

ASBESTOS

An important message for schools

This document provides a summary of the key issues governors, proprietors and Head Teachers in England and Wales should be aware of in relation to asbestos in their schools. This is not a comprehensive guide and should only be read in conjunction with the further information outlined in Annex 1.

Do you know if your school/college contains asbestos? Do you know what condition any asbestos containing material is in? Have you informed those people who may disturb the asbestos that it's there?

If you have answered 'No' to any of these questions, you may not be meeting your legal duties in relation to asbestos in work premises and you will need to take action to ensure compliance with the law.

What is asbestos?

Asbestos is a naturally occurring fibrous mineral and has been used for about 150 years on a commercial basis. It is versatile, plentiful and was ideal as a fireproofing and insulation material. Serious, often fatal diseases can be caused when asbestos fibres are released from materials, become airborne, and are inhaled.

Asbestos was used extensively as a building material in Great Britain from the 1950s through to the mid-1980s. It is estimated that more than 500,000 non-domestic premises, including schools, still contain some form of asbestos.

Where is asbestos found in buildings?

Asbestos and asbestos containing materials (ACMs) may be found in schools/colleges built or refurbished before blue and brown asbestos were banned in 1985. Some asbestos containing materials such as asbestos cement were still used up until 1999.

High-risk ACMs include:

- asbestos moulded or preformed lagging used as thermal insulation on pipes and boilers
- sprayed asbestos used for thermal insulation, fire protection, partitioning and ducts
- asbestos insulating board used for fire protection, thermal insulation, partitioning and ducts
- some ceiling tiles
- asbestos insulation board (AIB)

Lower risk ACMs include:

- asbestos containing floor tiles
- asbestos cement roofing and guttering
- textured coatings

Who's at risk?

The most likely way ACMs in schools/colleges to be disturbed or damaged is through maintenance, repair or construction activities. This includes even small jobs such as installing telephones or computers, putting up shelving or installing security systems. Anyone carrying out such work will need to know whether the building does, or may contain ACMs, where the ACMs are located and what condition it's in.

School caretakers have been identified as a particular group at risk due to the nature of their work (e.g. drilling and fixing.). Vandalism may also result in the release of asbestos fibres e.g. damage to asbestos panels caused by pupils kicking them.

Teachers (and pupils) are not likely to be at risk in the course of their normal activities. However if they carry out activities which cause damage to ACMs, such as pinning or tacking work to asbestos insulation board or ceiling tiles, some asbestos fibres may be released. This represents a potential exposure that, although very low, is avoidable and therefore such activities, which may release fibres, should be stopped. LAs and governing bodies will need to notify staff not to damage walls and ceilings in this way.

What should I do?

If you have responsibility for the maintenance and/or repair of non-domestic premises (e.g. schools) then you have duties, as a 'dutyholder', under Regulation 4 of the Control of Asbestos at Work Regulations (CAW) 2002. This means that you should know whether your premises contain asbestos, where it is, what condition it's in and then ensure that you manage it properly which includes telling those people who may disturb it that its there. Even if you are not the 'dutyholder' you should be able to answer these questions.

For the majority of educational establishments, the dutyholder will be the employer. Who the employer is varies with the type of school, but for community schools, community special schools, voluntary controlled schools, maintained nursery schools and pupil referral units the employer is the Local Education Authority (LEA). For voluntary assisted and Foundation schools it will be the school governors. For independent schools it may be the proprietor, governors or trustees.

Local Authorities as employers

Where the Local Authority (LA) is the employer it must set health and safety policies and procedures for its schools including general policies dealing with health and safety responsibilities and policies and arrangements for dealing with specific risks (eg on site vehicle movements, violence to staff, manual handling, control of hazardous substances and work-related stress). LAs should also set policy for maintenance issues, especially where, as the employer, they have statutory duties such as asbestos management. All policies and procedures should set out the standard schools are expected to achieve and how compliance will be monitored.

It should be made clear, either in these policies or in separate documentation, which health and safety related functions are delegated to governing bodies and are therefore required to be funded through their delegated budget, and which functions are carried out by the LA.

Even where health and safety related functions have been delegated to governing bodies, the LA as the employer must still set the policy for asbestos management. It should be made clear within this policy, or in separate documentation, whether asbestos management as a health and safety function is also delegated to governing bodies. Health and safety issues including asbestos management can only be delegated to competent individuals. Hence the LA would need to ensure that the individual who they intend to delegate to are trained to a sufficient level of competency.

The responsibility as dutyholder cannot be delegated and is retained by the LA regardless of whether the function is delegated or not. The LA cannot fulfil its statutory duty unless it monitors how its schools are complying with their policy. They should monitor this robustly to ensure required standards for asbestos management are reached and they should take action where they are not. LAs have powers under the School Standards and Framework

Act 1988 that allows them to require specific action to be taken to ensure compliance with their policy.

