

ASBESTOS MANAGEMENT

Abstract

This report advises on the action being taken to meet the requirements of the Control of Asbestos at Work Regulations 2002 for all non-housing Council properties and when undertaking works on behalf of the Housing department. It identifies the need for additional resources to maintain and extend the systems being introduced to achieve compliance by May 2004.

1. RECOMMENDATIONS

The Resources and Central Services Committee is recommended to:

- 1 note the contents of this report,
- 2 note that the funding of the additional resources identified as being required to ensure that Angus Council achieves and maintains compliance with the Control of Asbestos at Work Regulations 2002 will be considered through the Budget Setting exercise for 2004/05.

2. INTRODUCTION

The Control of Asbestos at Work Regulations 2002 came into force on 21st November 2002 with the exception of Regulation 4 which comes into force on 21st May 2004 and Regulation 20 which comes into force on 21st November 2004.

These regulations have been introduced to establish new duties to further control the risk of asbestos in non-domestic properties through the introduction of new management arrangements.

These arrangements are intended to protect contractors undertaking work in particular, as well as employees and visitors, in non-domestic properties in which there are asbestos containing materials.

3. BACKGROUND

Much has been done to control the risk from asbestos with the importation, supply and use of asbestos and asbestos products being controlled by strict regulations. Also the control of any work with, on or around asbestos, is well controlled with many types of work requiring a licence. However these regulations only protect workers from exposure to asbestos when the presence of asbestos is known.

At least a quarter of those dying from asbestos-related diseases have worked in the maintenance or building trades.

The duty to manage has been introduced to protect people who may be unknowingly exposed to asbestos fibres during their day to day work, such as plumbers, electricians, cable layers, gas fitters, painters and decorators. The duty seeks to ensure that asbestos in premises will be located, recorded and managed. Those who may disturb it are then informed of its location so they can take suitable precautions.

All those who have responsibility for the maintenance and/or repair of non-domestic premises have duties under this regulation. The extent of the legal duty is determined by the terms of the tenancy agreement or contract that applies, and in the absence of any such agreement, on the degree of control the party has over the premises.

The duty holder may well be the landlord or tenant depending on the circumstances of the case. In some cases responsibility could be shared between two or more parties.

This regulation also includes a duty to co-operate, which applies widely. This will, for example, require a landlord to pass information about asbestos onto a new tenant. Similarly a tenant must co-operate by allowing a landlord to gain access to a building for example, to carry out a survey. Also a building surveyor or architect who has plans or specifications which show information regarding the whereabouts of asbestos would be expected to make these available to the duty holder at a reasonable cost.

The Director of Property Services is responsible for the management of asbestos in all non-housing properties including those which are leased by the Council to tenants.

The Director of Housing is responsible for the management of asbestos in all housing properties, including common areas, assisted by the Director of Property Services when projects, other than day to day maintenance, are being undertaken.

Occupying departments are responsible when property related work is being undertaken by their employees i.e. undertaken by janitors, caretakers etc.

4. MANAGEMENT ARRANGEMENTS

Regulation 4 which contains the duty to manage asbestos in non-domestic properties, will come into force on the 21st May 2004 and the Property Services department has been preparing to ensure that it has established the resources and systems necessary to achieve compliance with the requirements of the Regulations.

As dutyholder for non-housing Council properties, the Property Services department is required:-

- to take reasonable steps to find asbestos in the premises and assess the conditions of the material;
- to presume that materials **do** contain asbestos unless there is strong evidence that they do not;
- prepare a record of the location and condition of these materials and assess the risk from them;
- prepare and implement a plan to manage those risks and
- provide information on the location and condition of the material to anyone who is likely to disturb it.

This requires the Property Services department to: -

- ensure that all asbestos known to exist in the Council's non-housing properties is managed in an appropriate and responsible manner using appropriate control measures;
- ensure that no work is carried out, unless properly managed, which exposes or is liable to expose employees, including contractors, to asbestos fibres;
- ensure that all employees are made aware of the location, nature and management arrangements for such asbestos and the hazards that are present through adequate information, instruction and training;
- prevent the exposure of employees to asbestos so far as is reasonably practicable.

The regulations re-affirm that best practice continues to be to manage asbestos in properties and only to remove it when it is in poor condition or it is disturbed so that it releases fibres. Minor damage should be repaired or sealed and left in place if it is not going to be disturbed.

The Health and Safety Executive has advised that they will be undertaking inspections of local authorities to ensure that they are achieving full compliance with these Regulations shortly after Regulation 4 comes into force.

