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## ASBESTOS IN SCHOOLS

### THE SCOPE OF THE PAPER

This paper summarises the principle aspects of asbestos in schools. It gives a brief outline of the dangers of asbestos, and its use in schools. It describes the incidence of exposure. It shows how warnings were given of the particular vulnerability of children more than forty years ago. It shows the Government's asbestos policy for schools and how best practice has been adopted elsewhere in the World where the scale of the problem and the risks have been assessed. It gives examples of the political sensitivities and statements that give an insight into why such policies have not been adopted in Great Britain.

The last Prime Minister accepted there is a serious problem that must be addressed. The Asbestos in Schools Group (AiS) had started working with the Government, the HSE and the Department for Education to find solutions, and had suggested a pragmatic way forward to both them and the Shadow Education front bench. The main points are summarised at the end of the paper. The Coalition Government is presently developing its policies of which addressing the asbestos problem in the nation's schools should be an integral part.

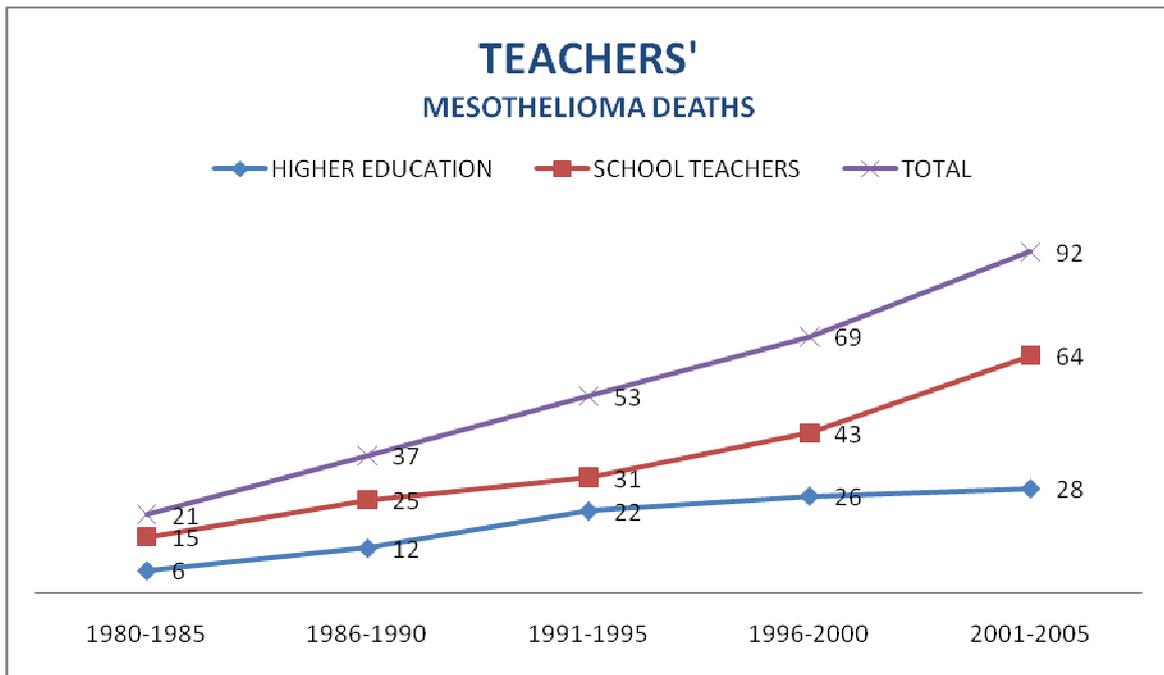
The AiS Group is under the auspices of the All Party Parliamentary Group on Safety and Health and amongst its members and supporters are MPs, the asbestos consultants association ATaC, the six teaching trade unions, the three support staff unions, the Independent Schools Bursars Association, the Hazards organization, members of the medical profession, solicitors, asbestos experts, the Asbestos Victims Forum and individuals directly affected by asbestos in schools.

This paper is intentionally in note form. All the facts can be cross referenced to authoritative sources. For an in depth analysis the web-site [www.asbestosexposureschools.co.uk](http://www.asbestosexposureschools.co.uk) has extensive, fully referenced papers that examine each aspect in detail.

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### DANGERS OF ASBESTOS IN SCHOOLS KNOWN FOR MORE THAN 40 YEARS

1. Everyone attends school, children are particularly vulnerable to the effects of asbestos, and spend long periods of time in school buildings. Therefore even very low background levels of asbestos fibres can be cumulatively dangerous.
2. In 1967 the Government were warned that low levels of asbestos exposure could cause mesothelioma, they were made aware of the danger of asbestos in schools, and the particular risk to children.
3. As knowledge was not complete they were advised to take a precautionary approach and implement preventative measures. This still applies today.
4. DfES issued a warning to schools, but watered it down. Under pressure from the asbestos industry the warning was almost nullified. The dangers have been have been played down ever since.
5. Despite the warning schools continued to be built until the early 1980's using large amounts of asbestos.
6. As the condition of the schools has deteriorated then so has their asbestos. As asbestos management in many schools is ineffective, frequent asbestos incidents occur, the schools are contaminated and staff and pupils exposed. Sadly some develop mesothelioma.
7. It is not known how many children have subsequently died, but the teachers' mesothelioma deaths are known. Their deaths are the tip of an iceberg.



