



The role of the duty holder and local duty holder for asbestos management in academies

Introduction

When asbestos fibres are inhaled they can cause cancer and hundreds of school staff and pupils are estimated to be dying from mesothelioma cancer each year because they were exposed to asbestos in their schools in the 1960s and 1970s. Children are known to be more vulnerable. ¹

It is estimated that around 86% of the nation's schools contain asbestos. Asbestos becomes unsafe when it is disturbed, for example by everyday school activities, contractors and water ingress. As increasing numbers of those schools become academies, it is essential to ensure that the risk of asbestos being disturbed in those schools is properly evaluated and that the quality of asbestos management is also ensured.

Management of asbestos

The duty to manage asbestos is a legal requirement and is about putting in place the practical steps necessary to protect staff, pupils, contractors and other visitors to the school from the risk of asbestos exposure. The management of asbestos is set out under Regulation 4 of the Control of Asbestos Regulations (CAR) 2012. All those who own, occupy, manage or have responsibility for the maintenance and repair of premises have duties under Regulation 4 of the CAR 2012. They are called Duty Holders. For Multi-Academy Trusts, the Duty Holder is the Multi Academy Trust (MAT), and for single academies and free schools, the duty holder is the employer, who is set out in the funding agreement and is usually the trustees.

The Duty Holder responsibility can be shared between the employer and a designated local Duty Holder in the individual academy schools but to ensure safe management of asbestos it is important that the local Duty Holder role is clearly understood and supported by training and adequate resources (see Checklist 3). Multi-Academy Trusts and individual academies will need to consider how they can best get the necessary expert guidance to enable them to fulfil their Duty Holder role (See checklists 1 and 2).

Guidance on asbestos management

The Health & Safety Executive (HSE) has written guidance² and a useful checklist³ for asbestos management in schools which clearly sets out the functions of the Duty Holder in schools. However, it was written when

¹ https://www.ucu.org.uk/media/4999/Asbestos-in-schools---all-party-parliamentary-report-Feb-2012/pdf/asbestos_in_schools_booklet_lo_res.pdf



the school Duty Holder was usually the local authority which employed staff who could provide the necessary support and guidance for any local Duty Holders in individual schools. As ownership of schools moves to trustees and MATs, it is essential to ensure that experts are brought in to take on this role.

The JUAC Checklists below are intended to be used in conjunction with the HSE checklist:

- Checklist 1 is for organisations contemplating taking over a school that contains asbestos and sets out what should be considered.
- Checklist 2 outlines the key consideration for trustees in academies and
- Checklist 3 sets out key considerations for a local duty holder in a multi academy trust

2 ² <http://www.hse.gov.uk/services/education/asbestos.htm>

3 ³ <http://www.hse.gov.uk/services/education/asbestos-checklist.pdf>



	Checklist 1: Asbestos Management for Multi Academy Trusts considering taking over a school that contains asbestos:	Yes	Further action needed
1	Have you had sight of the latest survey of the asbestos in the school?		
2	Was the survey (if done) carried out by a surveyor from a UKAS accredited organisation within the past year and did it include the location and condition of all the asbestos in the school buildings. <i>If the answer is No then the prospective trust should consider commissioning their own new survey to satisfy themselves that they fully understand the liability that they are taking on</i>		
3	Does the school have any system built buildings? If the answer is Yes: Have you consulted with an asbestos consultant about the potential for asbestos disturbance caused by normal classroom activities, maintenance work and the impact of asbestos on any planned renovation?		
4	Has the survey advice resulting from the latest survey been implemented by the school?		
5	Have you had sight of the asbestos register?		
6	Has the asbestos register and management plan been communicated to staff and contractors and have they been informed of the specific locations of asbestos in the school? <i>If yes, how has this been done and is it sufficiently robust</i>		
7	Have staff had training regarding the risk from asbestos and how it may be disturbed? <i>If yes, is this adequate?</i>		
8	Are there full records for maintenance and renovation work involving asbestos and for the removal of asbestos in the past?		
9	Who has acted as duty holder in the school and what has been their training and qualifications to deliver this role		
10	Will you obtain Public Liability Insurance cover for the academy from the DfE under 'The Risk Protection Arrangements for Academy Trusts' for any future asbestos claims from former pupils and non-employees? If not, how would you propose to cover this future risk as public liability policies exclude asbestos?		

