

Proposed Asbestos Removal Bill: a short note

The TUC (which campaigns on and provides information on asbestos (see <https://www.tuc.org.uk/asbestos-hazards-work-book>) has lent its support to a plans for a private members' bill to secure removal of all asbestos from all public buildings. This note offers some reflections from RoSPA on this idea.

General views

Asbestos remains a serious long latency disease health threat, accounting for some 4,000 deaths a year from cancers and other asbestos linked diseases. This burden of disease is expected to remain unchanged over the coming period due to exposure of people (particularly among maintenance and demolition and related trades) to asbestos in existing installations.

RoSPA has long campaigned too for the banning of the further use of asbestos, for new and effective controls over removal of asbestos and for the duty to manage asbestos in existing installations.

DTMA

The duty to manage asbestos (DTMA) is contained in regulation 4 of the Control of Asbestos Regulations 2012 and it requires dutyholders to:

- take reasonable steps to find out if there are materials containing asbestos in non-domestic premises, and if so, its amount, where it is and what condition it is in;
- presume materials contain asbestos unless there is strong evidence that they do not;
- make, and keep up-to-date, a record of the location and condition of the asbestos- containing materials - or materials which are presumed to contain asbestos;
- assess the risk of anyone being exposed to fibres from the materials identified;
- prepare a plan that sets out in detail how the risks from these materials will be managed;
- take the necessary steps to put the plan into action;
- periodically review and monitor the plan and the arrangements to act on it so that the plan remains relevant and up-to-date; and
- provide information on the location and condition of the materials to anyone who is liable to work on or disturb them.

There is also a requirement on others to co-operate as far as is necessary to allow the dutyholder to comply with the above requirements.

The dutyholder is the owner of the non domestic or the person or organisation that has clear responsibility for the maintenance or repair of such premises, for example, through an explicit agreement such as a tenancy agreement or contract.

HSE advises that, in public buildings, such as hospitals, schools and similar premises, the identity of the dutyholder will depend on how the responsibility

for maintenance of the premises is allocated. For example, for most schools, the dutyholder will be the employer. Who the employer is varies with the type of school. For local authority managed schools, eg community schools and voluntary-controlled schools, the employer is the local authority. For voluntary-aided and foundation schools, it will be the school governors, and for academy and Free Schools, the academy trust will be the employer. For independent and fee-paying schools, it may be the proprietor, governors or trustees. Budgets for repair and maintenance of school buildings are sometimes delegated to schools by a local authority. In such cases, the duty to manage asbestos is shared between schools and the local authority.

HSE suggest the following general principles when managing asbestos:

- asbestos is only dangerous when disturbed. If it is safely managed and contained, it doesn't present a health hazard.
- don't remove asbestos unnecessarily - removing it can be more dangerous than leaving it in place and managing it.
- not all asbestos materials present the same risk. The measures that need to be taken for controlling the risks from materials such as pipe insulation are different from those needed in relation to asbestos cement.
- if you are unsure about whether certain materials contain asbestos, you should presume they do and treat them as such
- remember that the duty to manage is all about putting in place the practical steps necessary to protect maintenance workers and others from the risk of exposure to asbestos fibres - it is **not** about removing all asbestos.

Support but concern

RoSPA supports these principles but has a number of concerns:

It is not clear whether the majority of duty holders have developed the necessary competency to comply effectively with DTMA.

Asbestos is still being worked on and removed by unqualified persons either knowingly or unknowingly.

Insufficient use is being made of competent advice to develop, review and maintain adequate and suitable asbestos management plans.

Parts of the asbestos removal industry may be seeking to promote removal prematurely when in situ management of existing asbestos inventories might be the safer option in the short/medium term.

There has been no independent review of the state of compliance in the public sector with DTMA.

Although HSE have produced guidance and developed some public advertising on the subject, insufficient resources have been devoted by the Government to raising awareness of asbestos hazards and the steps needed to manage associated risks.

RoSPA services

RoSPA has developed a one-day asbestos awareness training course on asbestos (<http://www.rospace.com/safety-training/work/specialist/asbestos>) which is designed as a good introduction to asbestos as the single biggest cause of work-related deaths in the UK. It covers DTMA and is ideal for those working in building management, construction, facilities, and contracting. It is also a good introduction for tradesmen and those working in contractor management. Undertaking this course enables organisations to meet aspects of their legal requirements and gives a good understanding of the requirements of the Control of Asbestos at Work Regulations 2012.

These training courses are run in Birmingham, County Down and London and are also available in-company with trainers delivering tailored courses on companies' premises enabling more people to be trained at once and more cost effectively.

RoSPA general position on removal

In the long term, all asbestos will eventually have to be removed and disposed of safely. In order for risks to be managed effectively, such removal needs to be prioritised, having regard to a range of factors including: existing condition; risks of disturbance; likely exposure during removal; costs; and so on.

RoSPA believes that the Government, as ideally an exemplar employer, as well as all public sector bodies should set a lead by explaining clearly the basis on which they develop their decisions in this respect, including the way they involve key stakeholders and their representatives.

An essential first step here must be an independent review of the strengths and weaknesses in the state of DTMA plans across the public sector.

Roger Bibbings
Partnership Consultant
14th October 2015