

DCSF Statement on the ATAC report: Assessment of Asbestos Management in Schools

DCSF Statement

19th February 2010
Senior Press Officer
Department for Children, Schools and Families

A DCSF spokesman said:

“The health and welfare of pupils and staff is absolutely paramount.

“By law, tough, robust processes must be in place in schools to carefully monitor asbestos. All local authorities and school employers must fully comply - no ifs or buts.

“The Health and Safety Executive's expert advice is to remove damaged or disturbed asbestos in existing buildings but it is safer to leave undisturbed or undamaged asbestos in place and carefully manage it.

“The HSE will not hesitate to take action in areas which are not coming up to scratch. We and HSE has surveyed every single local authority over the last year to assess their asbestos management and ensure that they are fulfilling their legal duties - the first ever such audit.

“We will be producing training and guidance on asbestos management for head teachers, governors and local authorities and we are setting up a steering group to help improve asbestos management in schools.

“We continue to invest record capital funding to sweep away the legacy of out-dated buildings - with thousands of schools being newly built, rebuilt or refurbished over the last decade and coming years. This means that local authorities and schools have funding to deal with asbestos during their rebuilding and refurbishment plans.”

Background

Our advice is at: <http://www.hse.gov.uk/asbestos/> and <http://www.teachernet.gov.uk/management/resourcesfinanceandbuilding/schoolbuildings/legislation/asbestos/>

Comment

“The health and welfare of pupils and staff is absolutely paramount.”

The majority of schools in the ATaC assessment are unaware of the full extent, type and condition of asbestos in their buildings. This is a direct result of the actions of the Department for Education. In the consultation for the 2002 Asbestos Regulations the Department argued strongly and successfully against asbestos surveys being made mandatory despite being advised that a thorough asbestos survey is an essential first step in asbestos management.

The Department reasoned that they did not want to alarm parents and staff by carrying out surveys because they might then demand the removal of all asbestos and that would be prohibitively expensive. The Department is therefore directly responsible for the majority of schools not knowing where their asbestos is, and therefore being unable to safely manage it.

HSE and DfES documents obtained under the Freedom of Information act show that the Department argued against asbestos surveys being made mandatory because it would be costly. Cost and a concern of panic amongst staff and parents are also the reasons that the Government has never carried out an audit or risk assessment of asbestos in schools.¹ The result of this policy is openly acknowledged by DCSF who state *“in most cases it will not be known whether or not asbestos is actually present.* (Follow the second link in the DCSF statement at the reference)

Saying the health and welfare of pupils and staff is paramount is therefore both wrong and hypocritical. For the last forty years the actions of the Department for Education has put the health of pupils and staff at risk in schools throughout the country as they cannot effectively manage their asbestos as they are unaware where it is or what condition it is in.

“By law, tough, robust processes must be in place in schools to carefully monitor asbestos. All local authorities and school employers must fully comply - no ifs or buts. ...“The HSE will not hesitate to take action in areas which are not coming up to scratch.”

This is not the first time that failures in asbestos management have been identified in schools that had previously passed unnoticed; it happened with an ITN investigation, a BBC Inside Out investigation and now with this ATaC assessment. All three found unsafe and at times dangerous practice.² If the HSE were effective they should have identified these unsafe schools, however they did not despite their statement that they will not hesitate to take action in areas which are not coming up to scratch.

One reason they have not done so is that the HSE and DCSF system of regulation has been reactive rather than proactive, so these serious flaws have gone unnoticed and uncorrected. It is one thing having laws that lay down robust process, but the law comes to nothing if the system of regulation fails to identify breaches in the regulations and fails to identify when people are not following the guidance. Bad local authorities and school authorities have been able to ignore the law and the guidance with impunity.

¹ ([An analysis](#) p4 surveys)

² (15 February 2008 [ITN News reported](#) on the discovery of asbestos in a System Built School. **BBC 1 "Inside Out"** report on asbestos in schools on 28th January 2009 [can be seen at this link.](#))

The ATaC report has added to the mass of evidence that shows that many schools do not have robust process in place to carefully monitor asbestos, and that local authorities and school employers are not fully complying with the guidance, the regulations or the law. For more detail of asbestos incidents in schools and specific failings see www.asbestosexposureschools.co.uk

“The Health and Safety Executive's expert advice is to remove damaged or disturbed asbestos in existing buildings but it is safer to leave undisturbed or undamaged asbestos in place and carefully manage it.”

Rather than removing asbestos HSE instructs schools to seal in the damaged and deteriorating asbestos material, debris and fibres using bathroom sealant. The reference shows the type of dangerous amosite debris and fibres that lie hidden undetected in the wall and column voids of many thousands of schools.³ This sticky plaster remedy is a temporary expedient and has been shown to fail. It is certainly cheaper than removing the asbestos, but it is not safer.

System built schools have a particular problem of asbestos fibre release where deteriorating hidden asbestos releases fibres into the rooms. Initially the guidance advised sealing the tops of the columns and the walls within the ceiling voids. That proved too disruptive and expensive, and the large quantities of foam caused their own health risks, so the advice was deleted from later guidance. The result is that most schools are unaware what damaged and disturbed asbestos is lying hidden within the voids or whether it is releasing asbestos fibres.

