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Asbestos: the hidden killer

members' factcard

union for professionals



MANAGING THE HIDDEN KILLER

Past exposure to asbestos is responsible for over 4,000 UK deaths a year, typically electricians, plumbers, joiners, engineers and construction workers.

You too may be at risk. Asbestos-related diseases, including incurable lung and chest cancers, can take anything from 15 to 50 years to develop. This nightmare health scenario continues because asbestos can be present in any building constructed or refurbished before the year 2000. So people drilling or cutting into walls etc may unwittingly disturb and inhale asbestos fibres – without even knowing. Managing this hidden killer is therefore critical.

We believe breaking asbestos law is rife and complacency is killing.

This factcard provides:

- background on the hidden dangers of asbestos
- overview of the law and managing asbestos
- advice on your rights as an employee
- questions to equip Prospect members and reps to check compliance
- what to do in the event of inadvertent exposure.

THE HIDDEN DANGERS

WHAT IS ASBESTOS?

Asbestos is a naturally occurring fibrous material that has been used for 150 years on a large scale because of its versatility and effectiveness in fire-proofing and insulation. The three main types are Crocidolite (blue), Amosite (brown) and Chrysotile (white). All asbestos is dangerous when fibres are present in the air that people breathe, but blue and brown are known to be worse than white. It requires an accredited laboratory to identify the different types properly.

WHERE CAN ASBESTOS BE FOUND?

Everyone is exposed to low levels of asbestos fibres because millions of tonnes of it were used in the past and much of it

is still in place: in buildings, machinery, vehicle brakes and homes built up to 1999, when most forms of asbestos were banned. Use of asbestos peaked in the 60s and early 70s – buildings constructed or refurbished during this time are the most likely to contain some form of asbestos.

WHAT IS THE DANGER?

As long as it is in good condition and is not disturbed or damaged, there may be no risk. However, working directly on or near asbestos-containing materials can release fibres and give personal exposures to asbestos that are much higher than environmental levels.

Repeated exposures of this type will give rise to a substantial cumulative exposure, thereby increasing the risk of an asbestos-related disease in later life, such as mesothelioma, lung cancer, asbestosis and diffuse pleural thickening.

OVERVIEW OF THE LAW

OBJECTIVES

To avoid exposure at work, the law requires:

- the prevention or control (where prevention is not reasonably practicable) of exposure from work activities, including training of employees and emergency procedures to deal with unplanned disturbance of asbestos
- that certain higher risk asbestos work is carried out only by those holding an asbestos licence issued by HSE
- that asbestos materials in workplace buildings must be *managed* to prevent or control exposure to asbestos (this doesn't apply to domestic dwellings – be warned as asbestos materials may still be present)
- the reporting of a significant uncontrolled disturbance of asbestos (an 'asbestos incident') as a Dangerous Occurrence.

MANAGING ASBESTOS

There are 3 key steps to the management of asbestos:

- 1. Find out if asbestos is present**, and, if so, where and in what condition. If no records exist, sampling and survey
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work may be needed. Surveys can be:

- **management surveys** – to ensure that no one is harmed by the continued presence of asbestos in premises. Their purpose is to locate the presence and extent of suspected asbestos-containing materials in the building that could be damaged or disturbed during normal occupancy. They may involve minor intrusive work and some disturbance depending on what is reasonably practicable for the property, ie type of building, nature of construction, accessibility etc. All premises normally require a management survey as part of the ongoing arrangements to manage asbestos.
- **refurbishment and demolition surveys** – necessary prior to any refurbishment or demolition work being carried out. These are more intrusive and destructive as their intention is to **locate** all asbestos-containing materials so that they can be **removed** (or possibly avoided) before the refurbishment or demolition takes place. These surveys are required when there is a need for more intrusive maintenance and repair work as well as general improvement and upgrading (including plant removal or dismantling) or demolition.

