

# Asbestos Policy



## Contents

1	Introduction .....	2
2	Scope.....	2
3	Regulatory Standards, Legislation and Codes of Practice .....	3
4	Additional Legislation .....	3
5	Obligations.....	4
6	Statement of Intent .....	5
7	Compliance Risk Assessment/Inspection Testing Programmes .....	6
8	Compliance Follow up Work .....	7
9	Record Keeping .....	7
10	Roles and Responsibilities.....	8
11	Competent Persons .....	8
12	Training.....	9
13	Performance Reporting.....	9
14	Non-Compliance .....	10

## **1 Introduction**

- 1.1 West Lancashire Borough Council (WLBC) owns and manages approximately 6,000 council homes and other public and commercial buildings.
- 1.2 Council and Cabinet develop and set Corporate strategy. Directors/Heads of Service are responsible for implementing the strategy including observing relevant compliance requirements impacting their services. The most senior management team of the Council provides a forum for consideration of both development and delivery of strategy.
- 1.3 Breathing in air containing asbestos fibres can lead to asbestos-related diseases, mainly cancers of the lungs and chest lining. Asbestos is only a risk to health if asbestos fibres are released into the air and breathed in.
- 1.4 Any WLBC home or building built or refurbished before the year 2000 may contain asbestos. As long as the asbestos containing material (ACM) is in good condition and is not going to be disturbed or damaged, there is negligible risk. However, if it is disturbed or damaged it can become a danger to health, because people may breathe in any asbestos fibres released into the air. Workers who carry out repairs and maintenance work are at particular risk. If asbestos is present and can readily be disturbed, is in poor condition and not managed properly, others who may be occupying the homes or buildings could be put at risk.
- 1.5 WLBC is responsible for the maintenance and repairs to its 6,000 homes, public, corporate and other buildings, many of which will contain asbestos containing materials. As such, the organisation has a legal 'duty to manage' asbestos in its non-domestic stock..

## **2 Scope**

- 2.1 WLBC must establish a policy which meets the requirements of the Control of Asbestos Regulations 2012, which came into force on 6<sup>th</sup> April 2012. In addition to this, the policy must provide assurance to WLBC that measures are in place to identify, manage and/or mitigate risks associated with asbestos.
- 2.2 WLBC must also ensure compliance with asbestos is formally reported to the most senior level of officers management team and Cabinet, including the details of any non-compliance and planned corrective actions.
- 2.3 The policy is relevant to all WLBC employees, tenants, contractors and other persons or other stakeholders who may work on, occupy, visit, or use its premises, or who may be affected by its activities or services.
- 2.4 It should be used by all to ensure they understand the obligations placed upon WLBC to maintain a safe environment for tenants and employees within the home of each tenant and within all communal areas of buildings.
- 2.5 The policy is also relevant for maintaining a safe environment for all tenants and employees within all WLBC non-domestic properties

- 2.6 Where legal obligations relating to this area of compliance have been transferred to a tenant/leaseholder (e.g. Commercial Lets). The appropriate Director will endeavour to ensure that tenants/leaseholders are complying with the terms of the lease and their statutory obligations.

### **3 Regulatory Standards, Legislation and Codes of Practice**

- 3.1 **Regulatory Standards** - the application of this policy will ensure compliance with the regulatory framework and consumer standards (Home Standard) for social housing in England.
- 3.2 **Legislation** - the principal legislation applicable to this policy is the Control of Asbestos Regulations (CAR) 2012, which came into force on 6<sup>th</sup> April 2012. WLBC has a legal obligation under Part 2, Section 4 of the legislation (Duty to manage asbestos in non-domestic properties) and is the 'Duty Holder' for the purposes of the legislation.
- 3.3 **Approved Codes of Practice and Guidance** – the principle codes of practice and guidance applicable to this policy are:
- 3.3.1 **ACoP L143** - 'Managing and working with Asbestos' (Second edition December 2013)
- 3.3.2 **HSG264** - 'Asbestos: The survey guide' (Second edition 2012, this holds ACoP status)
- 3.3.3 **HSG247** - 'Asbestos: The licensed contractors' guide' (First edition 2006)
- 3.3.4 **HSG227** - 'A comprehensive guide to managing asbestos in premises' (First edition 2002)
- 3.3.5 **HSG210** - 'Asbestos Essentials – A task manual for building, maintenance and allied trades and non-licensed asbestos work' (Third edition 2012)
- 3.4 **Sanctions** - WLBC acknowledge and accept its responsibilities in accordance with the regulatory standards, legislation and codes of practice and that failure to discharge these responsibilities properly could lead to a range of sanctions including prosecution by the Health & Safety Executive under the Health & Safety at Work Act 1974, prosecution under the Corporate Manslaughter and Corporate Homicide Act 2007 and via a serious detriment judgement from the regulator Homes England
- 3.5 **Tenants and Leaseholders** - WLBC will use the legal remedies available within the terms of the tenancy/lease agreement should any tenant/leaseholder refuse access to carry out essential asbestos related inspection and remediation works.

