

## Written evidence from the National Association of Headteachers (NAHT) (ASB0018)

### About NAHT

NAHT welcomes the opportunity to respond to the Department for Work and Pensions (DWP)'s call for evidence on the Health and Safety Executive's approach to asbestos management.

NAHT is the UK's largest professional association for school leaders. We represent more than 34,000 head teachers, executive heads, CEOs, deputy and assistant heads, vice principals and school business leaders. Our members work across the early years, primary, special and secondary schools; independent schools; sixth form and FE colleges; outdoor education centres; pupil referral units, social services establishments and other educational settings.

In addition to the representation, advice and training that we provide for existing senior leaders, we also support, develop and represent the senior leaders of the future, through NAHT Edge, the middle leadership section of our association. We use our voice at the highest levels of government to influence policy for the benefit of leaders and learners everywhere.

### NAHT and JUAC

NAHT's campaigning work on asbestos management on the school estate is through the Joint Union Asbestos Committee (JUAC).

This NAHT consultation response should therefore be read in conjunction with the more detailed and technical response which JUAC has also submitted.

JUAC is a non-party political group that seeks to protect education workers and pupils from the dangers of asbestos in educational buildings. JUAC campaigns to raise awareness about asbestos in educational buildings and for improved asbestos management.

The dangers of asbestos in schools are self-evident. Asbestos is present on site at 83.5% of schools according to Department for Education (DfE) figures<sup>1</sup>. According to HSE data<sup>2</sup>, altogether, 380 teachers (aged under 75) have died from mesothelioma between 1980 and 2010.

The GB Occupational Mesothelioma Statistics indicate that teacher deaths from mesothelioma – a cancer associated solely with exposure to asbestos - increased from 15 a year between 1980 to 1985 up to 85 a year between 2011-2015.

NAHT, and JUAC, believe that in order to eradicate the risk in schools, there needs to be:

- An independent review of current Government policy to manage asbestos rather than remove it.
- a Government-funded phased removal of all asbestos from educational buildings, starting with the most dangerous first.

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[https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/906343/AMAP\\_Report\\_2019.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/906343/AMAP_Report_2019.pdf)

2 \* <https://www.hse.gov.uk/statistics/causdis/mesothelioma/mesothelioma-mortality-by-occupation.pdf>

- a Government audit which collects and shares data centrally on the extent, type and condition of asbestos in all educational establishments.
- Government support for duty holders through provision of funded mandatory training.

**The Committee would like to hear views on the following questions. You don't have to answer all of the questions. You can respond on behalf of an organisation, or as an individual.**

- **What are the current risks posed by asbestos in the workplace? Which groups of workers are most at risk?**

Asbestos remains the UK's number one occupational killer, causing more than 5,500 deaths a year (according to research by Respublica, 2019) in turn based on HSE data. And yet more than four-fifths of schools still have asbestos on site.

Twenty-two years on from the full ban on asbestos in construction, its presence in so many older school buildings remains a national problem. There are still **six million tonnes of asbestos in the UK**, most of which is in over 1.5 million buildings across our public estate, including schools<sup>3</sup>.

The dangers of asbestos in schools are self-evident. Asbestos is present on site at 83.5% of schools<sup>4</sup>. According to HSE data<sup>5</sup>, altogether, 380 teachers (aged under 75) have died from mesothelioma between 1980 and 2010. However, this is likely to be an underestimate, as mortality rates from mesothelioma are higher among the over-75s. And in addition to these teaching staff figures, as JUAC note, according to HSE data for the period 2003-17, eight school secretaries, ten nursery nurses, three teaching assistants and 22 midday assistants died of mesothelioma.

It has been estimated that former teachers in schools between 1960-1980 have about **five times more deaths** from mesothelioma than expected in populations not exposed to asbestos<sup>6</sup>.

Although there is no complete national register of asbestos location in schools, the Department for Education (DfE)'s Asbestos Management Assurance Report (2019) indicates that as many as **83.5% of schools have asbestos on site**: *"findings indicate that 80.9% of participating schools, in England, have some asbestos present. We recognise the potential for response bias in the survey which could increase that percentage to 83.5% if all non-respondents have asbestos."* While this was a voluntary survey, it attracted a very high response rate.

