Written evidence from the GMB Union (ASB0029)

GMB, the UK's General Union, represents over 620,000 members throughout the UK in both the private and the public sectors.

We have members working in the following sectors:

- Clothing and textiles manufacturing
- Construction, including Asbestos Trades
- Financial, commercial and professional services
- Furniture manufacturing
- Energy and utilities
- Engineering
- Food and leisure
- Process industries
- Public services, particularly schools in the context of asbestos exposures
- Voluntary and community/third sector.

GMB is a TUC affiliated union and draws attention to the evidence and information provided by the TUC. GMB, like other trade unions, is a not-for-profit organisation, and exists to protect and support its members.

We are founder members of the Joint Union Asbestos Committee (JUAC), and fully endorse the separate submission that JUAC has made. We are also members of the Welsh Government Working Group considering Asbestos in the Public Sector Built Environment in Wales

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We represent workers in those industries that have historically had the highest mortality from asbestos diseases – construction, shipbuilding, engineering, and the asbestos trades themselves. We have also seen member deaths from asbestos diseases in sectors traditionally considered low-risk – schools, offices, hospitals and the wider public sector.

For these reasons, GMB has a long and proud history of campaigning to ban asbestos usage in the UK, and subsequently for improved regulation and enforcement. We firmly believe that all asbestos is potentially lethal regardless of colour, classification and risk rating. As such, all asbestos should be removed from all public buildings in the UK by 2035 at latest.

Our full submission is made below, but these are our essential points:

- **Exposure to asbestos fibres can be fatal. There is no 'good' asbestos, and none should be considered to be 'low risk'.** All asbestos must be considered to pose the highest level of threat to human health, and no relaxation of regulatory standards on asbestos management should ever be considered.
- **Removal is more important than measurement**. We welcome potential improvements to the accuracy and sophistication of asbestos fibre measurement in the environment, but the priority must be to safely remove asbestos wherever it is identified.
- **Regulators need far greater resources in order to make the law effective**. In the experience of our members, HSE is highly responsive whenever concerns regarding negligent workplace exposure are raised with them. Proactive approaches to workplace inspection are rare, and the Asbestos Liaison Partnership is increasingly concerned with voluntary approaches beyond the core licensing function. HSE has faced funding cuts of more than 50% since 2010, and received many years of 'flat cash settlements' (irrespective of inflation, therefore real terms budget cuts) before this period. These cuts must be reversed, and HSE's resources boosted beyond Year 2000 levels, in order for it to maximise its effectiveness as a regulator.
- **The current Control of Asbestos Regulations should be revised to widen their scope,** and especially to remove the presumption that encapsulated asbestos left in situ is safer than removal. Environmental monitoring should be implemented where asbestos is present, and risk assessments should reflect the actual potential exposure levels, rather than the perceived hazard assessed from visual inspection and material sampling.

Question 1: What are the current risks posed by asbestos in the workplace? Which groups of workers are most at risk?

GMB represents workers across all sectors of the UK, including both those who worked with asbestos – primarily laggers and boilermakers; and those who now remove and remediate asbestos. As such, we know only too well that asbestos continues to be the single greatest cause of work-related death in the UK. Every year, a minimum of 5,000 people are likely to die prematurely due to exposure to asbestos, whether from direct work processes or indirect environmental exposure. Most of these deaths are the result of mesothelioma, where asbestos fibres have become cancerous in the lining of the lung, but other deaths, primarily from lung cancer, will also have resulted from asbestos exposure. Most of these non-mesothelioma deaths will be misattributed to other causes, and therefore not recorded as asbestos-related deaths. As such we cannot know the absolute burden or risk from asbestos, but we certainly suspect it to be far higher than official statistics and estimates.

