wednesday 2 February 2022

**Sarah Albon**, Chief Executive, Health and Safety Executive (HSE); **Professor Andrew Curran**, Chief Scientific Adviser, Health and Safety Executive (HSE); **Chloe Smith MP**, Minister for Disabled People, Health and Work, Department for Work and Pensions

[Q97–190](#)

## Published written evidence

The following written evidence was received and can be viewed on the [inquiry publications page](#) of the Committee's website.

ASB numbers are generated by the evidence processing system and so may not be complete.

- 1 AEC ([ASB0005](#))
- 2 ATaC - Asbestos Testing and Consultancy Association ([ASB0022](#)), ([ASB0038](#))
- 3 Airtight on Asbestos ([ASB0016](#)), ([ASB0033](#)), ([ASB0039](#))
- 4 Asbestos Support Central England ([ASB0008](#))
- 5 Asbestos Victims' Support Groups Forum; and DAST ([ASB0002](#))
- 6 Asbestosregister.com ([ASB0031](#))
- 7 Bessot, Nicolas ([ASB0046](#))
- 8 British Occupational Hygiene Society ([ASB0025](#)), ([ASB0041](#))
- 9 Burdett, Dr Garry (Fellow, Retired) ([ASB0017](#))
- 10 Burdorf, Prof. Alex ([ASB0047](#))
- 11 Communication Workers Union ([ASB0032](#))
- 12 Peto FRS, Professor Julian (Professor of Epidemiology, London School of Hygiene and Tropical Medicine) ([ASB0036](#)), ([ASB0042](#))
- 13 Fox, Andy (Telecoms Engineer, Network Rail) ([ASB0015](#))
- 14 GMB Union ([ASB0029](#))
- 15 Gardner, Dr Brian (Director, Ethos Environmental Ltd) ([ASB0013](#))
- 16 Greater Manchester Asbestos Victims Support Group ([ASB0001](#))
- 17 Health and Safety Executive (HSE) ([ASB0026](#)), ([ASB0049](#))
- 18 Howie, Robin ([ASB0043](#))
- 19 Institute of Occupational Medicine ([ASB0006](#))
- 20 Institution of Occupational Safety and Health (IOSH) ([ASB0040](#))
- 21 Joint Union Asbestos Committee ([ASB0011](#)), ([ASB0035](#)), ([ASB0044](#))
- 22 Kuhlbusch, Prof Dr Thomas ([ASB0045](#))
- 23 London Fire Brigade ([ASB0019](#))
- 24 Mesothelioma UK ([ASB0034](#)), ([ASB0037](#))
- 25 NAHT ([ASB0018](#))
- 26 NASUWT - The Teachers' Union ([ASB0024](#))
- 27 Robin Howie Associates ([ASB0021](#)), ([ASB0048](#))
- 28 SOCOTEC Asbestos Ltd ([ASB0004](#))
- 29 Science Museum Group ([ASB0027](#))
- 30 Stone, Neal (Partner, The Blue House Partnership) ([ASB0012](#))
- 31 Thompsons Solicitors ([ASB0009](#))
- 32 Tod, Professor Angela (Professor, University of Sheffield); and Gardiner, Dr Clare (Dr, University of Sheffield) ([ASB0007](#))

- 33 Trades Union Congress ([ASB0030](#))
- 34 UK Hazards Campaign ([ASB0020](#))
- 35 UK Mesothelioma Alliance ([ASB0014](#))
- 36 UKNAR CIC ([ASB0023](#))
- 37 UNISON ([ASB0003](#))
- 38 Unite Union ([ASB0028](#))
- 39 Yorkshire and Humberside Asbestos Victims' Support Group (SARAG) ([ASB0010](#))

# List of Reports from the Committee during the current Parliament

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All publications from the Committee are available on the [publications page](#) of the Committee's website.

## Session 2021–22

Number	Title	Reference
1st	DWP's preparations for changes in the world of work	HC 216
2nd	Disability employment gap	HC 189
3rd	Children in poverty: Measurement and targets	HC 188
4th	Pension stewardship and COP26	HC 238
5th	Protecting pension savers—five years on from the Pension Freedoms: Accessing pension savings	HC 237

## Session 2019–21

Number	Title	Reference
1st	DWP's response to the coronavirus outbreak	HC 178
2nd	The appointment of Dr Stephen Brien as the Chair of the Social Security Advisory Committee	HC 733
3rd	Universal Credit: the wait for a first payment	HC 204
4th	The temporary increase in Universal Credit and Working Tax Credit	HC 1193
5th	Protecting pension savers—five years on from the pension freedoms: Pension scams	HC 648
6th	The appointment of Sarah Smart as Chair of the Pensions Regulator	HC 1358