Pupils, teachers, other educational and non-teaching staff in schools are therefore still exposed to the potential dangers of asbestos on a daily basis. Given that level of exposure and the high prevalence of asbestos in the school estate, there is strong

<sup>3</sup> \* <https://www.respublica.org.uk/wp-content/uploads/2019/11/Asbestos-Report-Final.pdf>

<sup>4</sup> \*

[https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/906343/AMAP\\_Report\\_2019.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/906343/AMAP_Report_2019.pdf)

<sup>5</sup> \* <https://www.hse.gov.uk/sTATIsTICs/causdis/mesothelioma/mesothelioma-mortality-by-occupation.pdf>

<sup>6</sup> \* Robin Howie, Robin Howie Associates, Edinburgh. Mesothelioma deaths in teachers and nurses in Great Britain. Environmental Health Scotland, Volume 29 No 4 2017 pages 35-37.

reason to believe that they could be at a disproportionately high risk of asbestos-related illness and death, considered alongside other comparable professions.

While all types of asbestos have been banned from new buildings in the UK since 1999, and some types since 1985, teacher deaths from asbestos-related illnesses have continued to rise in the last twenty years. According to the HSE Mesothelioma Mortality by Occupation Statistics in Great Britain, 2021<sup>7</sup>, Mesothelioma deaths in major occupation group 2 (professional, including teaching and educational professionals) amongst female members of the population (the education workforce being predominantly female) have increased statistically significantly over the last 20 years.

Of further concern is that the official statistics for occupation only look at people under 75, yet wider HSE statistics<sup>8</sup> suggest that more than half of all annual deaths caused by mesothelioma now occur in those aged over 75, due to the long latency period of mesothelioma. The occupational statistics are therefore likely to be a significant underestimation, given that they only consider those individuals aged 75 years or younger.

### ***Asbestos and the school estate***

Schools are simply not like other workplaces. In no other workplace do employers have nearly nine million children and young people sharing the buildings with them. This shared occupancy by adults and young people of course leads to a higher risk of asbestos disturbance than in other workplaces and normal school activities can routinely disturb asbestos. This leads to increased risk for everyone in the school environment, adults and young people alike.

The risk is then exacerbated by the state of the school estate – which the DfE's own data (Condition of School Buildings Survey, May 2021) acknowledges is in need of £11.4 billion of investment - is more prone to lead to asbestos fibres becoming exposed and released.

In addition, much of the built structures which contain asbestos in schools are old and in a deteriorating condition. This makes it even harder, or impossible, to avoid fibres being released as the buildings deteriorate.

There is frustratingly limited hard data available on the full extent on morbidity and mortality resulting from mesothelioma. In July 2021, JUAC published its report "Continuing Government Failure Leads to Rise in School Mesothelioma Deaths: Are pupils and staff any safer today?"<sup>9</sup> on asbestos-related illness and death and the school workforce. The report was based returns from sixty CLASP Mark 4/4b school system buildings. In light of the limited data available, JUAC undertook preliminary research and analysis to attempt to understand the risk to former pupils and staff in CLASP schools.

CLASP- type system buildings were chosen as they are known to have substantial amosite asbestos throughout and so are more likely to have been attended by former teacher and pupil mesothelioma victims.

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<sup>7</sup> \* (<https://www.hse.gov.uk/sTATIsTICs/causdis/mesothelioma/mesothelioma-mortality-by-occupation.pdf>)

<sup>8</sup> (<https://www.hse.gov.uk/statistics/causdis/mesothelioma/mesothelioma.pdf>)

<sup>9</sup> (<https://the-juac.co.uk/wp-content/uploads/2021/07/Continuing-Government-Failure-leads-to-rise-in-school-mesothelioma-deaths-JUAC-REPORT-02-07-2021-FINAL1.pdf>)

The report and its conclusions were based on a range of evidence. The number of mesothelioma deaths was estimated using mesothelioma national statistics and research data. Asbestos management was evaluated in 60 system-built schools that were reported to have substantial asbestos throughout. Asbestos surveys, registers and asbestos management plans were obtained by a Freedom of Information request and checked for evidence of compliance with HSE asbestos management guidance and the main asbestos locations.

