

## Workshop 4e:

Asbestos: what should robust 'duty holder' compliance look like?

Speakers:

Dr Martin Gibson, Health & Safety Executive

Chaired by: Jon Cross

Room: Harewood Room



National Housing Maintenance Forum

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## Asbestos Duty-to-Manage Compliance

NHMF Maintenance Conference  
January 2014

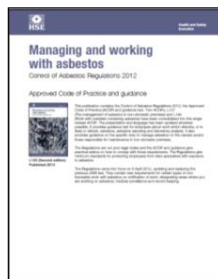
Dr Martin Gibson  
HSE, Edinburgh



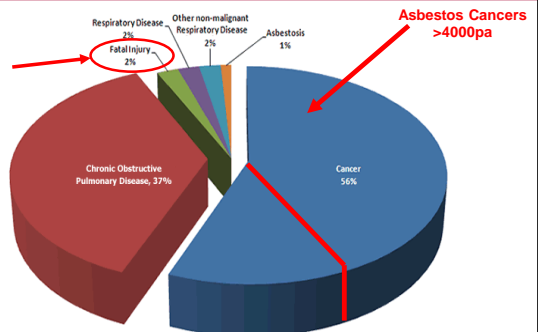
## Agenda



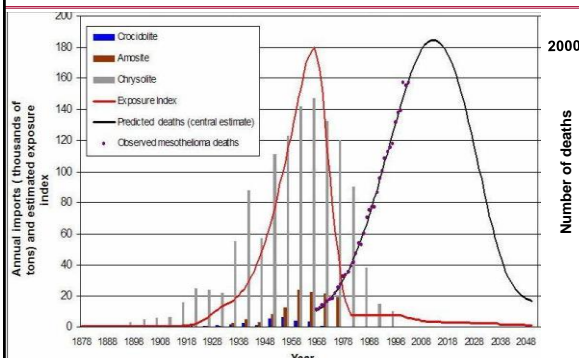
- Introduction
- Worker Attitudes
- New ACOP
  - Changes in guidance for DTM
  - >NNLW
- Key Factors in Managing Asbestos in Domestic Properties
  - Survey strategy
  - Managing refurbishment work
  - Tenants



## Annual work-related deaths (estimated 8000-12000)



## Mesothelioma: projected deaths



## Latest Information on Occupations at Risk: Published 7 March 2013



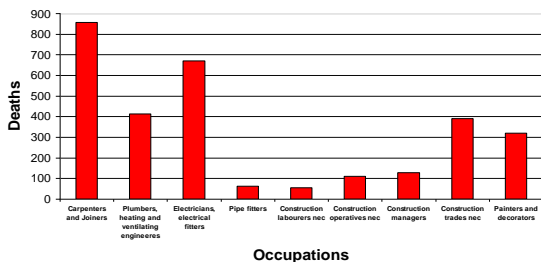
**Mesothelioma Occupation Statistics**  
Male and female deaths aged 16-74 in Great Britain 2002-2010

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## Mesothelioma Statistics: March 2013



Highest risk occupations for males  
Number of deaths 2002 - 2010



## Latest Information

### Numbers of Deaths by Occupations:

Published 7 March 2013



**Mesothelioma Occupation Statistics**  
Male and female deaths aged 15-74 in Great Britain 2002-2010

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- 857 Carpenters and joiners
- 414 Plumbers
- 670 Electricians
- 64 Pipe fitters
- 55 Labourers
- 112 Construction operatives
- 128 Construction Managers
- 390 Other construction trades
- 320 Painters
- Total 3010

## How Many Buildings Contain ACMs?



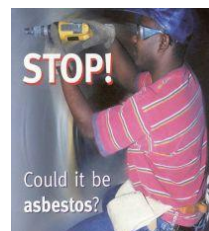
- Various estimates
  - 0.5 - 2m industrial / commercial buildings
  - 2.4 m domestic premises

Year Built	Total Stock %	Houses		Flats	
		% asbestos	% asbestos	% asbestos	% asbestos
< 1945	38	<<1	<1	<1	<1
1945 - 64	22	~5	~30	~30	~30
1965 - 84	26	~30	~60	~60	~60
1985 - 94	8	~5	~5	~5	~5
> 1994	6	<<1	<<1	<<1	<<1