Materials must be presumed to contain asbestos if doubts exist. Records of findings should be made, kept up-to-date and shared with anyone (such as a contractor) who is liable to work on or disturb asbestos-containing materials.

- 2. Assess the risk** by taking account of the type, location, quantity and condition of the material, the likelihood of damage and the likelihood of people being exposed. HSE provides two comprehensive, online interactive tools to help risk assess the findings (*see overleaf*).
 - 3. Make a plan** to manage that risk, acting on it and communicating it where necessary. For organisations situated in complex or multi-site estates, the plan may include:
 - asbestos policy statement
 - asbestos register
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- management plan and respective duties
- procedures
- training arrangements
- timescales and review dates.

SURVEYS – BEWARE THE SMALL PRINT

Some sites can present complex contractual and survey access difficulties – the upshot being statements in survey reports such as ‘no access’ or ‘survey incomplete’ – typically in small print – so beware: the survey may not have all the information required before people are put to work.

DUTYHOLDERS

In many cases, the dutyholder is the person or organisation that has clear responsibility for the maintenance or repair of the premises (mainly non-domestic) through an explicit agreement such as a tenancy agreement or contract. Typically this is the landlord, leaseholder or employer.

For most refurbishment and maintenance work, the client has a major influence. The Construction (Design & Management) ‘CDM’ Regulations 2007 require clients to pass on information about the condition of their site (including the presence of hazardous materials such as asbestos) either to their contractors or, in the case of CDM notifiable projects, to the CDM Coordinator, before any work begins. This is so contractors are forewarned and in position to make informed estimates when bidding for and risk planning their work. Vague reports are unacceptable, so the client may have to commission further surveys.

MANAGING PREMISES

The duty to manage asbestos covers all non-domestic premises, which include the common parts of residential accommodation. But if your work concerns domestic premises, your employer will be responsible for asbestos surveys and management under general health and safety laws.

'As safe as houses?', a Sussex University report backed by the construction union UCATT, criticises the 'huge deficiencies' in the rules covering the management of asbestos in people's homes, warning that householders undertaking DIY and maintenance workers are at particular risk.

There is a need for clear roles and close liaison between those in controlling roles (which may extend to site security, for instance in Ministry of Defence premises). Work likely to disturb asbestos-containing materials must not proceed in these areas – arrangements for a prior survey must be made.

Don't put people to work or work blind! You must ensure the area is fully surveyed or presume asbestos is present before proceeding.

YOUR RIGHTS AS AN EMPLOYEE

All workers are entitled to work in environments where risks to their health and safety are properly controlled. Under health and safety law, employers have primary responsibility.

You have the right to:

- work in places where all the risks to your health and safety are properly controlled
 - information about risks to your health and safety from current or proposed working practices and how these are managed. This includes the location, condition and management of asbestos-containing materials
 - access to any written records about site asbestos or the asbestos register (often kept electronically) where you work or are likely to be put to work
 - free training from your employer if you are liable to be exposed to asbestos fibres at work – for instance, if you are involved in asbestos removal, a maintenance worker or any other who may come into contact with or disturb asbestos (eg cable installers)
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- stop work and leave the area if you think you are in danger.

If in doubt, ask! Contact your Prospect rep or full-time officer. Your employer or their client may have failed in their duty to manage.

ASSESSING RISK

Remember, asbestos fibres are only a risk if they are made airborne. You may see solid asbestos insulation in good condition that merely requires logging, labelling and monitoring. But fibres can be released when asbestos materials are damaged or disturbed. So a rep who sees damaged asbestos insulation in poor condition may ask everyone to leave the area until licensed contractors have been called in and have removed it. Reps should notify the employer or building manager immediately if they are concerned.

Reps can use HSE's two interactive web tools to help them assess the danger: the 'material and priority scoring tool'. These are found online at: www.hse.gov.uk/asbestos/managing.index.htm.