(Southampton coding, SOC90 and SOC2000 coding)

8. 178 school teachers died of mesothelioma between 1980-2005
9. 272 died of mesothelioma between 1980-2005, if school teachers and college lecturers are included.
10. Teachers mesothelioma deaths, and in particular school teachers deaths have been increasing over the years.
11. Mesothelioma deaths for the **ten** years 1991–2000 in the Education sector: 145 died if teaching assistants, childcare and higher education are included. (SOC 90 coding)
12. Mesothelioma deaths for the **five** year period 2001-2005 in the Education sector: 103 died if teaching assistants, childcare, and higher education are included (SOC90,2000 coding)
13. In addition school caretakers, cooks, cleaners and school secretaries have died of mesothelioma.
14. Male teachers have a proportionately greater number of mesothelioma deaths than for instance coal miners, bakers, bus drivers/conductors, cooks, farmers and motor mechanics. If they are compared with broadly similar professions such as solicitors, doctors, the clergy, government administrators or police officers the teachers' deaths are proportionately higher than all of them.
15. There are similar numbers of female teachers as there are female nurses and yet between 1980-2000 the proportion of female teachers dying of mesothelioma was precisely twice that of female nurses. One would have thought that neither profession should experience asbestos exposure, however the statistics demonstrate that both professions have experienced significant exposure, with the exposure of the teachers being twice that of the nurses.
16. Although in comparison to shipbuilders or building maintenance workers the teachers deaths are low, the teaching profession is unique as the occupational statistics only show the deaths of a minority of the people who have been exposed to asbestos in the buildings.

### CHILDREN ARE AT PARTICULAR RISK TO ASBESTOS

17. The teachers' and support staff deaths are the tip of the iceberg because every teacher has twenty to thirty children in their class. Proportionately that equates to some three and a half thousand mesothelioma deaths, where asbestos exposure at school significantly contributed towards the deaths. That is clearly a matter of national importance, but it has never been properly addressed.
18. Children are more vulnerable to the effects of asbestos and more likely to develop mesothelioma. It is estimated that over a 5 year period of exposure, a child of 5 is 5.2 times more likely to develop mesothelioma by age of 80 than their teacher of 30, purely because of the long latency.

19. In addition because of their physiology, children are thought to be more vulnerable to the dangers of asbestos.
20. Because of the long latency the children will die many years later and their deaths will be recorded in whatever occupation they had at the time. Therefore there are no statistics for the number of children who were exposed at school and subsequently have died of mesothelioma.
21. In 1980 the USA carried out a risk assessment. Their best estimate was that over a thirty year period 1,000 people would die because of asbestos exposure at school. They stated *"About 90% of these deaths are expected to occur amongst persons exposed as school children."*  
Subsequently a national audit found four times more schools contained asbestos. US schools predominantly contain chrysotile, whereas many UK schools contain the more dangerous amosite, and some contain crocidolite. Despite this a risk assessment has never been carried out in the UK.
22. In 1997 a Parliamentary question asked for an assessment to be carried out into the risks to teachers and children. The request was refused and a confidential Ministerial brief shows that the reason was that they were concerned that an assessment would *"lead to pressure for centrally funded initiatives to remove all asbestos and for other aspects of building work. That would be extremely expensive..."*
23. In May 2009 the Asbestos in Schools Group (AiS) met the Prime Minister and asked for a risk assessment to be carried out with particular emphasis on the risk to children. As at July 2010 no such assessment has been made.

### **MAJORITY OF SCHOOLS CONTAIN ASBESTOS. CRUMBLING SCHOOLS**

24. There are about 21,600 primary schools, 4,000 secondary schools, 1,500 special schools and 2,500 independent schools in Great Britain.
25. 14,210 schools were built between 1945 and 1975 when the use of asbestos was at its height, many of these schools contain large amounts of asbestos in their structure. Other schools were refurbished during the same period with extensive use of asbestos materials. From the mid 1970's onwards asbestos use gradually declined. The Government estimate that 70% of school buildings contain asbestos, however Freedom of Information requests show that the number is higher than that in many local authorities with 85% and more containing asbestos.
26. Amosite was extensively used in UK schools. Crocidolite was used to a lesser extent. Chrysotile was also extensively used.
27. Chrysotile can cause mesothelioma. Amosite is 100 times more dangerous and crocidolite 500 times.
28. About half the schools in the country are System built. Until the early 1980s asbestos was extensively used in their structure.
29. In addition many schools had, and still have, temporary classrooms. Many older temporary classrooms contain asbestos, in some all the walls and ceilings are asbestos insulating board (AIB) which normally contains amosite. In 1980 it is estimated there were 100,000 temporary classrooms in England and Wales.
30. The asbestos is deteriorating through age, vandalism, fair wear and tear, leaking roofs, decades of under-funding, lack of maintenance and botched maintenance, lack of adequate asbestos management.

### **MANY SCHOOLS FAIL TO SAFELY MANAGE THEIR ASBESTOS**

31. Government policy is that *"So long as the asbestos is in good condition and not likely to be disturbed then it is safer to leave it in place and manage it than it is removing it."* The problem is that many schools are not effectively or safely managing their asbestos.
32. The policy of management is not new, for local authorities and schools have been advised since 1967 to take measures to prevent the release of asbestos fibres. The guidance was reinforced in 1976, 1983, 1986, 1991, 1995 and 1998 with schools being specifically told to identify their asbestos and implement a system of management. In 2004 Regulation 4 of the 2002 Control of Asbestos at Work Regulations put the duty to manage into law, for previously it had been guidance and as such had been ignored by many schools. That was despite the fact that schools are a workplace and under section 2 and 3 of the 1974 Health and Safety at Work

Act the local and school authorities have a duty of care for the occupants, whether they are their employees or whether they are the pupils.

