

**Written evidence from ATAC. Asbestos Testing and Consulting Trade association
(ASB0022)**

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.

This response has been produced on behalf of ATAC. ATAC is a trade body representing UKAS accredited organisations who undertake asbestos surveys. Our membership has extensive experience of dealing with asbestos in a wide range of properties and the management committee which produced this response has over 200 combined years experience of managing asbestos. Members of the ATAC management team also sit on a wide range of industry working groups.

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

Before answering this question it is important to understand that our current regulatory framework has developed from the requirements of the Health and Safety at Work Act to address occupational exposure. This framework is not suited to those that are at risk from asbestos in non-occupational settings, including children of all ages in education as well as those within domestic premises such as those in properties managed and maintained by Housing Associations and local authorities. Until the asbestos regulations are changed to specifically reference these groups and exposure beyond the workplace then our process of asbestos management will not change and the risk to those not at work will still be present.

Asbestos issues have clearly moved from being a workplace risk when as a nation we were manufacturing and installing asbestos. It is now a wider societal risk and should be treated as such. The HSE was established in January 1975 and despite the concerted effort over the last 46 years, the HSE has still not managed to reduce the impact of asbestos deaths in the UK.

This is a political issue ignored by successive Governments and a fundamental review of how we perceive, manage and deal with asbestos is long overdue. In the past 46 years, the number of asbestos deaths has increased rather than reduced. Recent research has suggested that 1 in 5 mesothelioma sufferers have also contracted Covid-19. We therefore need to ensure that the deaths are correctly attributed and not lost within the Covid death toll which may give a skewed and false picture that our current controls are working.

In June 2017 we watched in horror on our TVs as the tragic circumstances of the fire at Grenfell Tower happened with the loss of 72 lives. None of these lost lives were in a workplace, but in their homes. As a result of this we are witnessing sizable changes to the

way we manage domestic properties in terms of fire risk, with the creation of a new regulatory department, the Building Safety Regulator. The Government has made available £5 billion through the Building Safety Fund for the removal of cladding. Yet at the same time, the HSE acknowledges that over 5,500 people annually die of historic asbestos exposure, while the resources available to deal with workplace asbestos exposure are systematically reduced. The current HSE policy of 'leave and manage' does not work in buildings that are old, lacking maintenance and coming to the end of their life.

Leave and manage materials in building that are old and lack maintenance. The question needs to be asked: Why hasn't the same level of funding been made available to deal with asbestos we have in our schools, hospitals or social housing?

In terms of at risk groups, the HSE will say it is tradesmen and those undertaking maintenance work in buildings that are at the most risk. While this is true, others are also at risk and evidence is available that clearly suggests that the younger you are when first exposed to asbestos the greater the risk. At some point in time we have all attended a school, over 80% of which contain asbestos (see various Freedom of Information requests), and this is a common thread that links us all.

We lack research on the long term cumulative risks of low level exposure to asbestos which means we do not know if the risk to an individual who is exposed daily to low levels of asbestos below the Control Limit is the same as the risk to someone who has been exposed only once at a high level once that is above the Control Limit. The WATCH committee was looking at this but no progress has been made in recent years. The risk to a child first exposure at the age of 5 is 5 times greater when compared to an adult first exposed at age 30. (Committee on Carcinogenicity, May 2013)

In its most recent version of the Analysts' Guide (HSG248) the HSE has conceded that we have no known threshold of exposure which will result in no risk (page 7). Given this our approach must change from leave and manage to a phased approach to removal based upon risk.

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

The framework associated with the removal and treatment of asbestos is well established with generally robust systems in place for the approval of contractors undertaking the highest risk work.

However, as the perceived risk diminishes the controls and monitoring of contractors is less effective. For example we have a regulatory process for the notification of non-licensed

notifiable works but this information is not used by HSE to assess contractor compliance with the regulations and or guidance.