It is estimated that over six million tonnes of asbestos were imported into the UK during the 20th Century. Most of this asbestos has not been remediated and is still in the fabric of workplaces and domestic dwellings. It is estimated that Asbestos-containing materials (ACMs) can be found in around half a million non-domestic premises and more than million domestic ones. This means that people are still being exposed to asbestos. It is often people who are working in maintenance, refurbishment or demolition, but people can, and do, become exposed simply by working in a building with asbestos, as fibres can become dislodged and breathed in.

The Health and Safety Executive (HSE) estimates that 1.3 million tradespeople are at risk of exposure, and they could come into contact with deadly asbestos on average more than 100 times a year. It is ultimately impossible to give a clear figure for the number of people who are exposed to asbestos today, or the levels they are exposed to, but we do know it is happening on a daily basis.

An analysis of mesothelioma deaths shows that they are far more common amongst tradespeople such as carpenters, plumbers and electricians, but also occur amongst other workers with no history of work in the construction-related sector but who are likely to be affected through exposure in their workplace. This includes workers in schools and educational establishments; in the retail sector; in health and social care; and those whose whole working careers was spent in office environments.

This means that the inhalation of small quantities, even over a short period, can lead to mesothelioma several decades after exposure. Therefore, GMB strongly believes that there is no ‘safe’ threshold of exposure to asbestos fibres.

As such, <u>all workers</u> are at risk.

Question 2: How effective is the current legislative and regulatory framework for the management of asbestos?

The Control of Asbestos Regulations 2012 define legal duties and give minimum standards for protecting worker from developing severe ill-health due to asbestos exposure. Whilst the regulations could be substantially tightened and improved, they contain important provisions and must not be weakened. There are some significant changes in the scope of the regulations that would provide for substantial benefits to both worker and public health.

The regulations place duty to manage asbestos on those responsible for maintaining nondomestic premises. This includes a duty to protect anyone using or working in the premises from the health risks from asbestos exposure. Dutyholders are required to identify the presence of asbestos; assessing the risk of exposure where asbestos is present; and implement control measures to mitigate these risks. Most work with asbestos/asbestos containing materials (ACM) must be undertaken by a licensed contractor, but even non-licensed asbestos work requires effective controls.

GMB believes this is the correct approach, but that the several key provisions and assumptions made under by the regulations require further review. These are:

- that the presumption that encapsulated asbestos is safest left ‘in situ’ should be re-examined.
- that risk assessment requires should extend beyond visual checks to an actual assessment of environmental levels of asbestos fibres; and
- that duties on provision of information should be widened to include those working in domestic premises.

We shall further expand on these points below.

HSE's long -standing policy, reflected in the Regulations, is that if asbestos-containing materials are in good condition, and are unlikely to be damaged, it may be left in place; its condition must then be monitored and managed to ensure it is not disturbed.

This position is hugely problematic, as the vast majority of asbestos is still in place and still presents a serious hazard to both workers and the wider public. Duty holders can adopt a loose definition of 'in good condition', to justify inaction and avoid the cost of remediation.

Friable asbestos within the fabric of a structure can be disturbed by everyday activities, such as opening and closing doors, cupboards etc. Asbestos fibres then pass via any gaps into occupied areas. This situation is exacerbated by maintenance, renovations and general deterioration, meaning the exposure risk increases the longer a worker is in the building.

The control limit for asbestos of 0.1f/cm3 must not therefore be considered a "safe" level. Exposure to ambient environmental levels of asbestos can result in the development of pleural conditions and mesothelioma decades later. As such the Regulations commence from a false premise, which has implications for the risk assessment process.

The risk assessments in the asbestos regulations and guidance rely on visual inspection and sampling of accessible asbestos plus the presumption of asbestos in areas not accessed unless there is clear evidence to the contrary. However, the recommended risk assessments cannot ascertain the risk from inaccessible asbestos located within the building structure.

Crucially the asbestos regulations do not require measurement of background asbestos levels during normal occupation of buildings and they provide no guidance on the long-term risk to all occupants from the asbestos levels commonly found in buildings. Consequently, dutyholders and workers are not aware if all gaps have been sealed and if there are other sources of disturbed asbestos passing into the occupied areas.