33. In 2004 as the asbestos incidents in schools continued unabated and the number of teachers dying from mesothelioma steadily increased, David Miliband wrote to the NUT and stated "*We accept that asbestos found in schools has not always been dealt with in a professional manner.*"
34. In 2004 HSE acknowledged "*A significant minority of authorities have still not established complete control of asbestos in their premises.*"
35. In 2004 following a series of serious asbestos incidents in schools that led to widespread contamination and exposure of the occupants, HSE instigated a campaign to improve asbestos management in schools and "*dramatically reduce asbestos exposures*" of staff and pupils. The committee had executive powers.
36. In 2005 the campaign was dropped so that HSE resources could be re-focussed to achieve Public Service agreement (PSA) targets for building and maintenance workers. HSE recommended that DfES take over the lead role for this "*important project.*" DfES/DCSF declined to do so and would not accept that the safety of staff and pupils is their responsibility.
37. In February 2008 an ITN investigation found that a System built school had a dangerous system of asbestos management and had failed to follow essential asbestos safety guidance. HSE issued two improvement notices to the council for failures to manage asbestos in their schools.
38. In February 2008 the Chairman of the Parliamentary asbestos sub-Committee recommended to the Secretary of State for Schools that the campaign was reinstated. This request was refused.
39. In March 2008 the Schools Minister stated "*Schools are not the only buildings where asbestos is present and HSE is committed to preventing exposure to all those people who may be at risk. Analysis of mortality data based on last occupation has directed HSE's current effort towards maintenance trades... HSE does not propose to have an "asbestos in schools campaign."*
40. October 2008 HSE launched the campaign to reduce the asbestos exposures of building and maintenance workers. This campaign is essential, however it should not be at the expense of the campaign to improve the asbestos management in schools and reduce the exposures of teachers and children.
41. In October 2008 the Parliamentary Asbestos sub-Committee resubmitted their request to the Minister that DCSF should accept that it is their responsibility, take the lead and reinstate the schools asbestos campaign. The Schools Minister replied, stating "*Neither DCSF nor HSE feel that a campaign on asbestos in schools is appropriate.*"
42. In January 2009 the BBC carried out an investigation into the standards of asbestos management in a school. Damaged asbestos was found and flaws in the system of asbestos management. HSE inspected the school and issued an improvement notice for failures in asbestos management.
43. The day after the report was broadcast DCSF and HSE issued a questionnaire to determine the compliance with asbestos guidance for system built schools.
44. In March 2009 a Parliamentary debate was held into the problem of asbestos in school in which Paul Rowen MP stressed the failure of many schools to manage their asbestos. The Minister robustly defended the present standards and policies.
45. In May 2009 the AiS Group had a meeting with the Prime Minister and amongst other requests asked that the asbestos in schools campaign be reinstated. The Prime Minister acknowledged that there is a serious problem in schools and one that his government had to address. Three meetings with Ministers followed.
46. In November 2009 the responses from the DCSF/HSE questionnaire had finally been analysed. The responses, and the lack of responses showed that a significant proportion of local authorities, diocese and schools have an inadequate awareness of asbestos matters and inadequate systems of asbestos management. 95% of Dioceses failed to respond and the questionnaire did not attempt to assess the standards in independent schools. The response from 43 local authorities raised concerns, as a result HSE is carrying out inspections to assess compliance. In June 2010 the HSE had not published its findings or conclusions despite requests to do so.

47. In February 2010 the asbestos consultants association (ATaC) presented a report to the Minister about on the ground inspection they had carried out to assess the standards of asbestos management in a dozen schools. The standards varied from adequate to unsafe, in one school the system of asbestos management was virtually non-existent despite the fact that there was a significant amount of asbestos known to be present. There was a lack of asbestos awareness and training, with schools being unaware of who was responsible for asbestos management. Some of the asbestos surveys were inadequate and superficial. Many of the schools did not have a proper, workable asbestos management plan. In the majority of schools there was evidence of damage to asbestos, and in one school actual damage took place during the inspection.
48. In February 2010 Voice, the teachers' trade union, published the responses from six hundred of their members in a survey of the standards of asbestos management. Their results also showed a general lack of training and asbestos awareness in the schools. 67% had not been told whether there was asbestos in their school, 72% said that their employer did give them information about asbestos management and 52% had not been trained.
49. In February 2010 the DCSF Minister appeared to accept that the health and safety of staff and pupils in schools is her Department's responsibility. Some six years after the initial campaign had been set up and scrapped, the Minister agreed to establish a DCSF committee to improve the asbestos management in schools. The first meeting was held two weeks before the general election. It has yet to be seen if the committee will have the authority to put its decisions into action.

## MANAGEMENT IS SHORT TERM EXPEDIENT

50. The policy of managing asbestos might work in an office, but cannot be relied upon to work in a school. Any system has to be fail safe, but in a school, however good a system of management might be, it just takes a child losing its temper and kicking a wall, slamming a door or throwing a football into a ceiling and asbestos fibres can potentially be released. Therefore the long term solution is removing all the asbestos. That cannot be achieved overnight but if there was a policy of phased removal, then over time all asbestos would be removed from schools.
51. The Government's main arguments against removal are cost, disruption and the subsequent risk to health if the removal is not done correctly. Although there is a considerable cost in removal, effective management is also expensive and is a permanent drain on resources throughout the life of a school. Frequent asbestos incidents in schools have caused widespread exposure, anxiety, disruption and expense. These incidents have proved that when systems of management fail then it is far more expensive and disruptive to carry out the clean up and remedial actions after an incident, than it would have been if the asbestos had been permanently removed under controlled conditions in the first place.
52. Despite their stated policy that it is safer to manage asbestos than removing it, the Department for Education admitted in a confidential document that "*HSE consider it safe to reoccupy buildings after asbestos has been properly removed.*"
53. Sealing or encapsulating asbestos is a recommended form of management, however DfES and HSE privately acknowledge that it can fail in a school. A 1993 Ministerial briefing stated "*Techniques of asbestos encapsulation... may not provide sufficient resistance to accidental damage or mischievous damage from children.*" This was confirmed in 2008 over the problem of asbestos fibre release from System schools. HSL had been investigating the release of asbestos fibres from AIB cladding encapsulated behind a steel casing in system built schools and stated "*A release from an enclosed source of asbestos was unexpected and of particular concern as this is one of the recommended methods for remediation.*"
54. More than twenty five years ago it was apparent that asbestos incidents will occur in a school however carefully it is managed. Because of this, in 1984 the NUT stated "*In the union's view only the complete removal of all asbestos-containing substances will ensure health and safety in schools. The Executive will seek to achieve the following: Immediate and thorough surveys of all educational establishments... a programme for its removal to be drawn up...*"