## Why are Workers at Risk?



- Workers Attitude:
- Latest research
- Published on HSE website



## Why are Workers at Risk? "Process" Failings

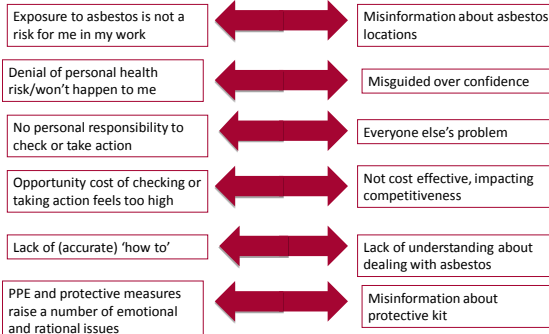


- Duty Holder/Workers unaware or complacent
  - No training
- No survey
  - Work proceeds
- Survey wrong type or has caveats: does not cover work area so register has NO details. Contractor presumes NO asbestos.
- Survey report too complex/lacks clarity for client
- Several surveys carried out:
  - Register based on Management survey and has not been updated with Refurb survey information
- Survey/info not passed to contractor/workers
- Info not passed on early enough to contractor
  - eg contract stage
- Workers not able to understand survey report/register
  - So info NOT used



## Why are Workers at Risk?

### Customer Journey Mapping: Personal Issues





### New ACOP (L143 Second Edition)

This slide introduces the new Approved Code of Practice (ACOP) for 'Managing and working with asbestos'. It features a thumbnail of the document cover and a list of key updates:

- Replaces L143 and L127
- Published on-line 19 Dec 2013
- Hard copy to come

Below the list is a thumbnail of a 'Warning contains asbestos' sign and a photo of a worker in a white protective suit.

### New ACOP: Regulation 4 DTM: Main Changes

This slide highlights the main changes to Regulation 4 of the DTM under the new ACOP. It features a thumbnail of the document cover and a list of changes:

- Regulation is unchanged
- Clarifies and simplifies duty

### DTM: Summary and Main Changes

This slide summarizes the main changes to the Duty to Manage (DTM). It features a thumbnail of the document cover and a list of key points:

- **Written plan is prepared (para 82)**
  - Shows where ACMs are and how will be managed
  - Plan put into action and communicated to those affected
  - Reviewed and updated regularly
- **Clarifies duty on cooperation (para 102)**
  - Others with information or provide access

### DTM: Summary and Main Changes Assessments/Surveys

This slide summarizes the main changes to DTM assessments and surveys. It features a thumbnail of the document cover and a list of key points:

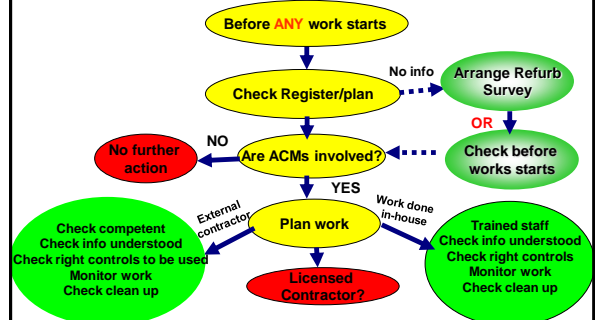
- **Clarifies application of Management and Refurbishment/Demolition Surveys (para 114)**
- **Assessment/survey should produce a "Written record" (para 123)**
  - Written record should include an accurate drawing of locations and main features of each room
  - Record details of any area not accessed
  - Written record is referred to as Asbestos Register

## DTM: Summary and Main Changes: Management Plan (para 129 (ACOP))



- Should be written
- Should set out how the risks will be managed. Details should include:
  - Identify the person(s) responsible for managing the risk
  - Instructions that plan/register must be checked before work starts (and how this will be achieved). Procedures/arrangements to ensure that:
    - Register will be checked in good time before work starts
    - Checks made that the asbestos information has been understood and will be taken into account
    - Checks made that the correct controls will be used and that contractors are competent
- Further emphasis in Para 134: Work should only start once the DH is satisfied that the information in register is known and understood by workers

## Duty-Holder's Management Plan: Dealing with Maintenance and Refurbishment Work



## DTM: Summary and Main Changes: Managing Asbestos Left in Place (para 137 (Guidance))



- Everyone who needs to know about it should be told about it in sufficient detail (including occupants)
- People who simply occupy premises only need to be informed (where necessary) of the location
  - So that ACMs will not be disturbed during normal occupational activities
  - Occupants should be instructed not to do anything which could damage or disturb the ACM