DfES guidance 'Health and Safety: Responsibilities and Powers' clarifies responsibilities under existing health and safety legislation. It explains who is responsible for the health and safety of school staff, pupils and others on school premises and it sets out related powers under education legislation. The guidance can be downloaded from <http://www.teachernet.gov.uk/wholeschool/healthandsafety/visits/responsibilities/>

What are the main dutyholder requirements?

Regulation 4 requires dutyholders to:

- take reasonable steps to determine the location, amount and condition of materials likely to contain asbestos;
- presume materials contain asbestos unless there is strong evidence that they do not;
- make and keep an up to date record of the location and condition of the ACMs or presumed ACMs in the premises;
- assess the risk of the likelihood of anyone being exposed to fibres from these materials;
- prepare a plan setting out how the risks from the materials are to be managed;
- take the necessary steps to put the plan into action;
- review and monitor the plan periodically; and
- provide information on the location and condition of the materials to anyone who is liable to work on or may disturb them i.e. maintenance workers and teachers

It needs to be emphasised that the regulation does not require the automatic removal of ACMs. If the material is in good condition and will not be disturbed then it does not pose a health risk and it is usually safer to leave it in place and manage it. If the material is damaged or is likely to be disturbed and it cannot be repaired or protected, it should be removed.

Anybody undertaking any sort of work on ACM's must be competent, adequately trained and use safe working methods. Licenced contractors must be used for most work with asbestos insulation, asbestos insulating board and asbestos coatings. Asbestos waste, whether in small or large amounts, is subject to the Hazardous Waste Regulations 2005.¹

What guidance is there?

A range of HSE guidance material is available to help dutyholders comply with their duties under the CAW Regulations (see Annex 1).

The DfES has also produced guidance on managing asbestos in schools (see Annex 1) and has routinely required condition surveys at school premises as part of their Asset Management Planning guidance. Para 12 of AMP guidance Section 3 states: *"Condition surveys are normally non-intrusive. However, they should be sufficiently thorough as to identify the need for any further surveys or tests. The results of such further surveys or tests should be taken into account in the condition assessment."* The LEAs surveyor or consultant working on their behalf will have recorded the findings in the school's AMP, with the need for any further testing and remedial work being linked to the schools planned maintenance programme. This will include an estimate of costs and the likely timescale for carrying out any necessary work.

¹ This is enforced by the Environment Agency

In many cases only visual surveys will have been completed and intrusive surveys will not have been done. This is sufficient to comply with the duty to manage regulations (so long as any asbestos present is in good condition and unlikely to be disturbed or damaged) but will not provide a definite identification of asbestos. Therefore in most cases it will not be known whether or not asbestos is actually present and in these cases the dutyholder should always presume that any material contains asbestos unless there is strong evidence to suggest it does not. Before extensive refurbishment or demolition takes place you may wish to conduct intrusive surveys to ascertain for sure whether ACMs are present or not. If you do not conduct such surveys, any work undertaken will have to be done on the basis that the material does contain asbestos (unless there is strong evidence to suggest it does not), which will mean adopting suitable safe working practices and employing adequately trained and competent contractors.

Annex 1 – Guidance

HSE Guidance

Further guidance on asbestos can be found at <http://www.hse.gov.uk/asbestos>. A number of free information leaflets can be downloaded from the HSE website.

Priced publications

The Management of Asbestos in Non Domestic Premises, Approved Code of Practice, L 127.

A Comprehensive Guide to Managing Asbestos in Premises. HSG 227.

The above can be obtained from HSE Books, PO Box 1999, Sudbury, Suffolk CO10 2WA. Tel 01787 881 165. Web site www.hsebooks.co.uk.

Information Document HSE 265/48 (Part 1) Inadvertent exposure to asbestos: advice for employers and (Part 2) advice for employees can be downloaded from the HSE website http://www.hse.gov.uk/foi/internalops/fod/oc/200-299/265_48.pdf

SIM 07/2001/36 (Sector Information Minute) Managing Health and Safety in Schools under 'Fair Funding' can be downloaded from the HSE website http://www.hse.gov.uk/foi/internalops/sectors/public/7_01_36.pdf

HSE InfoLine Tel 0845 345 0055

DfES Guidance

Administrative Memorandum 3/86 (Department of Education and Science).

Asset Management Plans

- Section 3: Condition Assessment ref: DfEE 0-097/2000
- Section 3a: Getting into Condition ref: DfES/0175/2003

Health and Safety: Responsibilities and Powers ref: DfES/0803/2001

The DfES also has information on its current position on asbestos on its website <http://www.teachernet.gov.uk/> and <http://www.governor.net.co.uk/>

Environment Agency Guidance

Environment agency website <http://www.environment-agency.gov.uk/?lang=e>
A guide to the hazardous waste regulations leaflet is available to download from http://www.environment-agency.gov.uk/commondata/acrobat/hazardous_waste_guide_1219517.pdf