

Last-chance



It's 21 May 2004, and your receptionist calls to say you have a visitor. It's a HSE inspector. Not something you ever look forward to, but today is the day the 'duty to manage asbestos' comes into force. Good job you had your premises surveyed. It cost a bit but at least you can impress the HSE visitor. You proudly show the glossy survey report to the inspector, who says: "Very nice, but can I see your asbestos management plan?" "My what?" you reply. **Martin Stear** reminds us that Regulation 4 is not all about the survey.

Employers and premises owners have always had duties under the Control of Asbestos at Work Regulations (CAWR) to manage asbestos-containing materials (ACMs). However, it needed to be made explicit what was only previously implied, i.e. that CAWR didn't just apply to those installing or removing asbestos. Consequently, the Amended Control of Asbestos at Work Regulations (CAWR) 2002 came into force on 21 November 2002, and introduced Regulation 4: the 'duty to manage'. This Regulation comes into force on the 21st of this month, following an 18-month lead-in period.

Over those 18 months many businesses have been rushing to get their premises surveyed, because they thought a survey was necessary to comply. This is despite the HSE's campaign to raise awareness about the new Regulation 4. There has been, among many duty-holders, a fundamental lack of understanding of what compliance means, and over-zealous attempts by some parties to persuade clients that compliance means the mandatory completion of surveys.

Now that that deadline is almost upon us the important things to bear in mind are that asbestos surveys are not mandatory, and that the duty is to manage, not to survey. The aim of Regulation 4 is simply to reduce the incidence of asbestos-related diseases among building tradespeople and others who may be routinely exposed owing to the presence of significantly damaged ACMs. If you have an asbestos management plan that protects your employees and others, then it works. If you have achieved this protection without surveying, then it still works and you have complied with Regulation 4 of CAWR. If it doesn't work, then you are not complying – even if you have surveyed your premises.

Full of fibre

Asbestos was used extensively as a building material in Great Britain from the 1950s through to the mid-1980s. Although some of this material has been removed over the years it is estimated that more than half a million non-domestic premises still contain some form of asbestos. These buildings all need maintenance and repair from time to time, possibly full refurbishment at some point, and eventually demolishing.

saloon

Those most likely to be exposed to the hazard, therefore, are tradespeople involved in this sort of work, e.g. builders, electricians, plumbers, carpenters, etc. Exposure potential depends on the nature of the job and how it is controlled, but it could involve thousands of fibres. A one-off, short-duration exposure is unlikely to result in a significant risk of developing mesothelioma but these workers may be involved in a series of jobs and, therefore, many short-duration exposures. Because of the still-widespread presence of asbestos in our buildings, for the foreseeable future tradespeople will continue to come across asbestos and possibly disturb it, thereby slowly but surely increasing the risk to their health.

Surveying your premises will simply tell you where your asbestos is. It will not stop tradesmen working on asbestos, nor will it stop architects, planners and others carrying out major works on the fabric of the building without first considering the presence of asbestos. Thousands of asbestos surveys have been carried out over the last two decades and some buildings have had many repeat surveys. But over those two decades how many school-children or employees have had to be sent home, or even rushed to the doctor, because an electrician, a plumber, or any other tradesperson has drilled, cut, or smashed their way through asbestos. Even worse is when it is later discovered that someone, somewhere knew the asbestos was there. Weeks, months and even years of recriminations then follow as everyone tries to find who was at fault. But such situations can so easily be prevented.

Safe in the knowledge?

There is another reason why you shouldn't panic and rush in to surveying. When you have your premises surveyed, you relax because you think you know for sure whether or not there are ACMs present and, if so, exactly where they are. But your survey is only as good as your surveyor. A bad survey is worse than no survey at all. There have been many cases of poor surveys – for example, where so-called competent surveyors missed a boiler house in a hospital, didn't find two thirds of the asbestos, and didn't look above ceiling tiles because they were only doing a Type 2 survey.



Damaged asbestos insulating board (AIB) panels containing amosite (brown asbestos)

Asbestos surveys are not mandatory, and the duty is to manage, not to survey. If you have an asbestos management plan that protects your employees and others – it works.

The HSE has published guidance on surveying,¹ which describes survey types 1, 2 and 3. A Type 1 survey locates any material that could contain asbestos and presumes it does, without any analysis to confirm. A Type 2 is a standard sampling, identification and assessment survey, where 'accessible' ACMs are found, while a Type 3 is a full access survey (typically pre-demolition/ refurbishment).

