

DOMESTIC PROPERTIES ASBESTOS INFORMATION

for Lettings Agents, Property Managers & Landlords

What is the purpose of this fact sheet?

The purpose of this fact sheet is to provide information to Landlords, Property Managers, Lettings Agents and other such professionals of domestic properties about:

- The duty to manage asbestos
- Management of asbestos in domestic properties
- Responsibilities of the dutyholder
- How we identify and manage asbestos-containing materials (ACMs)
- Asbestos surveys and selecting competent surveyors
- Asbestos training.



Chrysotile asbestos fibre.

THE DUTY TO MANAGE ASBESTOS

Regulation 4 of Control of Asbestos Regulations (CAR) 2012 contains an explicit duty on the owners and occupiers of **non-domestic premises**, who have maintenance and repair responsibilities, to assess and manage risks from the presence of asbestos. The risks will vary with circumstances and can arise from normal occupation of a building or from inadvertent disturbance during repair, refurbishment or demolition.

Management of asbestos in domestic properties

The 'duty to manage' requirements of Regulation 4 CAR 2012 do not normally apply to domestic premises. However, the requirements do apply to common parts of premises, including housing developments and blocks of flats, but do not place any direct duties on landlords for individual dwelling areas of houses or flats to manage asbestos.

Examples of common parts of a domestic premises include, external building structure, foyers, corridors, lifts and lift shafts, staircases, boiler houses, vertical risers, gardens, garages, yards and outhouses.

The requirements do not apply to rooms within a private residence which are shared by more than one household, such as bathrooms, kitchens etc. in shared houses and communal dining rooms and lounges in sheltered accommodation.



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The Health & Safety at Work Act 1974⁷

The Health and Safety at Work Act 1974 section 2, requires all employers to conduct their work so their employees will not be exposed to health and safety risks, and to provide information to other people about their workplace which might affect their health and safety. Section 3 places duties on employers and the self-employed towards people not in their employment and section 4 contains general duties for anyone who has control, to any extent, over a workplace.

Management of Health and Safety at Work Regulations 1999⁸

In addition, the Management of Health and Safety at Work Regulations 1999 require employers to assess the health and safety risks to third parties, such as tenants who may be affected by their activities, and to make appropriate arrangements to protect them.

Asbestos can be found in any building built before the year 2000.

Around 20 tradesmen die a week as a result of past exposure.

SO WHAT DOES THIS MEAN?

These requirements mean that organisations such as property managers, lettings agents, landlords, local authorities, housing associations, social housing management companies and others who own, are responsible for, or have maintenance and repair responsibilities, for domestic properties, have legal duties to ensure the health and safety of their staff (and others) in domestic premises used as a place of work.

As employers, these organisations also have duties under the general requirements of CAR 2012 to identify asbestos, carry out a risk assessment of work liable to expose employees to asbestos and prepare a suitable written plan of work prior to any works taking place.

RESPONSIBILITIES OF THE DUTYHOLDER

To help comply with the legal requirements and to ensure that ACMs in premises are properly managed, dutyholders should identify a person within their organisation who will be responsible for that management. An appointed person will be essential where the dutyholder has a large or complex building portfolio. The appointed person will need the resources, skills, training and authority to ensure that the ACMs are managed effectively. Part of their responsibilities will include managing the survey, including contractual and reporting arrangements, quality and subsequent use of data.

The survey data and information will be used to complete an asbestos register and building diagram(s) showing the ACM locations. It will also feed into the risk assessment, which will be used to develop the management plan. The dutyholder needs to establish clear lines of responsibility for asbestos management and implementation of the plan.

The dutyholder should not appoint or instruct an independent surveyor to carry out a survey unless the surveyor is competent.

SO HOW DO WE IDENTIFY ACMs?

