

THE ASBESTOS CRISIS: WHY BRITAIN NEEDS AN ERADICATION LAW

Introduction

On 16th October 2015, the All-Party Parliamentary Group on Occupational Safety and Health (APPGOSH) published a report calling for the government to introduce legislation aimed at ensuring that all workplaces are free from asbestos by 2035 and all public buildings are free from asbestos by 2028.

This Reps Bulletin will introduce some of the contents of report and go onto encourage reps to raise the issue of asbestos with their employers and managers so that, together, we can ensure that it is eradicated from our workplaces.

The legacy of asbestos

Nearly all of the people dying now were exposed to asbestos decades ago.

Figures published by the Health and Safety Executive in October 2015ⁱ showed that there were:

- 2,538 mesothelioma deaths in Great Britain in 2013 (2,123 men, 415 women)

- 477 deaths from asbestosis (without mention of mesothelioma) in 2013
- 985 newly assessed cases of asbestosis in 2014
- 425 newly assessed cases of diffuse pleural thickening.

The page on the HSE website also states that "In addition, it is estimated that there are about as many asbestos-related lung cancer deaths each year as there are mesothelioma deaths." This claim obviously makes an already significant issue even more appalling because it doubles the numbers who are suffering and dying from disease caused by exposure to asbestos, a product that was not finally banned until 1999.

The APPGOSH report highlights the fact that there are 5,000 people in Britain who are likely to die prematurely as a result of asbestos exposure, a figure that is three times the number of road accident deaths.

What about the future?

What is more, far from being an issue that will go away, the effects of

exposure to asbestos will be felt for years to come. The HSE estimates that over the next five years the numbers of mesothelioma deaths will climb because of the 30-40 year latency period after exposure and that regulations were not introduced until the 1970s and '80s.

The APPGOSH report questions the assumptions that the HSE has used in considering 2020 as the date when deaths related to asbestos will decline and points to the fact that there are no accurate figures for the level of exposure since the 1980s.

Consequently, the cross party MPs on the group is calling for action to remove the cause of asbestos related diseases.

TSSA believes that the effects of asbestos related deaths will be felt for a far longer period because of the comparatively short time since chrysotile was banned, not to mention how so many asbestos related products remain in homes and workplaces.

Where might you find asbestos today?

According to the APPGOSH report, it is estimated that asbestos containing materials can still be found in around:

- half a million non-domestic premises
- a million homes

Asbestos has been used in a variety of products including:

- lagging on pipes and boilers;

- sprayed asbestos on pipes and in voids;
- as cement in the form of roofing, wall cladding, guttering, pipes, water tanks and corrugated sheets;
- insulating boards;
- tiling;
- textured wall coatings;
- asbestos ropes and cloth.

One of the biggest issues with asbestos is that it is either hidden or has not been identified as asbestos (would you recognise it?).

Who is exposed to asbestos?

In the past, many people were exposed to asbestos because the product was used in so many applications. Many people in the railway industry encountered asbestos as they maintained, refurbished or were involved in the scrapping of traction and rolling stock where, for instance, asbestos lagging and insulation was used. Exposure could also come by working in a building with asbestos because fibres could become dislodged and breathed in.

Even today, people working in maintenance and refurbishment of buildings, including railway depots and offices, can be exposed to asbestos. Equally, those who regularly work in the office or depot can find themselves at risk.

How does asbestos affect people?

There are several different fatal diseases associated with asbestos exposure:

- lung cancer. There are an estimated 2,000 lung cancer deaths a year attributed to exposure to asbestos (the APPGOSH report highlights the belief that the figure quoted is an underestimate).

The type of work that caused this condition (eg, asbestos spraying, lagging, etc) was largely stopped in the 1980s which means that there is a slow decrease in the number of such cancers;

- mesothelioma (cancer of the lining of the lung or abdominal cavity). Deaths from this disease are continuing to rise as it results from a much lower exposure to asbestos (see figures above).