HSE and the Department for Education initially instructed schools to carry out air sampling after the sealing in of the damaged asbestos to see whether fibres were still being released. That advice was dropped from later guidance. Nobody therefore knows whether the sealing is effective. The reason for removing the advice appears to be that there are potential cost implications in air sampling, and also a large data bank of fibre levels in schools would be built up which would definitively show the actual dangers to the occupants.⁴

This reference shows that most of this hidden, deteriorating asbestos will not even be identified when schools are refurbished, let alone removed, instead it will be left in situ to be managed for the remaining life of the schools.⁵

“We and HSE has surveyed every single local authority over the last year to assess their asbestos management and ensure that they are fulfilling their legal duties - the first ever such audit.”

In fact just a few months ago the Schools Minister refused an audit of the extent, type and condition of asbestos in schools.⁶ HSE haven't surveyed every single local authority over the last year, rather they have asked them to fill in an on line tick box questionnaire that primarily concentrated on adherence with the guidance for system built schools.

The questionnaire is not as comprehensive as the statement implies as almost no replies were received from the 95 Diocese and schools outside local authority control. In addition it did not cover

³ Page 18 of [Release of Asbestos Fibres in System built schools \(Part 1\)](#)

⁴ (Scape [FORMAL NOTICE Release of Asbestos Fibres in CLASP Buildings](#) p9. Comment [Release of Asbestos Fibres in System built schools \(Part 2\)](#) p87.)

⁵ [Analysis of policy to leave asbestos in place in primary school refurbishment under Primary Capital Programme](#)

⁶ [\(Determining the scale of the problem in System Built Schools](#) p 7, 9

)<http://www.publications.parliament.uk/pa/cm200809/cmhansrd/cm091012/text/91012w0054.htm#09101322005189> Parliamentary Question 21 Oct 09)

the independent sector or Wales or Scotland. 34 local authorities' responses warranted further investigation because of potential problems, but the Minister has refused in Parliament to release the details of the authorities.⁷

If the HSE questionnaire of local authorities had been effective it would have identified the serious problems in the schools and local authorities that ATaC identified in their audit.⁸

The HSE questionnaire was flawed in its design. In principle it merely asked whether those responsible are following the guidance and obeying the law. Those failing to do so are those least likely to critically examine their procedures and then confess they are failing.

The questionnaire was also flawed as it appears to be a device designed to deflect the inevitable criticism that would occur after the BBC Inside Out broadcast in January 2009 rather than a survey designed to establish the local authorities' compliance with the law.

There is an even worse problem that the DFCS avoid mentioning. They have deliberately ignored it for years. In 2004 asbestos awareness and management in independent schools was recognised by HSE as being particularly weak, therefore a priority of the defunct 2004 HSE schools campaign was to target them. When the campaign was dropped nothing was done about assessing or improving their standards. According to a local government circular HSE and Local Authorities have made assessing the standards in this sector a priority for action in 2010. That is more than five years after action was proposed. It is welcomed that action is again proposed, but, given the DCSF record it is likely to take many years before anything effective takes place.⁹

There is a wider issue of Government policy. Without a proper audit it is impossible to assess the scale of the problem in schools and the remedial action needed. The government cannot therefore allocate proportionate resources or make well founded decisions.

"We will be producing training and guidance on asbestos management for head teachers, governors and local authorities and we are setting up a steering group to help improve asbestos management in schools.

Similar promises have been made and were not fulfilled. In 2004 the Schools Minister, David Miliband MP, asked for the guidance for schools to be urgently updated, but, despite pressure from his Department, HSE said there was no need as the present guidance was perfectly adequate. The result is that until very recently the DCSF asbestos guidance remained that from 1986. The asbestos in schools group have asked for guidance specifically drafted for schools and from this statement one must hope that this time DCSF does take action.

There has been an update of one bit of guidance. Unfortunately the new guidance is incorrect and unsafe. See the reference at the end of this paragraph. The advice is on what to do if there is an inadvertent asbestos exposure in a school. The guidance incorrectly uses a benchmark for a level of asbestos fibre exposure that is designed for asbestos contractors and not for the occupants of buildings. The level is called the "Action Level" and was designed for asbestos contractors where they have to wear breathing apparatus and protective overalls. It is a dangerous level, and should not be applied to the occupants of schools, and in particular should not be applied to children. The HSE is giving dangerous, misleading advice on the levels of risk as they use the 'Action Level'

⁷ [Parliamentary question 8 Dec](#)

⁸ [BBC Inside Out](#) investigative report (10 minutes)

⁹ [Major Concerns about Asbestos Management at Non Local Authority Schools.](#)

incorrectly. The DCSF have directed the public, school authorities and the occupants of schools to that guidance.¹⁰

In March 2009 there was a Parliamentary debate on asbestos in schools during which it appeared that the Minister, Sarah McCarthy-Fry MP, accepted that the standards of asbestos training for school officials needs improving. So that it could be achieved she said that she would talk to the National College who train headteachers and school officials. Despite this, on 21st December the College's CEO stated that he didn't believe that it was the College's responsibility to give training on asbestos management to headteachers.¹¹