55. In 1985 the Association of Metropolitan Authorities (AMA) stated in a policy document: "*Progressive removal is thought to be both the safest and most cost effective solution, given that any asbestos is a hazard, however slight, and that buildings will be occupied and have to be maintained, and inadvertent disturbance is a continuing risk.*" ILEA had a similar policy. However when AMA and ILEA ceased to exist the policy was dropped. If the phased removal of all asbestos had continued then by now most schools would no longer have the problem.
56. In 1996 the NASUWT, stated: "*At best, repair and maintenance can only be a temporary expedient.... The only satisfactory solution is to remove the asbestos altogether.*"
57. As the incidents have continued and an increasing number of their members have died, all the teaching and support unions have joined the call for asbestos removal from schools. In May 2009 a delegation from the AiS met the Prime Minister where the General Secretaries of the major teaching unions stated "*We have to provide a practical way forward. Although the total removal of asbestos must be the goal, it cannot be achieved overnight. However, it is essential that we have the government's commitment to a policy of progressive removal.*" They put forward a request that "*All the asbestos to be identified and removed in a phased programme when schools are refurbished under BSF and PCP.*"
58. At the May 2009 Parliamentary asbestos seminar a presentation was given by the Director of Parliamentary Estates which showed the exceedingly well resourced system of asbestos management in the Palace of Westminster. The following presentations from the General Secretary of ATL and by Carole Hagedorn, a teacher dying of mesothelioma, showed the stark contrast between the resources allocated to asbestos management in schools and those allocated to the Parliamentary Estate.
59. In December 2009 the Government's policy of management rather than removal was confirmed by the Minister in a Parliamentary answer when she stated "*Asbestos which is in poor condition, or which is likely to be damaged or disturbed should be sealed, enclosed or removed. Asbestos that is in good condition and unlikely to be damaged is normally left in place and the risks from it managed until the building reaches the end of its useful life.*" That is despite the fact that often schools are unaware that their hidden asbestos is in poor condition. Sealing and enclosing asbestos in poor condition is known to fail, and that many schools are not managing their asbestos safely.

## LEGAL RAMIFICATIONS

60. The problem of asbestos in schools affects most people in the country. Everyone attends school and the majority of schools contain asbestos, over the years frequent asbestos incidents have disturbed the asbestos so that schools have been contaminated and the occupants exposed. As a result teachers, support staff and former pupils have subsequently developed mesothelioma and have died. The cost in human misery is profound, but the potential financial cost is also.
61. Increasing numbers of school staff are making claims against their local authorities and schools for causing their mesothelioma. A number of these claims have been settled for substantial sums, and it is likely that there will be a significant number of future claims. This will be an increasing drain on council resources, for although in some cases asbestos risks are covered by insurance in others it is not as the authorities are self insured. To compound the problem the insurance companies are now less willing to take on such risks.
62. Following the death from mesothelioma of a former teacher, Joan Henry, Havering council accepted liability, paid substantial damages in an out of court settlement and apologised unreservedly to her family. As a direct result the London Pensions Fund Authority put aside an £85 million asbestos compensation fund to cover future public sector claims. The family's solicitor raised an issue of particular significance, and stated "*There wasn't a significant incident of disturbance to the asbestos that was raised during the case. Frighteningly, the disturbance was what could be described as natural 'wear and tear' - pupils disturbing it with bags, rulers etc.*"
63. An increasing number of teachers and support staff are making claims, but former pupils are as well. Dianne Willmore brought a claim against Knowsley Borough council for exposing her to asbestos while she was a pupil at school. This was the first successful claim of a former pupil to be taken through the courts, and she was awarded substantial damages against the Council for negligently exposing her to asbestos. Again the evidence presented was not of exposure from a major disturbance of asbestos materials but was from asbestos ceiling

tiles being removed and stacked in corridors and the toilets. The sort of activity that should have been prevented if a proper system of asbestos management was in force, but is common in many schools. The council's attempt to have the judgement overturned in the Appeal Court failed, but they are persisting and their appeal will be heard at the Supreme Court in October.

64. The potential for future claims is considerable for over the last forty five years many schools have failed to prevent asbestos being disturbed and the occupants exposed. Their failure to safely manage the asbestos invariably being a major contributory factor.
65. The problems of bringing a successful claim are considerable, for most of the exposures experienced by staff and pupils are insidious and pass unnoticed. Therefore when a person develops mesothelioma many years later they are unlikely to remember or even be aware that the back of the stationary cupboard was AIB, or that the children used to bash the corridor walls as they jostled together when changing classrooms, or that each time a door was slammed significant levels of amosite fibres were being ejected into the rooms.
66. The other problem is that asbestos surveys are all too often superficial and fail to identify the most dangerous materials, therefore when investigating a claim it might appear that there was little asbestos present, when in fact there was a considerable amount but the survey had failed to identify it.
67. The recommended system in the surveyor's guidance of making an assessment of the risk from asbestos materials is flawed and more often than not the resultant calculation understates the actual risk of the asbestos. For instance all the fire doors in a school were AIB and yet the surveyor had assessed them as low risk, despite the fact that they were very vulnerable to damage as they were in corridors throughout the school and were highly likely releasing amosite fibres every time a child knocked into them. It is therefore difficult persuading a claims assessor that the risk was very real when it has been assessed on the survey as low.
68. But one of the greatest problem in carrying out an investigation is that schools and local authorities systematically destroy asbestos registers, surveys and other documentation once the building is demolished, or even when there is a reorganisation of the local authority. In my own experience my wife taught in three temporary classrooms in various schools that were of an age and type that would in all probability have contained AIB, and yet all the documentation had been destroyed. In one case the local authority was meant to have kept the documentation for six years but had destroyed it "accidentally" in two. If someone works with asbestos and has been exposed to significant levels of asbestos, then the records have to be kept for forty years. It should be no different for schools, and as a matter of course all asbestos records should be kept for forty years or longer.
69. Despite the fact that most asbestos exposures in schools are low level, they are often frequent and take place over the course of weeks, months or years. The cumulative exposure can be significant and causative of mesothelioma. I have no doubt that with many teachers and former pupils the very fact that they attended a school that contained considerable amounts of asbestos was sufficient to cause their mesothelioma.