This omission could be addressed through the provision of information and training to the workforce, but these are not required under CAR for the majority of workers performed their everyday routine work activities. Under Regulation 10, "Asbestos awareness training should be given to employees whose work could foreseeably disturb the fabric of a building and expose them to asbestos or who supervise or influence the work". This has primarily been interpreted as referring to maintenance workers and associated tradespeople who may come into contact with or disturb asbestos, as well as those involved in asbestos removal work, largely because the regulation refers to "employers" and "employees". This has two significant consequences:

a. Dutyholders are not explicitly required to be trained to understand their responsibilities, nor how to identify and assess asbestos. The tends to drive these requirements to third-party consultants, or in many cases, there Is simply no attempt to comply with the Regulations due to ignorance.
b. Those who are not tradespeople, but work in asbestos-containing environments, are not legally required to receive any asbestos-specific information or training beyond a standard workplace risk assessment.

There is an argument that these requirements revert back to more general duties under Section 2 of the Health and Safety at Work Act 1974, but these lack specificity and provide excuses for dutyholders and employers to justify inaction. It should not fall to trades unions, Victim Support Groups, pressure groups and charities to provide crucial awareness and information to workers and the public in the absence of proactive provision by dutyholders and employers.

This situation is even more pronounced in the more than 1 million domestic premises, which are out of scope of the 2012 Regulations. GMB represents many thousands of workers who are required to perform maintenance, repair and renovation activities on both social housing and private dwellings. Very often, the worker is given responsibility when arriving on site to perform a 'dynamic risk assessment' for the presence of asbestos before commencing work. This is hugely problematic for a number of reasons:

a) The worker must be trained to identify potential ACMs. This is not always the case.
b) Identifying asbestos essentially means stopping the job; reporting the findings and agreeing a plan of action, which is usually at high cost to the homeowner if in a private dwelling. For short duration

works, there is often therefore a prevailing mentality that this process is "more hassle than it's worth", resulting in widespread inaction.

c) Workers are often under high pressure to quickly complete their assigned tasks within unrealistic deadlines. A detailed asbestos assessment cuts into time available to complete the task at hand.
d) Many residents will not react well to being told that their home contains asbestos.

It should be understood that this is not standard practice across the board, and that Local Authorities and larger, unionised employers will take this work very seriously, but the ultimate responsibility falls to the worker for the identification and assessment.

GMB believes that one partial solution to this issue for privately owned domestic dwellings would be to introduce a requirement to survey for the presence of asbestos when selling a domestic property, potentially either as an addition to the current requirements for an Energy Performance Certificate, or as a separate scheme.

This would have the benefit of alerting both prospective homeowners to the presence of asbestos, and providing a verifiable record for any tradespeople undertaking future activity in the property.

Private landlords and providers of social housing should already be undertaking such assessments, but again in our members' experience compliance is variable, and tighter legal requirements would ensure that similar is provided to tradespeople in these dwellings.

Ultimately, we have moved into an era of post-industrial exposures, caused by secondary and environmental exposure rather than primary industrial processes. We know from the huge number of people still being exposed that asbestos is not properly managed. Mesothelioma deaths are not falling, more than 20 years after the ban on asbestos usage in the UK. This is why GMB continues to call for a phased removal of asbestos from all public buildings by 2035. Any other approach will not reduce the risk to worker health.

Question 3: 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 UK has amongst the highest incidence of mesothelioma deaths in the world, but the Government has ignored the growing evidence about the significant risk to workers from long term, low-level asbestos exposure in the workplace. This is primarily due to the high levels of amosite asbestos used in the post-war construction of buildings and building extensions, particularly during the period from the 1960's to the 1980's.

Even though the use of asbestos was banned in 1999, many people have been subsequently exposed by accidentally disturbing or damaging asbestos containing materials. The current UK Government/HSE policy position of leaving asbestos in situ will do nothing to arrest these exposures.