### **4 Additional Legislation**

- 4.1 This asbestos policy also operates in the context of the following additional legislation:

- Health and Safety at Work Act 1974
- The Management of Health and Safety at Work Regulations 1999
- The Workplace (Health Safety & Welfare) Regulations 1992
- Personal Protective Equipment at Work Regulations 1992
- Hazardous Waste (England & Wales) Regulations 2005 (Amendment 2009)
- Control of Substances Hazardous to Health (COSHH) Regulations (as amended) 2002
- Construction, Design and Management Regulations 2015
- Defective Premises Act 1972
- Landlord and Tenant Act 1985
- Data Protection Act 1998
- RIDDOR 2013

## **5 Obligations**

5.1 The duty to manage asbestos is included in the Control of Asbestos Regulations (CAR) 2012. The duty requires WLBC to manage the risk from asbestos by:

- Finding out if there is asbestos in the homes and buildings owned and managed by the organisation (or assessing if asbestos containing materials are liable to be present and making a presumption that materials contain asbestos, unless the organisation has strong evidence that they do not), identifying its location and identifying what condition it is in. If the home or building was built prior to the year 2000 the organisation will assume asbestos is present. If the home or building was built after the year 2000 asbestos is unlikely to be present and no further action will be required.
- Making and keeping an up-to-date record of the location and condition of the asbestos containing materials or presumed asbestos containing materials in the homes and buildings owned and managed by the organisation.
- Assessing the risk from the asbestos containing materials found.
- Preparing a plan that sets out in detail how the organisation is going to manage the risk from the asbestos containing materials.
- Taking the steps needed to put the plan into action.
- Reviewing and monitoring the plan and the arrangements made to put it in place; and

- Setting up a system for providing information on the location and condition of the asbestos containing materials to anyone who is liable to work on or disturb these materials.
- 5.2 Anyone who has information on the whereabouts of asbestos in homes and buildings is required to make this available to the organisation as the 'duty holder', but the organisation then have to assess its reliability.
- 5.3 Those who are not duty holders, but control access to the organisation's homes or buildings, have to co-operate with the organisation in managing the asbestos present.

## **6 Statement of Intent**

- 6.1 WLBC recognises that the main hazard in relation to asbestos is the non-identification of asbestos and asbestos containing materials and as such will protect those persons potentially exposed to asbestos as far as is reasonably practical by minimising the exposure through the use of appropriate control measures and working methods.
- 6.2 WLBC accepts that asbestos is likely to be present in the majority of its properties built prior to the year 2000 and will therefore manage these properties accordingly.
- 6.3 In order to fully comply with the legislation WLBC has a Cabinet approved Asbestos Policy. In addition the organisation will have an Asbestos Management Plan and an Asbestos Register which will hold records of the assets which have asbestos containing materials in them.
- 6.4 WLBC will employ competent external contractors (UKAS accredited) to undertake asbestos management surveys. Licensed asbestos removal contractors will be employed to carry out remediation works (where necessary) to non-domestic and domestic properties including communal parts of domestic properties as outlined in section 8.4 to 8.7.
- 6.5 Domestic properties will include all void properties where repairs or maintenance work is taking place and is likely to disturb any asbestos containing materials within these properties. Domestic properties will also include any tenanted properties where repairs or maintenance work is taking place and is likely to disturb any asbestos containing materials within these properties.
- 6.6 WLBC will also undertake an intrusive refurbishment and demolition (R&D) survey to domestic and non-domestic properties prior to planned maintenance works taking place, to the areas within the property that are likely to be disturbed as part of the proposed works. They will also undertake a management survey to the remainder of the property as part of the same R&D survey. This will be in accordance with the criteria set out in the WLBC Asbestos Management Plan, which should be read in conjunction with this policy.