## DTM: Summary and Main Changes: Reviewing and Updating the Management Plan (paras 143-144, 146 (ACOP))



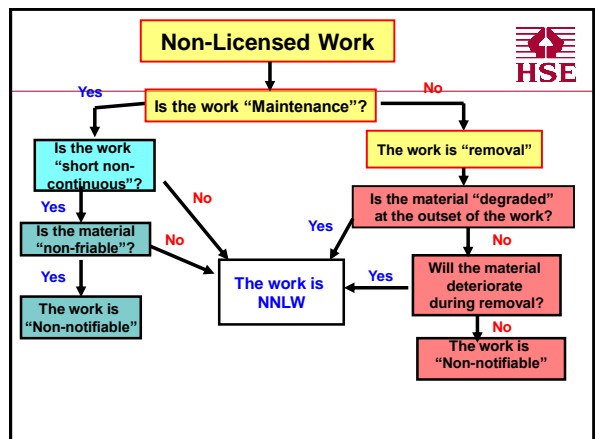
- Plan should be updated at least every 12 months
- Reviewed at other times as required (eg change of building use, ACMs removed etc)
- Condition of ACMs should be reviewed periodically (depending on location, building use etc)
  - No specified time period
- Periodic checks (audits) to ensure procedures working and that people aware of responsibilities and actions

## CAR 2012: Notifiable Non-Licensed Work (NNLW)



### Regulation 3(2)

- Regulations 9 (notification), 18(1)(a) (designated areas) and 22 (health records and medical surveillance) do not apply where:
  - Exposure is SALI; and
  - Exposure less than Control Limit; and
  - The work involves:
    - short, non-continuous maintenance activities in which only non-friable materials are handled;
    - removal without deterioration of non-degraded materials in which the asbestos fibres are firmly linked in a matrix;



## Notes for NNLW decision process



1. "Maintenance" work includes renovation, repair, upkeep, decoration and small-scale refurbishment. Asbestos work is often part of "maintenance" work eg "removal" of gaskets, paper, rope, yarn, felt, cardboard, short term AIB etc is usually carried out as part of a larger maintenance activity.
2. "Short non-continuous" is not defined. Maintenance work will generally be short and non-continuous.
3. "Non-friable" is not defined. AIB and "firmly linked" materials are regarded as non-friable due to their basic inherent integrity.  
"Firmly linked" asbestos materials include asbestos cement, textured coatings, bitumen, plastic, resin, rubber, roofing felt, paper linings, cardboard, textiles, gaskets, washers and ropes.
4. "Degraded" at the outset means materials which are not generally intact.  
"Weathered" AC is not regarded as degraded as it still retains its basic inherent integrity
5. "Deterioration during removal" will depend on the removal method. Work methods where the material is broken up during removal eg scraping off textured coatings or dropping an AC roof will cause "deterioration" whereas work methods where the material is essentially removed intact eg whole AC sheet or whole plaster board sheet with textured coating removed will not be considered as methods which cause deterioration.

## Control of Asbestos Regulations 2012



Non-licensed work requires:	NNLW requires:	Licensed work requires:
<ul style="list-style-type: none"> <li>- compliance with risk assessment</li> <li>- control of exposure</li> <li>- training requirements</li> </ul>	<ul style="list-style-type: none"> <li>- notification before work starts</li> <li>- medical examinations every 3 years</li> <li>- health records</li> <li>- compliance with risk assessment</li> <li>- control of exposure</li> <li>- training requirements</li> </ul>	<ul style="list-style-type: none"> <li>- licensing</li> <li>- notification 14 days in advance</li> <li>- emergency arrangements</li> <li>- designation asbestos areas</li> <li>- medical examination every 2 years</li> <li>- health records</li> <li>- compliance with risk assessment</li> <li>- control of exposure</li> <li>- training requirements</li> </ul>

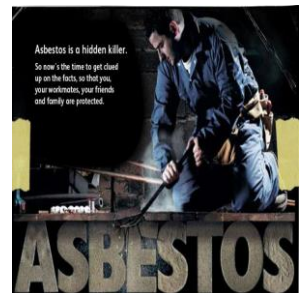
## Managing Asbestos in Domestic Properties



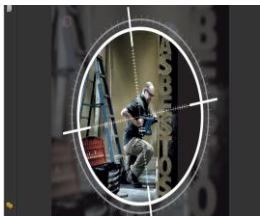
## Duty Holders.....



- Housing Associations: Are you confident no-one will disturb asbestos in your premises?



## Duty Holders



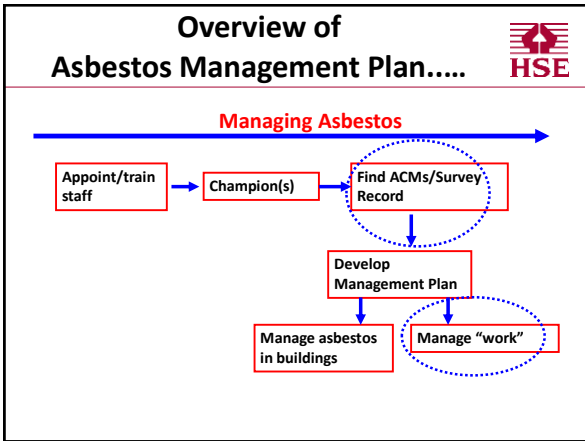
- Primary duty is to employees and other contractors
- Focus on risks in
  - Own properties
  - Domestic properties