One issue regarding managing asbestos in buildings that does stand out is that we frequently see cases where general building contractors have removed asbestos without any regard to the controls or the licensing requirements. In many of the cases the subsequent fines do not reflect what the true cost of the works would have been if conducted correctly.

The biggest shortfall in the current framework relates to the requirements and scope of the duty to manage. The regulations apply to workplaces and common areas of blocks but ignores the occupied areas, especially in social housing. In this sector compliance has become for some organisations a tick box exercise. Elsewhere in Europe asbestos reports are a compulsory element of every house sale but not in the UK.

Recently as an example a member organisation completed re-inspections for a large Housing Association as this is one of the measures of compliance which they use. In doing this they found a large number of asbestos items which had previously been reported as damaged still in a poor condition, no work had been undertaken as the measurement of compliance was had the re-inspection been undertaken? The consideration of providing a safe environment for our residents was not considered as part of the compliance requirement.

In 2016 the Department for Education undertook an exercise to gauge the level of compliance in schools with the duty to manage asbestos. Only 25% of schools in the country responded despite repeated reminders and extensions to the deadline. And despite being run as a self-declaration process, there were still 19% of schools self-declaring as being not compliant. If this figure is extrapolated to the entire school estate there would be approximately 4200 schools potentially putting children, teachers and other staff at risk. (see Asbestos Management Data Collection Report, DfE February 2017).

It is worth adding that statutory asbestos re-inspections are not being undertaken by clients as standard, with many still under the impression it is optional and not a mandatory requirement. This includes the majority of schools and universities that we interact with regularly.

The measures of compliance need to be reviewed with a requirement to report all damaged ACM's in the same manner as RIDDOR. The review should look at how this is treated overseas, so for example if an accredited surveyor recommends a course of action then it should be a legal requirement for the duty holder to fulfil this requirement.

Enforcement of the Duty to Manage does not sit well with HSE, they are an under-resourced organisation, and so the responsibility should be transferred to a local level Environmental

Health Officers tasked with reviewing asbestos compliance alongside food hygiene inspections. Audits should be being undertaken on schools and the NHS estate and more should be done to ensure social landlords are not ignoring the risk, with requirements being introduced to remove asbestos while properties are void or when major works are being undertaken.

Those generally tasked with management of asbestos lack the training and experience to do this adequately. This is something that has been highlighted as a problem for all areas of compliance and potentially resolved with the Building Safety Manager to deal with fire but is still lacking an equivalent for asbestos compliance.

- 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?

The current approach to managing asbestos appears to be one that focuses on the provision of tools to facilitate management. These tools are in places complex with different algorithms, but the main feature that is missing is the clear guidance on what to do. If something scores high the guidance doesn't advise you on the next step.

We can clearly see this with schools, guidance has been issued, but this is often not understood or at worst ignored which is why recent evidence has identified non-compliance based on questionnaires. When others have followed this approach and then followed it up by site visits the difference between what is said and what is done are marked. Schools in the UK need to consider the approach adopted in the US using its AHERA standards.

It is important that the nation's position on this is clear, as in the coming decades we strive to achieve a Net Zero carbon economy, and give due consideration to the asbestos that is present in many properties dealing with this alongside reducing the carbon emissions from buildings.

A review of the approach in other European countries would be of benefit. For instance, the European parliament is looking at the feasibility of tying in large-scale asbestos removal with various green buildings initiatives that governments will all be committing to over the next two decades;

[MEPs are calling for complete elimination of cancer-causing asbestos – EURACTIV.com](#)

And Portugal has just introduced an eradication programme for schools;

[List of schools where asbestos will be removed is not enough to comply with the law - The Portugal News](#)

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

The only measure we seem to have is the recording of deaths. HSE's asbestos campaigning activities have ceased and the responsibility conceded to organisations such as IOSH. HSE appear to have been unable to make the political fight to do more with regards to asbestos risk.