Type 2 surveys are the most common, as they positively identify all accessible ACMs. A Type 1 survey would simply provide a record of everything that could not be presumed to be asbestos-free. Wood, metal, glass, etc. could therefore be excluded, but everything else would have to be presumed to be an ACM. There are a few circumstances in which a Type 1 survey is of real benefit, as it includes more materials in the report. A Type 3 aims to find every ACM in the

premises, which means removing panels, breaking into partitions, etc. Since this causes cosmetic and even structural damage, this type of survey is usually only carried out before refurbishment or demolition work.

The problem is that some survey reports hide behind these survey types. For example, the report will tell you what the surveyor has found, but will also include many general caveats about what he or she may have missed. This protects the surveyor, but the exclusions are so general that the client doesn't know what is and isn't known for each area surveyed. If asbestos is found at a later date, the client doesn't know whether the surveyor accessed that area.

A good survey will accurately describe, for each area surveyed, the ACMs found, any areas that were inaccessible and thus not examined, and the potential for concealed ACMs. The client can therefore be confident about planning work in an area, and knows which areas to avoid and which are clear.

Plan to protect

So what is an asbestos management plan? It sets out how you are going to ensure that ACMs are maintained in good condition, and that nobody works on them unsafely. It is your strategy for compliance. Think of it as a business plan, which sets out how your business is going to develop, market itself, manage its cash flow, etc. The asbestos management plan describes how your business controls work on the fabric of building to ensure that ACMs are not



Asbestos-containing vinyl floor tiles (chrysotile – white asbestos)

disturbed. It also sets out your strategy for surveys (should they be necessary), your training strategy (so that awareness and competencies are raised), says who is responsible for making sure the plan is delivered, and describes your arrangements for monitoring and reviewing the plan.

The plan can take many formats; for the SME it is likely to be straightforward and simple but for the multi-national it will be much more complex. What it must not be is something that is merely taken out to show (and impress) the inspector and then filed away. If it describes current systems and procedures, then you need to make sure they are working, but if it describes new procedures or approaches, you now need to develop these.

With the plan completed, you now know that controls are in place to ensure that workers are not exposed to asbestos. You may not know where all your asbestos is, but your plan describes how you deal with this. It also demonstrates that your electricians, joiners, contractors, etc. know what to do each and every time they pick up a tool box. Compare this to just having a survey report: you know where the asbestos is, but does anyone else? When the department head asks for new light fittings, does he or she stop to think? Will the electrician say: "I can't do that until I've checked the register/spoken to my boss/taken a sample." It's unlikely, if there isn't a plan to back the survey up.

To develop an asbestos management plan the first step is to determine what you do know about your premises. If there are no reliable existing records about the presence of asbestos, then assume everything is asbestos. If you are a very small business, you simply need to control every job that involves working on building materials. If a job

Everyone likely to work on the fabric of the building needs to know what to do and how to do it safely

needs doing, you can have a sample analysed for asbestos and proceed accordingly. Individuals can take samples of suspect materials providing they take care while doing so.² Samples should then be sent to a UKAS-accredited testing laboratory meeting the requirements of International Standard ISO 17025.³

If you are a housing association, hospital trust, or an otherwise large multi-site business obviously you cannot work like this in the long term. It just wouldn't be practical to send a sample for analysis every time you want to do any maintenance work, but you may have to do so until you know more about your many buildings. If you have hundreds, even thousands of buildings, it may take many years to survey them. If this is the case, you need to develop a strategy for your surveys. You can do the oldest or most occupied buildings first, or, if you are a local authority, you might give priority to schools, for example.

Let it register

In the meantime, you also need a system in place that identifies ACMs that are damaged and may be disturbed. A surveyor is not always necessary; someone with a moderate amount of awareness training who can identify damaged materials that may contain asbestos will suffice. This is a short-term fix, but necessary for those

with hundreds of premises. Although the individual may have only limited competency in asbestos, they can at least help focus attention where it is needed.

The article by Allan Rickmann in the March issue of *SHP*⁴ explained about asbestos registers, and the different formats they can take. Two crucial points about a building's asbestos register is to make sure that those likely to be working on the fabric of the building know about it and can access it, and that it is always updated whenever any new asbestos is found, or existing material is disturbed, or removed.