Based on that sample evidence, JUAC has estimated that :

- An estimated 5,000 to 10,000 former pupils and staff have already died from mesothelioma due to asbestos exposure in their former schools in the 1960s-80s
- there have been 692 total teacher deaths from exposure since 1980. This is likely to be an underestimate.
- between 2011 – 2015 the total number of former pupil deaths from mesothelioma ranged from a minimum of 100 to a maximum of 1,500 deaths. (Pupils exposed to asbestos in school during the 1960s and 1970s)
- it is likely that over 300 support staff aged 75 and over died from mesothelioma.
- there will be a potentially much bigger wave of mesothelioma deaths of former pupils who were in schools in the 1990s, given demographic trends, school capital works and the length of the incubation period.

Whilst these are only estimations based on the limited data we currently have, the figures are extremely concerning and warrant further, more detailed analysis and consideration.

As noted above, the potential for asbestos exposure is likely to be higher in CLASP schools today than in 1960-1980s because additional damage is largely caused by renovation, maintenance and building deterioration.

The Committee on Carcinogenicity<sup>10</sup> concluded that *“From the available, albeit limited, data it is not possible to say whether children are intrinsically more susceptible to asbestos-related injury. However, it is well recognised by this committee that, due to the increased life expectancy of children compared to adults, there is an increased lifetime risk of mesothelioma as a result of the long latency period of the disease.”* So children and young people are known to be more vulnerable to suffering from the effects of asbestos exposure given that it occurs early in their life and given the long latency period.

It is also true that the average age of the teaching profession is increasingly becoming younger and so the risk of developing illness, given the long latency period, is also increased.

School leaders are working tirelessly to fulfil the responsibilities delegated to them by their employer (the dutyholder) under the Control of Asbestos Regulations 2012 to manage asbestos in school buildings. This is despite a lack of national mandatory training for those with delegated responsibility for managing asbestos and a lack of appropriate resourcing being made available to fulfil this role.

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<sup>10</sup> (<https://www.gov.uk/government/publications/relative-vulnerability-of-children-to-asbestos-compared-to-adults>)

Many schools have excellent systems in place to manage asbestos, but given the age and potential for degradation, together with the increased risks from the normal use of the workplace, this creates a changing situation which requires constant vigilance.

This is against a background of reductions in school capital funding as well as funding overall for schools and local authorities which means that schools could not be supported from these sources in meeting their delegated duties. The recently announced school capital rebuilding programme will only address the needs of 100 schools - 0.4% of the school estate - in the first instance.

NAHT's recent survey on school funding ("A Failure To Invest: The State of School Funding in 2021" 8 September 2021)<sup>11</sup> found that 83% of school leaders do not believe they have sufficient capital funding to maintain their existing buildings and facilities. And 88% of school leaders regard the capital funding they receive as insufficient to develop and improve their building and facilities to meet the needs of pupils.

Schools and their leaders are on the whole managing asbestos in the school estate well, despite the difficulties they face in doing so.

There is not an overall picture of asbestos location across the whole school estate. Given the lack of any central record of where asbestos is to be found, it is not clear how HSE can regulate effectively nor how DfE can know what level of support and funding is required. This has implications for funding, removal and oversight at a national level. There is no ring-fenced funding available to schools for the prohibitively expensive process of asbestos removal.

**In summary, we believe the sheer volume of asbestos currently in the school estate is a continuing crisis for our schools and everyone who works or learns within them, which needs to be addressed as a matter of urgency.**

- **How effective is the current legislative and regulatory framework for the management of asbestos?**

JUAC firmly believes the current Government policy does not safeguard the health of children and school staff. As outlined above, schools are unique workplaces, with particular risk factors, that NAHT believes are not effectively taken into consideration through the current regulations, which apply to all sectors.

As a result, we believe that the framework is not effective, since three-quarters of the school estate still includes asbestos which we believe needs systematic removal. The Control of Asbestos Regulations 2012 state that asbestos should be maintained in situ, managed and in some cases encapsulated rather than removed, provided it is in a 'good condition and well protected either by its position or physical protection'.

NAHT believes that there should be an independent review of this policy to manage asbestos in situ. NAHT believes that all asbestos in schools should be removed, starting with the most dangerous first. This is because it is extremely difficult, and in some cases impossible for asbestos in schools to be managed safely.