## SCHOOL REFURBISHMENT

70. Schools have been underfunded over the years so that their condition has deteriorated, and this is a particular problem with the 14,000 schools that were rapidly constructed in the thirty years following the war. As the fabric of the schools have deteriorated then so has the asbestos material used in their construction.
71. In 1993 the NUT published a Safety Bulletin called "Our Crumbling schools." They stated "*Years of neglect of school buildings have left an appalling legacy of decay.*"
72. In 2003 David Miliband talking about PFI and school rebuild and refurbishment stated "*We have only been digging ourselves out of a hole.*"
73. Building Schools for the Future initiative (BSF) will replace or refurbish all the secondary schools in England. If a school is replaced it will solve the asbestos problem, also if it is refurbished then the opportunity has to be taken to remove the asbestos. Priority being given to those schools in the worst condition with the most dangerous asbestos materials being removed first.

74. Starting in 2005 BSF was planned to take place over 10-15 years. The intention was that 50% of secondary schools would be rebuilt, about 35% would have a major refurbished, and another 15% would only have minor work carried out.
75. The Primary Capital Programme (PCP) was introduced in 2008 and was planned to continue until about 2023. The intention was to replace 5% of the 20,000 primary schools in England, refurbish and modernise 45% and undertake minor works on the remainder.
76. In 2009 the AiS group asked for all asbestos to be identified and removed during BSF and PCP refurbishment, with priority being given to the most dangerous materials.
77. In 2009 the Minister stated that asbestos would normally be removed during major BSF refurbishments. However PCP is less well funded so that according to the Department for Education many refurbishments are just decoration and there is insufficient money to even identify the asbestos, let alone remove it. The Minister stated that the policy is to leave the asbestos in situ until the building reaches the end of its life. However if it is left in situ it will pose a potential danger that will have to be managed throughout the life of the school.
78. In 2010 the Chairman of the Partnership for Schools stated that 80% of the school stock were *"Beyond their sell by date."*
79. By March 2010 149 secondary schools had been refurbished or rebuilt. But following the election the new government has put the future of the programmes on hold with those school projects that have reached *"financial close"* going ahead, but the others are being reviewed on a case by case basis.
80. Until recently priority for refurbishment was based on social deprivation and educational needs, but the Coalition Government announced in July 2010 that priority will be given to schools in the worst condition. Inevitably if the fabric of the school is deteriorating then so is the asbestos.
81. Over the years BSF in particular would have solved the asbestos problem in secondary schools, but now that there is insufficient money to fund the whole programme it is even more essential that schools with the greatest asbestos problem are prioritised for refurbishment.
82. In July 2010 the Coalition Government also indicated that similar priority will be given to the replacement and refurbishment of primary schools. As far as asbestos is concerned this is a positive decision, however as funding is very limited it is likely that only a very few schools will be refurbished or replaced. Therefore those schools with asbestos in the worst condition need to be identified and priority given to their refurbishment or replacement.
83. For the foreseeable future the majority of schools will have to continue managing their asbestos. They must urgently put measures in place to ensure that schools are equipped to manage their asbestos safely so that the standards of asbestos management in all schools are brought up to the standards of the best. It is therefore essential that the Government and local authorities identify those schools with the most dangerous asbestos materials and also those schools that are not managing their asbestos safely.

## AUDIT.

84. If resources are to be allocated in proportion to the risk then an audit has to be carried out to determine the scale of the asbestos problem in schools.
85. In 1989 the NUT called for a nationwide audit of asbestos in schools.
86. In 1993 the NUT had meetings with the Schools' Minister and called for all schools to carry out asbestos surveys. The results to be centrally collated so that an audit could assess the overall scale of the problem. The Minister refused the request, confidential documents showing the reason why *"The Minister argued that there was no need for a nationwide audit. It was the responsibility of LEAs and school governors to ensure that pupils and staff were not at risk. Commissioning a nationwide survey might provoke panic."* *"A national audit could have significant cost implications."* *"In any case a nationwide DFE organised audit would be bound to lead to further demands for additional public expenditure on school buildings, at a time of increased resource squeeze."*
87. In contrast in the early 1980s the USA surveyed all their schools for friable asbestos as part of a national audit and undertook a risk assessment. In 1987 once they had collated the data, they implemented stringent asbestos laws specifically for schools. Because they had assessed the scale of the problem they were able to allocate proportionate resources so that schools could effectively manage their asbestos.