The APPGOSH report suggests that this condition is more common in occupations such as carpenters, plumbers and electricians but also in those people who have no history of construction work but are likely to be affected through exposure at their workplace. As a result, people employed in shop work, as health care employees, phone engineers, teachers and finance workers have been diagnosed with mesothelioma.

Reps should note that about 85% of mesothelioma deaths

are as a result of exposure at work with the balance stemming from exposure at home.

For those people who are parents, another worrying factor is that the report suggests that 75% of schools contain asbestos;

- asbestosis (long term lung condition) which results from heavy exposure to asbestos and can "produce clinically significant asbestosis within the lifetime of an individual." It is "an irreversible condition with no cure" that "seriously affects normal daily activity and ...can be fatal."ⁱⁱ

Are there safe threshold levels with asbestos?

There are no safe threshold levels when it comes to exposure to asbestos. The APPGOSH report draws attention to World Health Organisation researchⁱⁱⁱ which established that the inhalation of small quantities of asbestos fibres, even over a short period, can lead to mesothelioma decades after exposure.

The legal position

The HSE Website^{iv} gives the following guidance on the Control of Asbestos Regulations 2012^v and you will find the same detail in the APPGOSH Report:

- If existing asbestos containing materials are in good condition

and are not likely to be damaged, they may be left in place; their condition monitored and managed to ensure they are not disturbed;

- Those responsible for maintenance of non-domestic premises have a duty to manage^{vi} the asbestos in them, to protect anyone using or working in the premises from the risks to health that exposure to asbestos causes;
- Before doing any building or maintenance work in premises, or on plant or equipment that might contain asbestos, the duty holder needs to identify where it is and its type and condition; assess the risks, and manage and control these risks;
- The requirements for licensed work remain the same: in the majority of cases, work with asbestos needs to be done by a licensed contractor.^{vii} This work includes most asbestos removal, all work with sprayed asbestos coatings and asbestos lagging and most work with asbestos insulation and asbestos insulating board (AIB);
- In most cases, work with asbestos needs to be done by a licensed contractor, but even non-licensed asbestos work requires effective controls;^{viii}

- The control limit for asbestos is 0.1 asbestos fibres per cubic centimetre of air (0.1 f/cm³). The control limit is not a 'safe' level and exposure from work activities involving asbestos must be reduced to as far below the control limit as possible;
- Training^{ix} is mandatory for anyone liable to be exposed to asbestos fibres at work. This includes maintenance workers and others who may come into contact with or disturb asbestos (eg cable installers), as well as those involved in asbestos removal work.

What are the issues with the current approach to controlling asbestos?

The APPGOSH report identifies a series of issues related to the current approach to controlling asbestos:

- The accepted practice for 15 years has been to leave asbestos and manage it in place where the product is in good condition and not likely to be disturbed during the normal use of the building.

APPGOSH points out that the problem with this is that this has meant most asbestos has remained in place and continues to pose a hazard.

As such, APPGOSH is calling for a change of policy because in

reality asbestos in cupboards, boilers, wall panels and pipes will have been disturbed every time these items are worked upon, a state of affairs that cannot be allowed to continue;

- The current regulations require that all premises should be surveyed and asbestos containing materials should be regularly inspected and labelled. APPGOSH report that they have found that this is not happening and cite a 2010 survey of 600 schools that showed:
 - only 28% of respondents said the presence of asbestos-containing materials was clearly marked in the workplace;
 - only one third of respondents were aware of the asbestos register;
 - only 20% of those answering the survey confirmed that the register was shown to contractors.^x
- Because of a lack of legal compliance, coupled with the failure to recognise asbestos containing material, APPGOSH also draw attention to the number of prosecutions brought against employers for allowing workers to be exposed to asbestos. However, they go onto note "that these prosecutions are only a tiny proportion of the employers who put the lives of their workers at risk by exposing

them to asbestos."

Even where asbestos is identified, APPGOSH claim that "accidental disturbances by contractors and others is common place" and that it can also be dislodged by vibration and other activities.