The requirements are placed on 'dutyholders', who should:

- take reasonable steps to determine the location of materials likely to contain asbestos;
- presume materials to contain asbestos, unless there are good reasons not to do so;
- make and maintain a written record of the location of the asbestos-containing materials (ACMs) and presumed ACMs;
- assess and monitor the condition of ACMs and presumed ACMs;
- assess the risk of exposure from ACMs and presumed ACMs and prepare a written plan of the actions and measures necessary to manage the risk i.e. the Management Plan; and
- take steps to see that these actions are carried out.

AND HOW DO WE MANAGE THE RISK FROM ACMs?

The dutyholder will need to:

- keep and maintain an up-to-date record of the location, condition, maintenance and removal of all ACMs on the premises;
- repair, seal or remove ACMs if there is a risk of exposure due to their condition or location;
- maintain ACMs in good state of repair and regularly monitor their condition;
- inform anyone who is liable to disturb the ACMs about their location and condition;
- have arrangements and procedures in place so that work which may disturb the ACMs complies with CAR 2012; and
- review the plan at regular intervals and make changes if circumstances change.

ASBESTOS SURVEYS

Surveys can be carried out by in-house personnel or a third party. In each case, the surveyor must be competent to carry out the work required. To be competent, the 'surveyor' must:

- have sufficient training, qualifications, knowledge, experience and ability to carry out their duties in relation to the survey and to recognise their limitations;
- have sufficient knowledge of the specific tasks to be undertaken and the risks which the work will entail;
- be able to demonstrate independence, impartiality and integrity;
- have an adequate quality management system; and
- carry out the survey in accordance with recommended guidance i.e. HSG 264 Asbestos: The survey guide.

Surveyors should have training and experience in all aspects of survey work including survey planning, resources, technical specification, quality control and ACM assessment criteria.

Asbestos Management Surveys

A management survey is the standard survey. Its purpose is to locate, as far as reasonably practicable, the presence and extent of any suspect ACMs in the building which could be damaged or disturbed during normal occupancy, including foreseeable maintenance and installation, and to assess their condition.

HSE strongly recommends the use of accredited or certificated surveyors for asbestos surveys.



Management surveys will often involve minor intrusive work and disturbance. They can be completed using a combination of sampling ACMs and presuming ACMs but any materials presumed to contain asbestos must still have their condition assessed.

Refurbishment surveys will be required for all work which disturbs the fabric of the building in areas where the management survey has not been intrusive.

Asbestos Refurbishment/ Demolition Surveys

A refurbishment/ demolition survey is needed before any refurbishment or demolition work is carried out. This type of survey is used to locate and describe, as far as reasonably practicable, all ACMs in the area where the refurbishment work will take place or in the whole building if demolition is planned.

Refurbishment/ demolition surveys are fully intrusive and involve controlled, destructive inspection, as necessary, to gain access to all areas, including those that may be difficult to reach, where works are planned. This survey may also be required when more intrusive maintenance and repair works are required.

SELECTING COMPETENT SURVEYORS

The dutyholder should be satisfied that the surveyor is competent to carry out the work required.

This means that the dutyholder should make reasonable enquires as to whether the organisation or individual is technically competent to carry out the survey adequately and safely, and can allocate adequate resources to it. The competency enquiry should be carried out as a two-stage process:

- Stage 1: An assessment of the individual's or company's survey expertise and also, their knowledge of health and safety, to determine whether these are sufficient to enable them to carry out the survey competently, safely and without risk to health.
- Stage 2: An assessment of the individuals' or company's experience and track record to establish if it is capable of doing the work and that it recognises its limitations.

Stage 1

Establish the accreditation or certification status of the surveyor and any relevant asbestos survey qualifications. Obtain a written declaration which states that the surveyor can operate with independence, impartiality and integrity and that personnel carrying out the work are adequately trained for all aspects of the work taking place. In addition, obtain copies of the current insurance certificates for employer's liability, public liability and professional indemnity cover and check them to see that they cover the proposed work.

Stage 2

Obtain information on the surveyor's past experience on the type of survey planned and their capability to do the work. references or evidence of recent similar work should be requested.