The Minister, Diane Johnson MP, outlined proposals for a steering group last November at a meeting with the asbestos in schools group. It is most necessary, and it is hoped that this time the Minister fulfils her pledge. It did not happen when a similar group was established in 2004 by the then Schools Minister David Miliband MP.¹² Its aim was to improve the asbestos management in schools and to "*dramatically*" reduce the exposures of staff and children.¹³ Despite the promises, less than a year later and before any meeting had taken place the "Steering group" was dropped by the HSE. The resources were reallocated to achieve Public Service Agreement targets for the building and maintenance trades. The Department for Education were asked to take over the scheme, but they refused.¹⁴

Both the campaign for maintenance trades and the one for schools are vitally necessary, but one should not be at the expense of the other. A working group to look into the ways that asbestos management in schools can be brought up to a safe standard is long overdue, and one can but hope that this time the Department for Schools has accepted that it is their responsibility and that the steering group is allowed to meet. If it is, it can then implement the measures that are so vitally necessary.

"We continue to invest record capital funding to sweep away the legacy of out-dated buildings - with thousands of schools being newly built, rebuilt or refurbished over the last decade and coming years. This means that local authorities and schools have funding to deal with asbestos during their rebuilding and refurbishment plans."

The DCSF statement is misleading for although there might be sufficient funding for dealing with asbestos in secondary school refurbishments, there is insufficient funding for primary school refurbishments.

Asbestos removal and remediation is potentially a major cost in a school's refurbishment. The policy is to remove the asbestos in major rebuilds in the secondary schools, whereas there are insufficient funds to even identify the asbestos in the primary schools, let alone remove it.¹⁵ That is because the PCP initiative for primary schools is considerably less well funded than the BSF project for secondary schools.

Both BSF and PCP are huge financial projects and therefore detailed financial estimates should have been made in the very early stages by the Government if they were to have any certainty of fulfilling their ambitious targets. However that has not been done, for a number of pilot projects have been completed and yet it is apparent that the major cost of either removing or carrying out remedial

¹⁰ ([Mesothelioma, Benchmark Levels of Asbestos Exposure](#))

¹¹ Letter Chief Executive National College 21 Dec 2010.

¹² Letter Schools Minister David Miliband MP/General Secretary NUT August 2004.

¹³ HSE Paper Asbestos Management in schools LAFORUM/04 23 Nov 2004 p4.

¹⁴ E-mail Head of HSE Disease Reduction programme/ DfES Asbestos in Schools- HSE Campaign Initiative. 23 Aug 2005

¹⁵ Meeting Schools Minister Diane Johnson MP/ asbestos in schools group 11 Nov 2009 contemporaneous noted Lees.

actions on the asbestos had not been properly costed. Instead guesses the amount of asbestos contained in a school and how much it would cost to deal with it has been guessed. It has been found in the majority of projects that the asbestos remedial or removal costs far exceed the guessed estimates, with some exceeding it by eight times. In his summary for the ATaC report their Chairman highlights this problem.

The Government have embarked on a multi billion pound project without assessing what will inevitably be one of the major costs of the project. In October 2009 the Schools Minister once again refused to carry out an audit of the extent, type and condition of asbestos in the nation's schools, claiming that there was no need for his Department to know as the responsibility is that of the local authorities and diocese.¹⁶ Consequently neither he nor his Department know the extent, type or condition of asbestos in the nation's schools or how much it will cost to deal with it during school refurbishment and rebuilding.¹⁷

As well as refusing to assess the scale of the asbestos problem in the Nation's schools, Government Ministers play down the risks to the occupants of schools. They incorrectly imply that the asbestos exposures of the school teachers who are dying, and have died, from mesothelioma did not occur in the schools they taught in. By inference they are saying that because there are no victims therefore there is no risk. It is therefore an easy next step to delay taking positive action for a few more years and to reassure people that the Department considers that *"The health and welfare of pupils and staff is absolutely paramount."*¹⁸ The link shows why the Minister's statement is incorrect.

The ATaC report has added to the overwhelming evidence that already exists that schools are not managing their asbestos effectively or safely. DCSF and their Ministers have made statements and given commitments in the past that they have then failed to fulfil, and by doing so thousands more teachers, support staff and children have been exposed to asbestos because their schools have unworkable systems of asbestos management. This time the Ministers and the DCSF must live up to their fine words and implement measures so that the teachers, support staff and children in our schools really are made safe from the dangers of asbestos.

Michael Lees
22nd February 2010

¹⁶ Hansard column Parliamentary written answers 12 Oct 2009 : Column 234W, Questions[289818] [289819] Nick Gibb MP/ Vernon Coaker MP Schools asbestos 12 Oct 2009.

<http://www.publications.parliament.uk/pa/cm200809/cmhansrd/cm091012/text/91012w0054.htm#09101322005189>

¹⁷ [Analysis of policy to leave asbestos in place in primary school refurbishment under Primary Capital Programme](#)

¹⁸ [The Significance of Teachers' Mesothelioma Deaths](#)