- Register – TSSA's Solicitors, Morrish and Co, maintain a register on the union's behalf of all members who have been exposed to asbestos. If you think or know another TSSA member is in that category, please contact jenksr@tssa.org.uk

Calls for a new law

APPGOSH argue for a new law in Britain which would incorporate a clear timetable for the eradication of asbestos from every workplace in order to protect future generations from the risk of exposure. In particular, the law would ensure that:

- By 2022, all commercial, public and rented domestic premises have to conduct, and register with the HSE, a survey done by a registered consultant in order to identify whether asbestos is present and in what condition it is;
- By 2035 at the latest, where asbestos has been identified, a plan must have been developed and implemented by the duty

holder which would see the asbestos removed. The timescale for public buildings and educational establishments (eg, schools) should be 2028;

- HSE and local authorities should develop a programme of workplace inspections to verify that asbestos eradication plans are in place and being implemented in an acceptable timeframe. More resources would be required for the inspectors because of government austerity cut backs;
- Before any house sale is completed, a survey should be done to establish the presence of asbestos which should then be labelled and notified to any contractor working on the premises.

Reps action pending the new law

It is not a given that the law that the APPGOSH are calling for will ever be enacted, especially by the current Conservative Government whose record to date has been one of seeking to undermine aspects of health and safety provision.

That said, reps can take action and we would suggest the following:

1. Read up and prepare yourself on the issue, including how it can be addressed through the company health and safety committee system or via

collective bargaining;

2. Raise the question of asbestos with your employer, asking whether they know of any asbestos where staff work;
3. Ask to see the asbestos register (if one exists) and whether the premises have ever been surveyed for the presence of asbestos. Are you aware of asbestos that has been labelled (or not)?
4. Seek a negotiated agreement for the planned and safe removal and disposal of all asbestos within the workplace;
5. Contact colleagues about the issue and explain why it is important. To this end, reps may wish to seek advice from their TSSA organiser about how to organise around the issue, especially if, before they approach management, they are aware of the presence of asbestos in the workplace. You should think about this stage as part of your planning before you approach the employer;
6. Feedback to your colleagues about how you have progressed after each meeting and see what their reactions are. Encourage them to play a part in the campaign if your employer is reluctant to do anything.

Acknowledgements and further reading

This briefing is based on the APPGOSH document and HSE advice, all of which can be found by following the electronic links in the notes below.

<http://www.beware-asbestos.info/>
(HSE's asbestos web app)

<https://www.tuc.org.uk/workplace-issues/health-and-safety/asbestos>

ⁱ See: HSE's webpage "Asbestos related disease" at:
<http://www.hse.gov.uk/statistics/causdis/asbestos.htm>

Also see page 7 of HSE's "Health and Safety Statistics at a glance" available at:
<http://www.hse.gov.uk/statistics/at-a-glance.pdf>

ⁱⁱ See page 2 of HSE's "Asbestosis in Great Britain 2014" at:
<http://www.hse.gov.uk/statistics/causdis/asbestos/asbestosis.pdf>

ⁱⁱⁱ See:
http://www.who.int/occupational_health/publications/draft.WHO.policy.paper.on.asbestos.related.diseases.pdf

^{iv} See:
<http://www.hse.gov.uk/asbestos/regulations.htm>

In addition, useful websites that you may wish to visit include:

<http://www.hse.gov.uk/asbestos/>
(contains lots of useful links to information as well as guides to how to carry out surveys, etc)

(TUC's advice page on asbestos with links to guides, news releases and other resources.

^v See:
<http://www.legislation.gov.uk/ukxi/2012/632/contents/made>

^{vi} Duty to manage requirements are available at:
<http://www.hse.gov.uk/asbestos/duty.htm>

^{vii} For more details, see:
<http://www.hse.gov.uk/asbestos/licensing/license-d-contractor.htm>

^{viii} See:
<http://www.hse.gov.uk/asbestos/essentials/index.htm>

^{ix} For more information, see:
<http://www.hse.gov.uk/asbestos/training.htm>

^x See Page 7 of APPGOSH Report available at:
<https://www.tuc.org.uk/sites/default/files/asbestoseradication.pdf>