HELP! ASBESTOS INCIDENT

Ignorance, incompetence and sheer negligence have led to failures to manage asbestos properly. These include asbestos incidents where inadvertent exposures arise.

YOUR ACTION

First: report the incident to your employer as a matter of urgency. They will need to assess the severity and consider the needs for decontamination and evacuation. They will also have to consider whether the incident is reportable to HSE's incident control centre as a Dangerous Occurrence under the Reporting of Injuries, Diseases and Dangerous Occurrences Regulations (RIDDOR).

Second: contact your health and safety rep immediately, or your full-time officer if no rep is

available. The Control of Asbestos Regulations may have been broken and it may be necessary to notify the HSE straight away to enable it to investigate. Prospect may be able to help provide evidence.

YOUR HEALTH

If you have been involved in the incident, your employer may arrange for you to seek advice from an occupational hygienist or occupational health specialist about the likely exposure levels and associated risks. You are entitled to information about the nature of the incident from your employer and what they have done, or are going to do, to prevent a recurrence. The law does not require your employer to retain health records for those working with asbestos, unless they carry out work licensed by HSE (in which case records must be kept for 40 years).

You should therefore register the incident on Prospect's asbestos register. The register may be used in the event of a future claim.

You may also wish to consult your GP so that a note can be made on your personal medical record of the possible exposure including date(s), duration, type of fibre and likely exposure levels (if known).

RESOURCES

- Your Prospect health and safety rep or full-time officer – to find out who they are contact membership@prospect.org.uk or call 01932 577000
 - HSE – call 0845 345 0055 or visit www.hse.gov.uk/hiddenkiller/
 - HSE's interactive tools – www.hse.gov.uk/asbestos/managing/index.htm
 - Asbestos essentials – downloadable task sheets with step-by-step instructions for non-licensed work – www.hse.gov.uk/asbestos/essentials/index.htm
 - Prospect's H&S webpages www.prospect.org.uk/healthandsafety/
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PROSPECT ASBESTOS REGISTER

IT COULD BE YOU, SO REGISTER

Prospect's asbestos register can make all the difference to helping to win a compensation claim.

Members on the register agree to supply evidence of exposure at workplaces where they worked, in order to support claims for those suffering from asbestos-induced disease. So far more than 1,200 people have volunteered to put their employment history on the register.

Evidence from the register, which covers all Prospect employers, has frequently helped to win settlements. Members who have taken cases advise that anyone contemplating a claim should be prepared to produce as much supporting evidence from the past as possible. Any contact with asbestos during a career is well worth registering.

Such evidence can prove vital for people who lose contact with former colleagues or workmates, or who have difficulty remembering specific locations or names.

Where members believe they need legal advice in relation to an asbestos-related claim they still need to contact Prospect to commence the legal process, regardless of whether they have entered work details on the register.

Members who believe they have been exposed to asbestos at work can add their details to the register by emailing asbestos@prospect.org.uk or by submitting a completed registration form downloaded from <http://library.prospect.org.uk/id/2008/00501>

CHECKING FOR COMPLIANCE

- Has an asbestos inspection or survey been made? If so, which type?
- Does it cover all parts of the building/site? If not, why not?
- Are the survey and analytical companies appropriately accredited? Look for the accreditation logo on their reports. If absent, challenge their validity.

H&S reps can ask to see the results: the asbestos register, risk assessments, management plan and associated documents.

- Is the information readily available and understandable?
- Do the assessments tell you where the asbestos is, may be or is assumed to be?
- How are people made aware of asbestos and what to do about it?
- How will anyone coming in to do work, such as a contractor, be made aware and will the way they work be supervised and monitored?
- For new work, does it require a licensed asbestos contractor?

STOP – THINK ASBESTOS!

- Do I know if there is asbestos?
- Is it high-risk material that requires a licensed contractor?
- Has my team been trained to work with asbestos?
- Do we have the correct equipment?

If you do not know the answers to these questions, stop work and find out.



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