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<sup>11</sup> (<https://www.naht.org.uk/Our-Priorities/Funding/ArtMID/724/ArticleID/1223/A-failure-to-invest-the-state-of-school-funding-2021>)

The HSE requires a duty holder to 'identify the location and condition of asbestos in non-domestic premises' and keep a written record of this in order to 'manage the risk and prevent harm'. In most instances this duty holder would be the owner or leaseholder of the premises, but often in schools this duty is delegated to school leaders.

HSE does not hold a central register or database that accurately records any such information, including which types of asbestos are present in which buildings or in what quantity.

The fifty school inspections which the HSE undertook during 2018/19 have still not had their overall findings reported. This is disappointing, as these inspection findings could have helpful learnings for other schools.

**Overall, there appears to be no regime for systematic audit and inspection in our schools and other public buildings; this is not an effective regulatory framework for managing asbestos.**

- **How does HSE's approach to managing asbestos compare to the approach taken in other countries? Are there lessons that the UK could learn from best practice elsewhere?**

NAHT is not best placed to make judgements on how other countries manage asbestos. However, it would seem to be sensible for the HSE to ensure it is considering approaches adopted elsewhere in the world and using the findings when considering the approach taken in the UK.

Asbestos is a greater problem in the UK than in other comparable countries. As the 2019 ResPublica report "Don't Breathe In: Bridging the Asbestos Safety Gap"<sup>12</sup> sets out, the UK imported more asbestos per capita than any other European country. Consequently, the UK has the highest rate of asbestos-related deaths when compared to those countries.

As the ResPublica report further highlights, asbestos removal initiatives are now ongoing in Belgium, the Netherlands, Italy and Poland. As an example, Poland, which has 13 million tonnes of asbestos in place, has also made a commitment to remove all asbestos by 2032. The European Parliament has called for the removal of asbestos from all European public buildings by 2028

In 2013, Australia set up an Asbestos Safety and Eradication Agency with the specific goal of removing asbestos from public and commercial buildings with a view to eliminating asbestos-related disease in the country.

NAHT notes the findings highlighted by the ResPublica report which suggests that the UK's regulations allow a 'clearance level' of airborne asbestos which is five times greater than the 'environmental limit' allowed in France and ten times greater than the acceptable 'Occupational Exposure Limit' in Germany. (UK – 10,000 fibres per cubic metre / 0.01f/cm<sup>3</sup>, Germany 0.0001 f/cm<sup>3</sup>). The findings also note that the way in which the UK measures airborne asbestos fibres, using phased contrast

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<sup>12</sup> (<https://www.respublica.org.uk/our-work/publications/dont-breathe-in-bridging-the-asbestos-safety-gap/>)

microscopy, is also less accurate than the techniques used in Germany, France and the Netherlands which use electron microscopy.

NAHT is concerned by these suggestions, and the implication that children and staff in the UK are likely to be exposed to far greater risk than those in other countries.

- **How does HSE measure and report its progress in mitigating the risks of asbestos?**

As noted above, the findings from the fifty school HSE inspections conducted during 2018/19 have still not been reported (the most recent ones published date from 2013/14), and so no lessons can be learned from them.

The HSE process would therefore benefit from being clearer and more transparent and set out tangible outcomes that schools can act on.

- **Does HSE keep adequate records of asbestos in public buildings?**

No. There is not currently a complete record of the amount and location of asbestos in the school estate, whether held by HSE or DfE. This is not adequate record-keeping.

The recently re-opened Asbestos Management Assurance Process (AMAP), run by the Department for Education, should help in correcting this, although it is only a voluntary survey. Schools are currently completing their returns to DfE by the deadline of 29 October 2021.

DfE is also collecting data through the Condition Collection Data 2 programme. We are however concerned that this may not be as detailed as the AMAP survey, given the broader remit of the survey. It will also be important for this data to be utilised to share the overall findings with the sector, as was the case with the AMAP data, to ensure there is as clear a picture as possible on the state of asbestos and its management in the education sector. Without this, it raises concerns on how the HSE can effectively undertake its regulatory role.