Many businesses that have had their premises surveyed haven't kept their records up to date. Employees move on and within a few years the old survey report cannot be trusted, with the result that those businesses are having to scrap their old records and start again. This situation can be prevented from happening again by ensuring that there is commitment and awareness at all levels. Everyone who is likely to work on the fabric of the building needs to know what to do and how to do it safely.

If the register has been checked and has confirmed that those ceiling tiles that need to be moved for installing new electrics do indeed contain asbestos, what happens next? The work can still go ahead but it must be carried out under controlled conditions. In the UK work on asbestos must, by law, be carried out by a contractor who possesses a licence under the Asbestos (Licensing) Regulations 1983, as amended. There are exceptions, which apply to certain materials, such as articles made of rubber, plastic, resin or bitumen but which also contain asbestos, and other asbestos products, which may be used at high temperatures but have no insulation purposes, such as gaskets, washers, ropes and seals. The exceptions also apply to asbestos cement, and where the work is:

- short-duration (less than one hour in seven days for each worker, and less than two hours in total);
- air-monitoring, or sample collection to identify asbestos; and
- carried out by an employer with their own employees on their own premises (in this situation the operatives still need to be competent to do the work, and 14 days notification of the start of the work should be given to the HSE).

The bottom line is that the tradesperson can do the work themselves if they follow good practice. The HSE has produced guidance for non-licensed work, which is targeted at jobs like removing ceiling tiles and describes techniques for minor work.⁵

Maintenance personnel and contractors will need awareness training,

and some may need specific training if required to work on asbestos-containing materials. Managers should also be trained to ensure their awareness of the systems put in place. This training is often best delivered as in-house training, which can be tailored to the company's individual needs to deal with company-specific procedures and systems. However, many companies offer generic asbestos and building management awareness training courses.

Summary

Asbestos in good condition is harmless. It is only when uncontrolled actions are taken on ACMs that there is a risk to health. The condition of any ACMs found will need to be monitored on a regular basis to ensure that they do not deteriorate without remedial action being taken. The management plan and asbestos register are both working documents and cannot be put on a shelf and forgotten about. They will need regular updating and auditing to ensure they are successful in preventing exposure to asbestos.

Surveys will always be a fundamental part of any asbestos management plan, but they shouldn't drive it. The management of asbestos needs commitment at all levels. None of this is new and many companies are resurveying their premises because their



Sprayed asbestos on steelwork (typically amosite)

registers have not been kept up to date.

You may think that not knowing where ACMs are is scary, but just stop and think what all your company's building trades and contractors are doing right now, as you read this article: that's more scary. The best way to determine whether or not you are complying with the duty to manage asbestos is to take a walk through your premises and start asking questions. Stop a tradesperson or contractor and ask if the material they are working on is asbestos. Ask a department head about maintenance work and what they do if a light fitting needs changing, or the ceiling has been damaged. If the tradesperson doesn't know, or the department head can't give you a satisfactory answer, then it's time to look again at the effectiveness of your management plan.

SHP

References

- 1 HSE (2001): *Surveying, sampling and assessment of asbestos-containing materials* (MDHS 100), ISBN 0 7176 2076 X, HSE Books
- 2 HSE (2002): *A comprehensive guide to managing asbestos in premises* (HSG227), ISBN 0 7176 2381 5, HSE Books
- 3 Visit www.UKAS.org for accredited laboratories
- 4 Rickmann, Allan: 'Be asbestos aware', in *Safety and Health Practitioner*, Vol.22, No.3, pp31-32
- 5 HSE (2001): *Introduction to Asbestos Essentials* (HSG 213), ISBN 0 7176 0901 X; and *Asbestos Essentials Task Manual* (HSG210), ISBN 0 7176 1887 0, HSE Books

About the author

Martin Stear recently left the HSE, where he was a key player in the technical development of the HSE's asbestos policy and, together with his colleague Tracey Boyle, authored HSG 227, *A Comprehensive guide to Managing Asbestos in premises*. Martin and Tracey have now set up an independent consultancy, Workplace Environment Solutions Ltd, and can be contacted at info@healthsafetyspecialists.co.uk or visit www.healthsafetyspecialists.co.uk

ADVERT NAME & SIZE
TO COME