Other nations have taken more progressive approaches. Poland has committed to the phased removal of asbestos from all public building by 2032. The Government of Flanders in Belgium aims to remove all asbestos from public buildings by 2040, to meet objectives set under the EU Energy Performance of Buildings Directive (EPBD). France, Germany and the Netherlands also have national programmes or campaigns in development for public asbestos removal.

Such positive developments are not limited to EU Member States. Australia also has high incidence of mesothelioma. It introduced the Asbestos Safety and Eradication Agency Act in 2013, having already created the Asbestos Disease Research Institute in 2009. These developments have put Australia at the forefront of cutting-edge research, and on track to reduce mesothelioma cases from their present high levels.

Good practice can also be found at home in the UK. The Welsh Government's Workforce Partnership Council has issued a new drive for employers in devolved public services to meet their duty in the safe management of asbestos. Similarly, the Welsh Department for Education has published clear guidance emphasising the steps duty holders in schools must take to control risks. This approach has not been adopted in the rest of the UK, which is a substantial missed opportunity that political leaders must be held accountable for.

Question 4: How does HSE measure and report its progress in mitigating the risks of asbestos?

HSE's primary measurement of the risks of asbestos is through the production of statistics, primarily through the recording of deaths from mesothelioma. HSE produces Annual Occupational mesothelioma statistics for Great

Britain, which detail the number of mesothelioma deaths in people aged under 75. However, they considerably underestimate the number of mesothelioma deaths as:

a) They do not include the increasingly high proportion of deaths in people aged 75 and over, and;
b) They record only the final occupation of the deceased as per the death certificate, potentially breaking the linkage between occupation and cause of death. For example, a worker who spent 40 years working in construction, then became a Taxi Driver later in life, would most likely be recorded as the latter on the statistics.

HSE also published the Post Implementation review (PIR) of the Control of Asbestos at Work Regulations 2012, in 2017. This concluded that the Regulations remained fit for purpose and proportionate, though some recommendations for changes were made. A second 2021 PIR is ongoing at time of writing.

Question 5: Does HSE keep adequate records of asbestos in public buildings?

We are unclear as to the context of this question. HSE has no role in maintaining any record of the presence of asbestos outside of its own estate, as this requirement falls to dutyholders under the Control of Asbestos at Work Regulations 2012. Dutyholders are not required to report this information to HSE, nor to Local Authority Environmental Health Departments.

Where HSE has inspected or investigated a workplace with regard to asbestos management, any resulting report or salient information is usually made available to Safety Representatives, either direct by the Inspector themselves or upon request. We strongly endorse this practice, and belief it essential that it continue.

Keeping and maintaining a record of asbestos presence in all public buildings would be prohibitively costly for HSE., and these scarce resources would be much better deployed on regulatory and enforcement activity, as opposed to continually updating and amending a register.

GMB is supportive of the concept of a public register, to aid public transparency and accountability. We are members of Welsh Government looking at the extent of asbestos in the Welsh Public Sector built environment. We would support Local Authorities publishing details of all asbestos contained in buildings that they control – so long as additional resources were provided for them to do this. Likewise, the Government Property Agency could assume this role across Whitehall, with devolved administrations responsible for their own estates reporting, such as is being explored in Wales.

We are adamant however that this is not an appropriate role for the HSE, particularly at a time when significant resources are being expended to establish the Building Safety Regulator.

Question 6: Is HSE making best use of available technology and systems to monitor the safety of asbestos which remains in buildings?

We are unclear on the context of this question. Under the Control of Asbestos at Work Regulations 2012, dutyholders are responsible for monitoring the condition of asbestos in a workplace, not the Health and Safety Executive.

HSE clearly have a role in investigating reports or allegations of asbestos exposure or poor management, and in this we have no reason to believe that HSE do not use the best technology available to them in the course of their investigations. This would include the technology available via HSE's Science Division/Health and Safety Laboratory.

Question 7: Does HSE commit adequate resources to asbestos management in line with the level of risk?