- 6.7 WLBC consider good communication essential in the safe delivery of asbestos management and will therefore ensure that information about asbestos containing materials (known or suspect) is provided to every person liable to disturb it, accidentally or during the course of the work. This includes employees and tenants.
- 6.8 WLBC will ensure all employees and contractors have adequate asbestos survey information to enable them to manage and/or work safely with asbestos.
- 6.9 WLBC will provide advice to customers regarding asbestos containing materials through information held on the organisations website.
- 6.10 WLBC will ensure where appropriate, that all visitors are made aware of the Asbestos Register and emergency arrangements on site.

## **7 Compliance Risk Assessment/Inspection Testing Programmes**

- 7.1 **Non-Domestic Stock** – WLBC will review existing asbestos management survey information prior to carrying out any repairs or planned maintenance works which may involve working on or adjacent to any asbestos containing materials within a non-domestic (communal) property. This is to ensure that any asbestos containing materials likely to pose a risk are identified prior to works commencing and the details passed onto the relevant operatives or external contractors and managed in an appropriate way.
- 7.2 WLBC will ensure that all non-domestic (communal) public and commercial properties in ownership or management have an initial asbestos management survey carried out. All surveys will comply with the CAR 2012 legislation and therefore be dated after 6<sup>th</sup> April 2012 when the legislation came into effect.
- 7.3 Thereafter all non-domestic (communal) public and commercial properties will have a re-inspection survey and an assigned re-inspection date where applicable. This date will be in accordance with the specific needs of the building. Re-inspection dates may change following the re-categorisation of a property or a building.
- 7.4 WLBC will not need to re-inspect any non-domestic (communal) public or commercial properties built after the year 2000, or where the initial asbestos management survey confirms that there are no asbestos containing materials present.
- 7.5 **Domestic Stock** - WLBC will review existing asbestos management survey information prior to carrying out any void repairs, day to day repairs or planned maintenance works which may involve working on or adjacent to any asbestos containing materials within a domestic property. This is to ensure that any asbestos containing materials likely to pose a risk are identified prior to works commencing and the details passed onto the relevant contractors and managed in an appropriate way.

- 7.6 Where there is no previous asbestos related information in respect of a domestic property which requires an asbestos survey ahead of void repairs, day-to-day repairs or planned maintenance work, a survey will be undertaken and the scope of the survey agreed in accordance with the works due to be carried.
- 7.7 **Refurbishment Work** - WLBC will undertake an intrusive refurbishment and demolition (R&D) survey to domestic and non-domestic properties prior to planned maintenance works taking place to the areas property that are likely to be disturbed as part of the proposed works. They will also undertake a management survey to the remainder of the property as part of the same R&D survey. This will be in accordance with the criteria set out in WLBC's Asbestos Management Plan, which should be read in conjunction with this policy.

## 8 Compliance Follow up Work

- 8.1 WLBC will ensure there is a robust process in place for the management of any follow-up works required following the completion of an asbestos management survey.
- 8.2 WLBC will ensure that following asbestos surveys, any asbestos containing materials that are found to be in a poor condition or that are likely to be regularly/easily damaged or disturbed through the normal use of a dwelling will be repaired, protected, or removed at the earliest opportunity.
- 8.3 Where there is any doubt as to the composition of the material uncovered, a sample will be taken and analysed in order to facilitate the instruction of remedial works where required.
- 8.4 Where asbestos is positively identified and as a result of a risk assessment (conducted in accordance with published guidance) removal, sealing or encapsulation is recommended, this will be carried out for:
- 8.5 **Non-licensed works** – as defined in regulation 2 of the CAR 2012 – by specifically trained contractors with appropriate equipment and working procedures in place which are sufficient to comply with the CAR 2012.
- 8.6 **Notifiable non-licensed works** – as defined in regulation 2 of the CAR 2012 – by a licensed asbestos removal contractor (LARC) licensed by the Health & safety Executive in compliance with the CAR 2012, or
- 8.7 **Licensed works** - as defined in regulation 2 of the CAR 2012 – by a licensed asbestos removal contractor (LARC), licensed by the Health & safety Executive in compliance with the CAR 2012.
- 8.8 Where an asbestos containing material has been removed in whole or in part, it will be replaced with a material that has no asbestos content and fulfils the equivalent function of the original asbestos material, e.g. for fire protection.

## 9 Record Keeping

- 9.1 WLBC will establish and maintain a programme of non-domestic surveys and re-inspections and an Asbestos Register.
- 9.2 The Asbestos Register will be used to record the details of all asbestos surveys undertaken on WLBC's non-domestic (communal), public, commercial and domestic properties. This will include the date of the inspection, the findings from the survey, any remediation works identified and subsequently completed. The database and register should also record the date of any subsequent re-inspection required, where applicable.
- 9.3 WLBC will hold and maintain accurate records against every non-domestic (communal), public, commercial and domestic property where applicable and all survey reports will be stored on the organisation's shared drive.
- 9.4 Appropriate asbestos information will be made available to all interested stakeholders as required.