4.1 Location Of Asbestos

The Property Services department maintains an Asbestos Register which records the type, location and condition of all known asbestos. Improvements have been introduced to ensure that the register fully meets the requirements of the legislation for listing and managing identified asbestos. Procedures for updating the register when asbestos is suspected, identified or removed are being tightened.

Arrangements are in-hand to engage an Asbestos Technician to undertake building audits and test sampling to confirm/update the asbestos register. All locations of asbestos containing materials will be marked on record drawings maintained both locally and centrally.

A Temporary Asbestos Technician post has been created for the balance of the current financial year, whose duties include: -

- surveying all non-Housing Council properties to validate current asbestos containing materials records and to look for unrecorded asbestos;
- arranging for sampling and analysis of suspected asbestos containing materials;
- updating the Asbestos Register and associated record drawings. Assisting in establishing of respective management arrangements.

Local registers are being prepared for each non-housing property, to be stored on site with easy access. Each will contain details in accordance with HSE guidance including the form, type and location of asbestos containing materials, and these will complement the asbestos database. They will be available for reference by the building manager, janitor and visiting contractors.

4.2 Awareness

Arrangements are being finalised to provide all building managers, head teachers/rectors and safety representatives with a briefing on the new legislation and the adopted asbestos management arrangements. The nature, location and management arrangements for all asbestos in each building will be discussed and these managers will then be able to brief their employees.

4.3 Procedures

Current procedures have been reviewed and are being updated to reflect the new legislative requirements and changes in best practice. These are currently in draft and are expected to be issued soon.

Management arrangements for the removal and disposal of asbestos via licensed contractors to licensed disposal sites are being strengthened.

Council contractors will be reminded of the requirements of the latest legislation and current best working practices. They will be advised of the standards expected by the council and the procedures the council requires them to follow.

Arrangements are in-hand to ensure that contractors are notified by automated warnings on works orders when asbestos is known to exist in areas where work is being undertaken. Property Services department employees will ensure that asbestos management is discussed with contractors before work is undertaken and satisfy themselves that work is undertaken in accordance with best practice.

These management arrangements will be regularly reviewed and frequent site inspections will be undertaken to confirm that protective measures are being maintained effectively.

4.4 Training

Health and Safety training on asbestos awareness has been provided to all professional and technical employees within the Property Services department supported by training for specific employees on asbestos sampling and asbestos removal.

4.5 Resources

Actions are underway to utilise existing departmental resources supplemented by the short-term provision of an Asbestos Technician during the current financial year. As a consequence normal workload is being disrupted.

It is anticipated that the additional workload created by the introduction of the Regulations will both continue and increase in future years as a consequence of the requirement to: -

- undertake regular inspections of the condition of every element of asbestos in every property as part of the respective management plans;
- provide detailed advice and support to contractors, and occasionally employees, to ensure that their health and safety is protected;
- manage detailed records and asbestos removal and disposal control measures when required;
- ensure that accurate record drawings and photographic records are created and maintained as a base for recording the precise location of all identified asbestos and
- carry out more detailed surveys [Type 3] on buildings prior to any alterations, extensions or demolition to establish the full extent of asbestos containing materials and inform the project architect for inclusion in the Safety Plan required by the Construction (Design and Management) Regulations 1994.

This additional workload cannot be contained within existing departmental resources and it is therefore considered essential that two additional posts be resourced: -

- Asbestos Technician [T1/4]
- Record Drawing Technician [T1/4]

5. FINANCIAL IMPLICATIONS

The financial implications of this report will be considered during the budget setting process for 2004/05.

6. HUMAN RIGHTS IMPLICATIONS

Non-compliance with the Control of Asbestos at Work Regulations 2002 will result in risks to the right of employees, contractors and visitors to the Council's non-housing properties to a safe environment and the Council open to prosecution by the Health and Safety Executive.

7. PROPERTY IMPLICATIONS

There are no property implications arising from this report.

8. CONSULTATION

The Chief Executive, the Director of Law & Administration and the Director of Finance have been consulted in the preparation of this report.

9. CONCLUSION

Angus Council must achieve and maintain compliance with the Control of Asbestos at Work Regulations 2002 and the actions currently underway will establish the means to do this.

However additional resources are needed to ensure that this compliance is maintained in future years.

BACKGROUND PAPERS

No background papers, as defined by Section 50D of the Local Government (Scotland) Act 1973 (other than any containing confidential or exempt information), were relied on to any material extent in preparing the above report.

M G Lunny
Director of Property Services