Regulators need far greater resources in order to make the law effective, and HSE has been at the forefront of swingeing cuts. HSE has faced funding cuts of more than 50% since 2010, and received many years of 'flat cash settlements' (irrespective of inflation, therefore real terms budget cuts) before this period.

This has severely curtailed the HSE's ability to regulate effectively. Over the same period the number of HSE inspectors fell from 1,495 to just 978. In the experience of our members, HSE is highly responsive whenever concerns regarding negligent workplace exposure are raised with them. Proactive approaches to workplace inspection are however rare, and the Asbestos Liaison Group is increasingly concerned with voluntary approaches beyond the core licensing function. This is purely due to a lack of resources.

HSE's Asbestos Campaigns such as 'Hidden Killer', did a tremendous job of raising awareness in those trades at highest risk, with 85% of the target group having accessed campaign materials and 76% responding that they would take preventive action on asbestos exposure when working. The campaign needed more resources, but was discontinued and the HSE given insufficient resources to build on this successful campaign.

These cuts must be reversed, and HSE's resources boosted beyond Year 2000 levels, in order for it to maximise its effectiveness as a regulator.

Question 8: How robust is the available data about the risks and impact of asbestos in the workplace? What gaps in evidence need to be filled?

There are three primary areas where data could be improved.

Firstly, the present methodology used by the Office for National Statistics when recording deaths from mesothelioma cuts off at 74 years of age. As a long latency disease, this potentially means hundreds, perhaps thousands of deaths are missed every year from official statistics, masking and downplaying the true mesothelioma burden in the UK.

Secondly, we strongly suspect that many asbestos-related deaths from lung cancer – especially where the deceased was not employed in heavy industry or construction – are never identified, as other risk factors such as smoking or environmental exposure will be assumed to be the cause of the cancer.

Thirdly, we suspect this is especially true of female deaths, where lung cancer and even (rarely) mesothelioma will not be identified as being the cause of death, due to the lack of obvious industrial exposure. We strongly recommend that research be commissioned to identify the extent to which under-reporting and non-reporting exists for these female deaths.

Question 9: 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 engages with the UK asbestos industry through the Asbestos Liaison Group. Wider engagement is primarily through HSE Science Division's research activities, as detailed in the HSE's Annual Science Review, and the numerous research reports on asbestos.

Question 10: How effectively does HSE engage with external stakeholders and experts about its approach to the regulation of asbestos?

In our experience, HSE involves a wide range of stakeholders in its approach to managing asbestos risk. GMB is a member of both the Asbestos Liaison Group and the Construction Industry Advisory Committee (CONIAC), through which we are able to discuss asbestos issues in terms of both policy approaches and licensing practice.

We are also in frequent contact with the Worker Representative members on the HSE Board, who are able to raise concerns at that level on our behalf.

HSE has generally responded positively and engaged frequently to the All-Party Parliamentary Group on Asbestos, which GMB and sister unions are participants in.

There are however further opportunities that could be taken, particularly in terms of the specialist input to asbestos policy. HSE abolished both ACTS (the Advisory Committee on Toxic Substances) and its specialist technical sub-group WATCH (the Working Group on Action to Control Chemicals). These were both tripartite committees that, whilst not always directly considering asbestos issues, identified both good practice and adjacent risks that were useful in shaping asbestos policy.

These committees were replaced by the Workplace Health Expert Committee (WHEC), which contains many excellent and learned specialists, but has no worker representation, and cannot therefore bring either the lived experience of the workforce to considerations. We therefore strongly endorse the resurrection of both ACTS and WATCH to help inform the wider chemical policy framework that co-exists with asbestos policy.

Our final concern on engagement relates to Safety representatives. There is no specific guidance for Safety Representatives regarding asbestos on the HSE Website, and HSE Inspectors are not always able to speak to

Safety Reps when on site performing asbestos inspections or investigations. Both of these concerns should be addressed in order to maximise the knowledge of the expected standards in workplaces.

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