If a company or surveyor cannot demonstrate competence through current accreditation or personnel certification, the dutyholder must conduct a more detailed assessment of their competence to do the work. This will include requesting: details of their qualifications, copies of their written procedures and references to other evidence of recent similar work.

EVERYONE NEEDS TRAINING

The Approved Code of Practice and guidance (ACOP) L143 Managing and work with asbestos, which relates to CAR 2012 Regulation 10 states that;

'employers must make sure that anyone liable to disturb asbestos during their work, or who supervises such employees, receives the correct level of information, instruction and training to enable them to carry out their work safely and competently and without risk to themselves or others'.

Asbestos Awareness Training

These training courses are required for tradesmen and should be made available to any person who works within a building which contains asbestos. The course will educate attendees on:

- the properties of asbestos and its' effects on health, including the increased risk of cancer for asbestos workers who smoke;
- the types of asbestos, uses and likely occurrence of asbestos and ACMs in buildings and plant;
- the general procedures to be followed in case of an emergency e.g. an uncontrolled release of asbestos dust into the workplace; and
- how to avoid risks from asbestos e.g. for building work, no employee should carry out work which disturbs the fabric of the building unless the employer has confirmed that ACMs are not present.

Asbestos still kills around 5000 workers each year, this is more than the number of people killed on the road.

Below is a list of workers and tradesmen that are required to receive Asbestos Awareness training, this list is not exhaustive and dutyholders must ensure that anyone instructed to work on properties they own, manage or are responsible for, must have received this training as a minimum.

- demolition workers;
- construction workers;
- general maintenance staff;
- electricians;
- plumbers;
- gas fitters;
- painters and decorators;
- joiners;
- shop fitters;
- plasterers;
- roofers;
- heating and ventilation engineers;
- telecommunication engineers;
- computer and data installers;
- fire and burglar installers;
- architects, building surveyors and other such professionals

Working Safely with Non-Licensed ACMs

It is possible to carry out some small, low risk, repairs, maintenance and removal tasks on non-licensed ACMs without the need for a Licensed Contractor.

These courses are required for tradesmen who wish to work on non-licensed ACMs. allows attendees to learn the practical procedures and techniques required to safely work with, repair and remove non-licensed ACMs which are materials such as asbestos cement, decorative finishes (artex) which contains asbestos, asbestos plastics (sink pads, floor tiles etc.).

Working Safely with Licensed ACMs

Licensed ACMs are materials such as asbestos laggings, sprayed asbestos and asbestos insulation board (AIB). These are high risk materials and as such, require the expertise of Licensed Asbestos Contractors.

WHAT MUST LANDLORDS, PROPERTY MANAGERS, LETTINGS AGENTS AND OTHER SUCH PROFESSIONALS OF DOMESTIC PROPERTIES DO?

- If you own, are responsible for, or have maintenance and repair responsibilities for a domestic property, including housing developments and blocks of flats built before 2000, you must **identify and manage** potential ACMs to the **common parts** of said property.

Common parts include, but are not limited to: the external fabric of the building, foyers, corridors, lifts and lift shafts, staircases, boiler house, vertical risers, gardens, garages, yards and outhouses.

A private residence where rooms & facilities are shared by more than one household i.e. sheltered accommodation, is not applicable.

- If you own, are responsible for, or have maintenance and repair responsibilities for a domestic property, including housing developments and blocks of flats built before 2000 and you plan **refurbishment, repair or demolition** works which will disturb the fabric of the building, you must first seek out and **identify**, as far as reasonably practicable, any ACMs which are present and may be disturbed during these works.
- Operatives or contractors such as: demolition workers, construction workers, general maintenance staff, electricians, plumbers, gas fitters, painters and decorators, joiners, shop fitters, plasterers, roofers, heating and ventilation engineers, telecommunication engineers, computer and data installers, fire and burglar installers, architects, building surveyors and other such professionals **must have received asbestos awareness training**.

Any of these operatives or contractors who wish to carry out works to non-Licensed ACMs must be suitably trained on how to Work Safely with Non-Licensed ACMs.