88. 2000 Southern Ireland surveyed all schools and because of the vulnerability of children took the decision to remove the asbestos *“even if this would not normally be considered necessary.”*
89. 2004/5 Northern Ireland surveyed all their schools and carried out an audit. They then removed the *“Priority asbestos.”*
90. In 2008 PAT stated: *“There has been no official national assessment of the extent of the asbestos problem in schools. ...The DCSF, HSE and others are doing good work on the sensible management of risk, but, in relation to asbestos, we don’t know what the risk is and this is totally unsatisfactory.”*
91. In May 2009 the AiS Group requested that a comprehensive audit should be carried out of the extent, type and condition of asbestos in schools.
92. In July 2009 the Chief Executive of the British Safety Council stated *“It is unacceptable that the UK, in 2009, has not yet undertaken a national audit of asbestos in schools; has not comprehensively assessed the risks that teachers and pupils in each and every school face; and has not allocated resources to take urgent remedial actions. Without these actions the tragedy of asbestos in schools will be left to fester and continue to kill the lifeblood of our society. Teachers and pupils continue to live with the deadly legacy of having once worked or studied in a school containing asbestos.”*
93. In October 2009 the Minister once again refused to carry out an audit, stating *“We do not intend to extend this to a national audit to determine the extent, type and condition of asbestos in school buildings..... A national audit would duplicate these arrangements, and have little or no effect in reducing the health risks associated with asbestos.”* One suspects the real reasons are the same as they were in 1993.
94. The Government therefore has no real idea how many schools contain asbestos, how much there is, what type it is or what condition it is in. They are therefore unable to allocate proportionate resources.

## SURVEYS. AIR SAMPLING

95. During the consultation for the Control of Asbestos Regulations HSC advocated a thorough survey is an essential part of any management.
96. In 1983 ILEA started surveying all its schools for asbestos.
97. In 1983 evidence was presented to a Parliamentary Select Committee that strongly supported the need for environmental asbestos control limits for the occupants of rooms, and because of the increased risks to children the Department for Education argued that the limits in schools should be 1/80 to 1/100<sup>th</sup> of workplace control limits
98. In 1984 the NUT and in 1985 AMA called for all schools to survey for asbestos.
99. 1986 DETR, AMA, DfEE advised schools to carry out a diligent and determined search to identify the presence of asbestos by extent, type, condition and vulnerability to damage. Then implement a system of management, which would include monitoring the condition of the asbestos.
100. In 1987 it was found that slamming a door five times in a System built school released levels up to 33 times greater than the Clearance level, and kicking and hitting a wall released levels up to 87 times greater. A survey had identified the asbestos which appeared to be in good condition, however it was only air sampling that proved that dangerous levels of amosite fibres were being released.
101. (The Clearance level is an airborne fibre level below which rooms can be legally reoccupied after work on asbestos. HSE state that it is *“not an acceptable permanent level.”* For every hour a person inhales about 6,000 fibres. Despite this most LA’s allow classrooms to be reoccupied at the level (0.01f/ml).
102. In 1997 during the consultations for the Control of Asbestos at Work Regulations (CAWR) DfES actively and successfully lobbied against mandatory asbestos surveys in schools. They wrote to HSE *“I must admit like you we would not be very keen on the idea of all schools surveying for asbestos. It would not be fair to single out schools implying that they are more at risk.”*
103. An internal DfES briefing documents outlined *“The line to take”* for their representatives at a CAWR consultation meeting, it stated *“A regulatory requirement to inspect 24,000 schools would: a) represent a costly new burden. b) Alarm people... c) Where asbestos is found, lead to calls for its removal... a blanket*

*inspection in advance of need could be a costly and unnecessary exercise.” The minutes record another reason that “Surveyors running around would cause “panic”.*

104. DfES argued strongly and successfully against asbestos surveys being made mandatory. As a direct result they are not mandatory under the 2002 CAWR and the 2006 Control of Asbestos Regulations, CAR.
105. In 2006 DfES and HSE admitted that because most schools have only carried out visual surveys *“in most cases it will not be known whether or not asbestos is actually present.”*
106. In 2006 in CLASP schools damaged off-cuts of AIB were found in ceiling and wall voids that had been there undiscovered for forty years.
107. In 2008 HSL stated about System built schools *“It is not unusual for asbestos debris to be left in areas around the tops of columns...from the original installation..... If for some reason the surveyor did not access the suspended ceiling as he should have done... A type 1 or 2 survey as described in MDHS 100, requires that the ceiling void of suspended ceilings are accessed to check for ACM's and asbestos debris”*
108. Other asbestos materials were damaged but hidden and only identified when air sampling showed increased asbestos fibre levels when the doors were slammed and walls and columns hit. Only then was column cladding removed which revealed damaged deteriorating asbestos. Until this happened the asbestos had not been identified, and therefore it could not be managed.
109. Rigorous asbestos surveys are essential. However on their own they only identify the visible asbestos, and are unlikely to identify damaged hidden asbestos. Only comprehensive air sampling with representative disturbance will identify if hidden asbestos is releasing asbestos fibres.
110. In 2010 the ATaC inspections of schools found that *“Although all schools had an asbestos survey of one form or another, the information varied from useful to misleading and almost non-existent. In a number of schools the asbestos survey had just identified a small number of asbestos occurrences. However, because of the limitations of the survey and the type and date of the building it is probable that considerably more asbestos exists than had been identified. In one school, because of the system-built nature of its construction it is known that there is a significant quantity of asbestos present but only two areas had been identified. As the asbestos has not been identified it has not been effectively managed.”*
111. Asbestos cannot be managed unless its extent, type and condition are known. Therefore in many cases schools have not, and cannot, effectively manage their asbestos.