- **Is HSE making best use of available technology and systems to monitor the safety of asbestos which remains in buildings?**
- **Does HSE commit adequate resources to asbestos management in line with the level of risk?**

The amount of funding HSE receives has *reduced* in recent years, from £142.6m in 2015–16 to 129.2m in 2019–20. NAHT is concerned that this significant reduction in funding for the HSE from government means it is extremely unlikely that the HSE will be able to dedicate the resources required to manage asbestos effectively.

As noted above, the UK has a higher use of asbestos than in other comparable countries. The risk in our schools, set out above, is considerable, alarming and in need of urgent action

As a member of JUAC, NAHT believes that given the important remit that the HSE holds in oversight and management of asbestos it is critical that HSE have appropriate and sufficient resources to undertake this.

This includes ensuring the HSE has the ability to provide greater support for the sector, including sharing lessons learned and good practice with the sector and supportive visits from the HSE where appropriate to ensure that education establishments are able to manage asbestos effectively.

Yet the HSE has only undertaken a small number of proactive inspections in the last few years, and the outcomes of those reports have not yet been made public. The most recent report on sample inspections dates from 2013/14.

This is despite the fact that in 2014, the All Party Parliamentary Group<sup>13</sup> recommended that proactive HSE inspections in schools, ensuring targeted inspections of asbestos should be reinstated:

To be able to effectively undertake this, it is critical that HSE has sufficient resources.

- **How robust is the available data about the risks and impact of asbestos in the workplace? What gaps in evidence need to be filled?**

Occupational statistics are only based on the last known occupation. With many teachers leaving education (around 30% leave the profession within the first three years) it cannot be established with any certainty whether exposure occurred in schools. There are limited statistics available for other educational staff working in schools. Nor is there any data on the pupils themselves.

And as noted above, the official HSE statistics for occupation only look at people under 75 years, yet wider HSE statistics suggest there is a higher risk post-75 due to the longer latency period, so this is likely to be a significant under-estimation.

In addition, in 2015 the DfE committed to “*working actively with the HSE to establish the feasibility and optimal design of a new study into the background level of asbestos fibres in schools.*”<sup>14</sup> To the best of our knowledge, this has not yet occurred.

We also believe that, in line with commitments made by the Government in the 2015 Asbestos Policy Review, the government should prioritise the development of school

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[https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/412466/The\\_management\\_of\\_asbestos\\_in\\_schools\\_a\\_review\\_of\\_Department\\_for\\_Education\\_policy.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/412466/The_management_of_asbestos_in_schools_a_review_of_Department_for_Education_policy.pdf)

<sup>14</sup>

[https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/412466/The\\_management\\_of\\_asbestos\\_in\\_schools\\_a\\_review\\_of\\_Department\\_for\\_Education\\_policy.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/412466/The_management_of_asbestos_in_schools_a_review_of_Department_for_Education_policy.pdf)

specific risk assessments, asbestos air tests and environmental levels which take account of the vulnerability of children to asbestos exposure.

More widely, there is also a gap in the public understanding about the risk to pupils, and all those who work in schools, given that over four-fifths of the school estate contains asbestos to this day. The HSE should have appropriate and sufficient resources to address this risk.

- **Is HSE drawing on a wide body of international and national regulatory and industry expertise to inform its approach to the management of asbestos safety in buildings?**

NAHT is not able to respond to this question. But there is a need for HSE to learn from best practice wherever it is to be found, given the ongoing extent of the problem and the approaches being adopted by several other countries.

- **How effectively does HSE engage with external stakeholders and experts about its approach to the regulation of asbestos?**

We believe there is room for improvement here. NAHT enjoyed positive engagement with HSE in 2019 and this fed into the DFE's revised guidance on managing asbestos. However, since then we have had only limited engagement.

NAHT believe that HSE would benefit from being funded appropriately so that it can carry out its remit effectively. This should include allowing them to hold more regular, scheduled meetings with the education unions on approaches to managing asbestos

This is particularly important given the reductions in funding to HSE in recent years and the consequent effect to its ability to be aware of the extent of the problem of asbestos in the school estate. And as a result, its ability to address and effectively remove this risk, to safeguard the health and safety of the nation's pupils, teachers and all those who work on school premises.

**September 2021**