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

The HSE keeps no records whatsoever as it is down to individual duty holders to keep the records. The irony of this is that as a member of the public you could be entering premises with high risk asbestos and the duty holder has no legal obligation to tell you this or demonstrate he is managing the asbestos. Yet, at the same time he is legally mandated to display a certificate showing the energy performance of the building or its food hygiene rating.

- Is HSE making best use of available technology and systems to monitor the safety of asbestos which remains in buildings?

Since the late 1990s, the private sector has attempted to engage the HSE with various proposals for asbestos monitoring, with no success.

- Does HSE commit adequate resources to asbestos management in line with the level of risk?

No, as stated earlier, 72 tragic deaths occurred at Grenfell Tower which mobilised the government to review the fire situation and develop a standalone regulator to look at high risk premises. But because our asbestos deaths happen in isolation it does not provide good TV coverage.

If our annual toll of 5,500 deaths (equivalent to a Grenfell Tower tragedy happening repeatedly every 5 days) were to occur in a single event then our approach may be different. We often forget that more people die from asbestos exposure annually than die in road accidents.

Our issue is that the latency period from exposure has made us complacent about the risk. When as a society life expectancy was shorter risks were perceived differently, as life expectancy has improved our approach to risk has changed. Covid-19 has shown us that society is less tolerant of risk and in turn the Government has almost championed a zero risk approach.

An independent review is needed on the risks associated with asbestos in premises, this needs to include workplaces, housing, hospitals and places of education. The review needs

to consider not only the risk today but the risk in decades to come if our current approach is maintained.

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

It has been 38 years since the introduction of the Asbestos Licensing Regulations yet we still don't understand the risks what we do know is that exposure to asbestos can for some result in death, the extent of this exposure varies and susceptibility plays a part in this. We need to determine what the level of acceptable risk is and what the effects of cumulative exposure are. Since 1983 we have seen continued efforts to reduce the levels of exposure in the asbestos removal sector as our understanding of risk and the performance of equipment has been better understood.

We haven't done the same for the general public and those in schools or workplaces where asbestos exposure is incidental. We need to revisit the risk and establish an acceptable threshold of tolerance that does not relate to workplace exposure.

The important committees that were looking at the risks have been disbanded and have not met since 2013 / 2014;

- HSC ACTS (Advisory Committee on Toxic Substances)
- HSE WATCH Committee (Working Group on Action to Control Chemicals)
- CoC (Committee of Carcinogenicity)
- DfE Asbestos in Schools Steering Group

- 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?

HSE would say that it is engaging with its industry working groups such as the Asbestos Network, (formerly the Asbestos Liaison Group), however, those participating in these groups would probably argue that change will only come about through enforcement and this simply isn't happening due to resource issues. HSE has recently published revised guidance for analysts, and although feedback was requested on these documents during the drafting it would appear that much of this was ignored.

Industry bodies such as those dealing with brownfield sites are stating the document does not deliver yet ironically for some the guidance for contaminated land suggests that these sites present a greater risk than schools which contain asbestos. This leads back to the need for a re-assessment of asbestos risk.

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

HSE engages but simply lacks the resource to make any progress with any outcomes, more guidance is produced but the assessment of the effectiveness of this guidance is poor as the regulator lacks the resources to enforce, and this would be the biggest call to action.

The committee needs to consider the following.

Given that asbestos is a problem in all properties offices, factories, warehouses, public buildings, schools, universities and homes is HSE the best place to regulate this. We have seen the establishment of a Building Safety Regulator does the same need to happen for asbestos where the risks can be considered in a holistic manner and not simply as a workplace risk.

Dealing with the legacy issues that our use of asbestos has left us our approach needs to be more considered and into future building strategies. In social housing asbestos removal should take place while properties are void and in the wider context should be considered as a part of Net Zero objectives. We have for decades failed to acknowledge the risks from asbestos left inside our properties and I would urge the committee to take this opportunity to start looking at how we mitigate this risk not for this generation but for future generations.

September 2021