## Recent Regulation 4 Case



### Council failed to:

- Prepare site register (and keep it up-to-date) for identified/suspect ACMs
- Produce/introduce a management plan to manage the risk from the ACMs
- Provide occupiers of the premises (ie Council personnel) with information on the presence of ACMs
- Assess the potential for ACMs to be disturbed during regular and routine activities (including cleaning and moving items from storage)
  - Council has failed to assess the risk from work activities and has failed to prevent asbestos disturbance
- Monitor the condition of ACMs over several years (2003-2010)
- Review their asbestos management policy and check compliance with their own policy

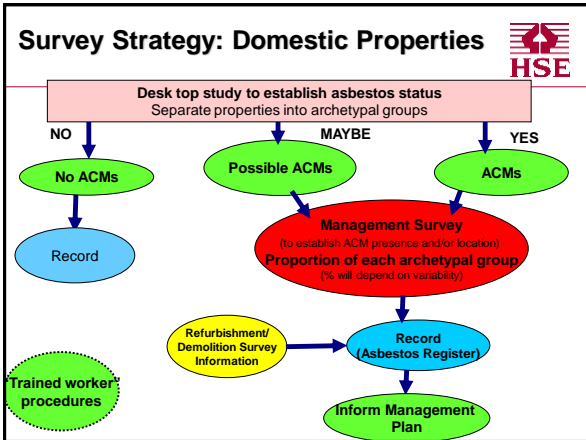


### Survey Strategies – HSG 264

- **Non-domestic premises**
  - Expectation is every building will be surveyed (or presumed)
  - Exception: Large number of similar rooms involved e.g. offices, hotels
  - Representative sample surveyed, with remainder of rooms strongly presumed to contain ACMs

### Survey Strategies – Domestic Premises

- **Particular challenges:**
  - Large number of properties
  - What is reasonable and practicable
  - The “real” extent of similarity in building materials
  - The personalised nature of the tenant’s property



### Survey Strategy: Domestic Properties

- Progressive sampling until confident range of asbestos locations in archetypal group has been identified
- Not all properties will contain all products but potentially could
- Example: 500 properties in one archetypal group:
  - Survey 5% (25 properties): identify asbestos in 5 locations (not all properties have the ACMs)
  - Survey further 5%: find asbestos in further 2 locations
  - Survey further 5%: find no more asbestos locations
- Conclusions:
  - Asbestos potentially present in 7 locations
  - Confident that each potential location/item is known but not all premises will contain asbestos in all 7 locations
  - Check/inspect each location before work starts
- Other Action:
  - Feed in refurbishment survey information where possible (eg from void properties/refurbishment work)
  - Update register as necessary

### “Management” for Maintenance/Refurb Work

- Ensure “Asbestos Register” or survey report completed
  - Areas not surveyed/accessed/inspected: presume contain asbestos
- System to consult/check register before work
  - Arrange refurb survey if info absent or unreliable (eg not current)
  - Or arrange pre-inspection check
- System to manage work and workers
  - Check asbestos trained/competent
  - Pass on asbestos information
  - Check asbestos information has been understood and will be taken into account
  - Check correct controls will be used
  - Monitor work
  - Check clean up

## Survey Checklist/Domestic Premises Records Print out for each property: Simple advice



Address/ Reference	External	Cement Panels	Internal	AIB Bath Panels	AIB Partition Walls	Loose Fill Insulation
Building Archetype		Cement Roofs		AIB Wiring Cupboard	AIB Boiler cupboard	Lagging on Pipes & HW Tanks
Building Type		Gutters, Down Pipes & Flues		AIB Fuse Box Boards	Cement Water Tanks	Sprayed Coatings
Building Age		Soffit Boards		AIB Gas /electric meter	Textured Coating	
				AIB Fire Door Panels	Vinyl Floor Tiles	
				AIB Fire Back Panels	R/Plastic Cisterns	
				AIB Window Paneling		
				AIB Ceiling Tiles		

- Use tick box system
- Add room locations as necessary
- Link to diagram
- Customise as necessary

## Responsibilities to Tenants



- “Duty-of-care” applies afarp
- Duties:
  - To provide some information on presence of asbestos
  - Where ACM identified, make safe any in poor condition
- Duty does not extend to monitoring condition

## Advice to Tenants



- Have a positive policy
- Provide information as part of general information eg new residents pack, news letter
  - No risk from asbestos just being there
  - It provides an important function eg fire protection
  - Will be checked if any work in the area is required
  - Helpline

## Finally: How not to take samples...



Keep up-to-date/more information:  
HSE website: [www.hse.gov.uk/asbestos](http://www.hse.gov.uk/asbestos)