## **SYSTEM BUILT SCHOOLS**

112. About half of the schools in the country are System built. Most contain asbestos, some in large amounts.
113. Types of System built schools include CLASP, SCOLA, HILLS, METHOD, VIC-HALLAM, CLAW, Onward Mace, SEAC and many others.
114. As an example there are 3,155 CLASP buildings in the UK. Most are schools. 2,000 SCOLA schools and 400 HILLS.
115. In 1987 a door was slammed five times in a System built school in Wandsworth releasing fibres at 33 times greater than the Clearance level. This level was averaged over an hour, therefore if at the change of each lesson the door was slammed the level would be maintained throughout the day.
116. When the walls were hit and kicked the level was 87 times greater. Cumulatively such levels can cause mesothelioma.
117. Warning bells should have sounded in every system built school in the land, but they did not, and the release of asbestos fibres from common everyday activities continued.
118. In 2006 the problem was rediscovered when the doors were slammed, walls and columns were hit in System built schools in Wales, airborne fibre levels were above the Control limit at 44 times greater than the Clearance level.
119. A series of air samples were taken in CLASP schools when the walls were hit, doors and windows banged and the window-sills were sat upon. The majority were above the Clearance level, the mean level being nine times greater. Some samples were more than forty times greater and exceeded the Control limit, which is designed

for asbestos contractors wearing breathing apparatus and protective clothing. One level was 237 times greater. It is likely that these levels had been present for years, perhaps many years.

120. DfES, Local Government Employers and the HSE issued guidance to duty holders of all the System built schools in the country advising them to seal in the damaged, deteriorating asbestos within the columns, ceiling and wall voids. This problem applies to all System built schools of a similar construction.
121. HSL carried out further tests in selected offices and schools and found exceptionally low levels of asbestos and other fibres, both before and after remediation. These are controversial tests. In April 2009 HSE and the Government were asked to release all the details of the tests for public scrutiny and peer review but they refused. An investigation was carried out by the Information Commissioner which determined that certain critical tests had been carried out in buildings owned by the shareholder of a commercial company. The company had an actual or perceived vested interest in the outcome. However other crucial details of the tests have not been released.
122. Other tests showed raised asbestos fibre levels even after sealing had taken place. The various series of tests prove that if asbestos is in good condition it will release low levels of fibres, whereas if it is in poor or bad condition it will release high levels of asbestos fibres. In many schools the asbestos is in poor or bad condition.
123. In December 2007 as part of an ITN investigation, a door was slammed and a column hit in a classroom of a System built school. The fibre levels were dangerously high and all above the Control limit at 44 times greater than the Clearance level in the classroom, 72 times greater in the ceiling void and 253 times greater on a personal sampler. All of which were on a par with the 1987 ILEA tests and the 2006 tests in Wales. The school was in a bad state of repair, and had failed to follow the guidance issued more than a year before. HSE issued improvement notices to the council.
124. Between September and December 2007 HSE inspected 120 schools altogether, however even in this relatively small number 20 Improvement notices were issued for failures in asbestos management and failure to comply with the asbestos guidance for CLASP buildings.
125. In November 2009 DCSF/HSE gave their preliminary findings from their questionnaire on system built schools. Their responses were such that 43 required further investigation by HSE and 95% of dioceses failed to respond to the questionnaire. The responses showed that: *Clarification was needed of who is the duty holder, and who takes responsibility for the management of asbestos; Lack of knowledge/ awareness of the range of system buildings within some authorities property portfolios; Some knowledge about property portfolios has been lost in the process of local government re-organisation; The importance of proactive management – instructions often issued, but not clear how formal monitoring of compliance and implementation takes place at school level. Asbestos registers – differing views with regard to what constitutes a register, who maintains and updates it.*
126. As at July 2010 the results from the HSE inspections of 43 authorities have not been published.
127. However HSE has taken enforcement action against three local authorities in England and one in Scotland for breaches in the health and safety regulations and the asbestos regulations in their schools. Some four years after the guidance had been issued one authority had failed to follow the crucial asbestos guidance for System built schools. Another had failed to train its headteachers in asbestos awareness. A third had failed to ensure that their asbestos management plan was reviewed to ensure that asbestos was maintained in good condition, and Glasgow City council had failed to manage the risks from asbestos in particular in primary schools.

## COMPETENCE. TRAINING.

128. Asbestos can only be managed if governors, headteachers, bursars, caretakers and school maintenance staff are qualified and competent. All should be trained in asbestos matters.
129. 1994 DfES expressed doubts about whether governors are equipped to look after the structure of a school.
130. 2006 HSE WATCH committee *"It should be expected that headteachers would not be competent in terms of asbestos management."*
131. 2006 trial of a Headmaster after a serious asbestos incident he stated *"I had no knowledge of asbestos its capabilities or where it would be found... it was a complete foreign language to me."*

132. 2007 The Health and Safety Executive (HSE) issued Liverpool City Council with an improvement notice because the council was providing “inadequate” information and training regarding the management of asbestos to staff.
133. An increasing number of schools are not under LA control. There are 6,400 VA, Foundation and Independent schools, with 1,800,000 children and 190,000 teachers.
134. In 2008 the Professional Association of Teachers, PAT, stated: *“There are now increasing numbers of schools outside local authority control with direct responsibility for health and safety resting with the governors. Our experience is that, in local authority maintained schools, head teachers, staff and governing bodies have been neither adequately informed nor adequately trained.”*
135. There has been insufficient training in UK, whereas in comparison the USA have funded training since 1982.
136. Governors and headteachers should annually sign their school’s asbestos management plan. This will ensure that they realise it is their responsibility.
137. In March 2009 a Parliamentary debate was held on the issue of asbestos in schools where the standards of training were criticised. The Minister agreed to talk to the National College for School Leadership to see how to improve the standards.
138. In 2010 Voice published the results of a survey of their members to the question “Has anyone at your workplace received asbestos training?: 23% said yes, 52% said no and 25% did not know.” They concluded that *“This survey provides substantial evidence that urgent action is required to improve standards of asbestos management, particularly training for staff and authorities.”*
139. In February 2010 The Minister agreed that the National College would train new headteachers before they take up their post. The AiS Group have requested in addition training for headteachers in post, governors, all teaching staff and all support staff. The training should be in asbestos awareness and where necessary asbestos management, with courses tailored to the individuals post.