Checklist 2: Asbestos management for Multi Academy Trusts (MAT) and trustees who are Duty Holders:		Yes	Further action needed
1	Are you confident that you are fully aware of all the implications of your duty as employer and Duty Holder to manage asbestos?		
2	Has the Duty Holder clarified with each Academy in the chain who will have the legal responsibility and expertise for the management of maintenance and repair involving asbestos? See Checklist 3 Q1.		
3	Has the Duty Holder ensured that local Duty Holders and people carrying out work involving asbestos in each Academy receive adequate training, support and access to expert advice when necessary? See Checklist 3 Q3		
4	Has the Duty Holder carried out an appropriate review of previous asbestos management arrangements and records? See HSE Checklist 1?		
5	Has the Duty Holder ensured that asbestos management is based on regular UKAS accredited surveys and subsequent UKAS accredited re-inspections and monitoring in all its academies?		
6	Has the Duty Holder appointed appropriate asbestos consultant(s) to support and advise them and any local Duty Holders in individual academies about asbestos management? ⁴		
7	Is the Duty Holder able to evaluate the impact of asbestos on planned maintenance and renovation works?		
8	Is the Duty Holder aware of how the risk assessment of the risk presented by asbestos in an academy should be carried out (See HSG 227 guidance p55-59 and Q6 above) and the need to take into account the known increased vulnerability of children to asbestos?		
8	Has the Duty Holder obtained Public Liability Insurance cover from the DfE under 'The Risk Protection Arrangements for Academy Trusts' for any future asbestos claims from former pupils and non-employees? If not, how do they propose to cover this future risk as public liability policies exclude asbestos		
9	Has the Duty Holder developed a system to retain and store asbestos records and records of asbestos exposure incidents for 60 years? See Checklist 3 Q10.		
10	Is the Duty Holder aware of the requirement to inform and consult with union safety representatives? See: http://www.hse.gov.uk/involvement/1977.htm .		

⁴ System built schools containing extensive asbestos may need specialist guidance regarding the potential disturbance of hidden, inaccessible and presumed asbestos by normal school activities, contractors and building deterioration.

	Checklist 3: Asbestos Management for local Duty Holders in Multi Academy Trusts and individual academies:	Yes	Further action needed
1	Has your Trust Duty Holder clearly set out your responsibilities for managing asbestos, and what responsibilities will remain with the Duty Holder?		
2	Have you received adequate training, support and access to expert advice to prepare and support you in this role?		
3	Is there an up to date record of the location and condition of asbestos containing materials (ACM) or presumed ACMs in your academy?		
4	Have you received adequate training and support to enable you to assess the potential risk from the ACMs if that is part of your role?		
5a	Is there a regular review of the asbestos management plan?		
5b	Is the asbestos management plan reviewed after every asbestos incident?		
5c	How regularly does the Trust Duty Holder review the management of asbestos in your academy?		
6	Is there a clear policy for informing all users of the building, including contractors, supply teachers, visitors and after school clubs etc. of the location of asbestos and how to avoid disturbing it?		
7	Have staff who may disturb asbestos: <ol style="list-style-type: none"> 1. Been informed of the named Duty Holder and how to raise concerns? 2. Received awareness training on how to avoid disturbing asbestos and how to deal with an asbestos disturbance incident? 		
8	Have the emergency services been notified about the location of asbestos in your academy?		
9	Are there emergency procedures for dealing with asbestos that has been damaged or disturbed by school activities, contractors, floods or contractors?		
10	Do you have clear processes for recording and notifying the Duty Holder of the names and addresses of any staff and pupils exposed to asbestos and how the incident occurred, so that this can be retained for 60 years?		
11	Do you have clear processes for informing and consulting with union safety representatives about all school asbestos matters? (See p3 Q10)		
12	If you are the duty holder for the academy, have you obtained Public Liability Insurance cover from the DfE under 'The Risk Protection Arrangements for Academy Trusts' for any future asbestos claims from former pupils and non-employees? If not, how do they propose to cover this future risk as public liability policies exclude asbestos?		