## **10 Roles and Responsibilities**

- 10.1 WLBC Cabinet will have overall governance responsibility for ensuring the asbestos policy is fully implemented to ensure full compliance with the regulatory standards, legislation and codes of practice. As such the Cabinet will formally approve this policy and review should there be a material change in regulation, legislation or codes of practice).
- 10.2 The Cabinet will receive regular updates on the asbestos performance along with notification of any non-compliance issue which is identified. This is so they have assurance that the policy is operating effectively in practice.
- 10.3 The Council's most senior officer team will receive reports in respect of asbestos management performance and ensure compliance is being achieved. They will also be notified of any non-compliance issue identified.
- 10.4 The Director of Housing and Inclusion has strategic responsibility for the management of asbestos and ensuring compliance is achieved and maintained. The Property Services Manager and the Deputy Property Services Manager will oversee the implementation of the asbestos policy.
- 10.5 The Property Services Manager and the Deputy Property Services Manager will be responsible for overseeing the delivery of the agreed survey inspection programmes and the prioritisation and implementation of any works arising from the surveys.
- 10.6 The Director of Housing and Inclusion and Housing Operations Manager will provide key support in gaining access into properties where access is proving difficult and use standard methods to do so.

## **11 Competent Persons**

- 11.1 WLBC will ensure that the manager with lead responsibility for operational delivery is suitably qualified. In addition to this they should have achieved or be working towards gaining one of the asbestos management qualifications (P407 or W504). If they do not have P405 or one of the additional qualifications already, they should obtain them within 12 months of the approval of this policy.
- 11.2 WLBC will ensure that competent (UKAS accredited) contractors are procured and appointed to deliver initial asbestos management surveys and the ongoing programme of surveys thereafter. The operational team with responsibility for delivery will check the relevant qualifications of employees working for these contractors on an annual basis and evidenced appropriately.
- 11.3 WLBC will ensure that competent licensed asbestos removal contractors (LARC) are procured and appointed for all notifiable non-licensed work or licensed works. The operational team with responsibility for delivery will check the relevant qualifications of employees working for these contractors on an annual basis and evidenced appropriately.

## **12 Training**

- 12.1 This policy and the asbestos management plan that supports it will be subject to a range of training across WLBC.
- 12.2 Training will include team briefings for those employees who need to have a basic understanding and awareness of asbestos but who may not be actively involved in the delivery of the asbestos policy, plan and programmes of surveys and works. This will be basic asbestos awareness training and will include delivery at team meetings.
- 12.3 On the job training will be provided to those employees who will be responsible for managing the programme of surveys and remediation works as part of their daily job.
- 12.4 Regular tool box talks will be given to operatives and WLBC's contractor partners will conduct these in the form of appropriate asbestos awareness training and provide evidence of the same.
- 12.5 Briefings will be provided to those employees involved in the monitoring of compliance performance in relation to asbestos.

## **13 Performance Reporting**

- 13.1 Robust key performance indicator (KPI) measures will be established and maintained to ensure WLBC is able to report on performance in relation to asbestos.
- 13.2 KPI measures will be produced and provided at the Council's most senior management team level on a regular basis and at Cabinet level within the performance suite of KPI's. These KPI measures will include reporting on:

- The total number of non-domestic (communal) and 'other' asset numbers 'at risk' that require an asbestos management survey/re-inspection.

13.3 WLBC will require external contractors to provide the results of their own 5% quality assurance audit checks, as required by UKAS, on a monthly basis.

13.4 WLBC will carry out an independent audit of asbestos at least once every five years. This audit will specifically test for compliance with the regulation, legislation and codes of practice and identify any non-compliance issues for correction.

## **14 Non-Compliance**

14.1 Any non-compliance issue identified at an operational level will be formally reported to the Director of Housing and Inclusion in the first instance.

14.2 The Director of Housing and Inclusion will agree an appropriate course of corrective action with the operational team in order to address the non-compliance issue and report details of the same to the Council's most senior management team.

14.3 The Director of Housing and Inclusion will ensure the Cabinet are made aware of any non-compliance issue so they can consider the implications and take action as appropriate.

14.4 In cases of a serious non-compliance issue the Director of Housing and Inclusion and the relevant Portfolio Holder will consider whether it is necessary to disclose the issue to Homes England in the spirit of co-regulation as part of the Regulatory Framework.