## **GUIDANCE.**

140. The poor standards of asbestos management and the lack of asbestos awareness demonstrate that not only is the training inadequate, but so is the guidance. Headteachers have a multitude of tasks and therefore need clear, unambiguous asbestos guidance, for at the present there is a whole plethora of guidance and regulations that need to be followed. Some of the guidance is good whereas other guidance is ill conceived and at times gives dangerous advice. In addition the asbestos regulations have been drafted for people who work with asbestos materials rather than for the occupants of buildings, so that it is confusing what applies and what does not.
141. The AiS Group have requested that clear one-stop asbestos guidance is drafted specifically for schools.

## **REGULATION.**

142. The failures in asbestos management have not been detected because of inadequate regulation. There have been too few inspections and too few investigations. Until recently the system of regulation has been reactive rather than proactive. HSE are underfunded and have insufficient resources to inspect the high risk industries and therefore have been unable to allocate the necessary resources to inspect schools. The result is that the appalling standards of some schools in managing their asbestos have passed unnoticed, and uncorrected.
143. The ITN and BBC investigations discovered serious failures in asbestos management in the schools they examined, and yet until then they had passed undetected. The asbestos consultants regularly find poor standards in asbestos management in the schools they inspect, and although their report only looked at a limited number of schools, the majority had unacceptable standards of asbestos management, and that was a reflection of the standards they find in schools up and down the country. And yet the present system of regulation and inspection has failed to uncover the schools with ineffective or unsafe systems of asbestos management.

144. The poor response from the DCSF/HSE questionnaire proved that a significant proportion of schools are not been adequately regulated in their management of asbestos. There are about 2,700,000 pupils in a total of 7,600 Voluntary Aided schools, independent schools and in schools not directly under local authority control in England. That amounts to just under a third of all schools. The HSE and DCSF had gained no information on independent schools, and on top of that 95% of diocese, who are in the main the owners of the Voluntary Aided Schools, failed to reply. One must question how many of the three million occupants of independent, faith schools and schools outside direct local authority control are at risk from asbestos because in effect they have been, and remain, outside a workable system of regulation.
145. In 2005 DfES stated "*I think that certain critical Health and Safety procedures should be checked by OFSTED as no one else is doing it really.*" Five years ago the Department for Education acknowledged the lack of regulation of health and safety in schools, now that they have re-established a steering group to improve the asbestos management in schools, it is essential that one of the primary tasks is to devise an effective system of regulation.
146. Questionnaires are not an acceptable way of establishing whether schools are complying with the guidance and managing their asbestos safely. The HSE on the ground inspections in 2007 were effective, as were the ATaC inspections of schools. The AiS Group has requested that a system of regulation is devised that is in the main is based around on the ground inspections, for only then will the true standards be determined and measures taken to correct any failings.

## SECRECY.

147. One very effective system of regulation is self regulation, where staff and parents are kept fully informed of what asbestos is in their schools and what measures are being taken to manage it. However there has been a policy of secrecy over the whole issue of asbestos in schools so that parents are not generally informed about the systems of asbestos management in their children's school, and frequently are not even aware that the school contains asbestos. In a number of schools the teaching and support staff are similarly not informed about the asbestos in their school, the measures taken to manage it or the inherent risks.
148. The practice is at all levels, for even when asbestos is unexpectedly found the facts are kept from the parents. In 2003 Jarvis gave written evidence on refurbishing schools to a Parliamentary select committee, they stated "*Much larger amounts of asbestos were found subsequently leading to delays and cost over-runs which could not be obviously explained to parents without causing alarm, and embarrassment to the client.*"
149. In 2004 a document showed that the Health and Safety Commission did not consider that parents should necessarily be told of the presence of asbestos in their children's school, they stated "*HSC's approach is on a "need to know basis" therefore a "Right to know" basis might distort what HSE is trying to achieve.*"
150. For more than twenty years by law in the USA parents and teachers have to be annually updated on the presence and condition of asbestos and asbestos management. This is an effective system of self-regulation.
151. In 2008 PAT (Voice) stated: "*It is believed that most staff working in schools do not know the locations of asbestos in their schools and there is no Health and Safety Executive guidance compelling schools to tell staff and parents. Apparently this is because the HSE believes in protecting the public from things that may cause alarm. The HSE believes people should be informed on a need-to-know basis rather than a right-to-know. PAT believes there is a right-to-know.*"
152. In February 2010 the Minister stated that she wanted transparency on matters to do with asbestos in schools, and that has been agreed in the terms of reference for the Department for Education steering group to improve asbestos management in schools.
153. Regrettably as at July 2010 this policy has not been put into practice. Despite requests from MPs and the AiS some eight months after completion the full response from the DCSF/HSE questionnaire into the standards of asbestos management in system built schools has not been published, and neither have the results of the inspections of 43 local authorities that required further investigation.

## WAY FORWARD

There have been considerable advances in the last year and with hope the new Government will continue with the improvements that have been put in train. The way forward is:

- All schools to carry out thorough asbestos surveys.
- Air sampling to be part of a school's asbestos management.
- A national audit to be carried out to assess the full extent of asbestos in schools and the standards of asbestos management.
- A risk assessment to be carried out, particularly to assess the increased risk to children.
- The Government to allocate resources in proportion to the risk.
- Now that the campaign to improve asbestos management in schools has been reinstated it has to have the authority to put decisions into action.
- Specific asbestos guidance should be drafted for schools.
- Governors, headteachers and staff to be trained in asbestos awareness and where applicable asbestos management, with courses tailored to the needs of the post.
- Headteacher and the Chairman of Governors to annually review the school's asbestos plan and sign as their responsibility.
- All schools to implement rigorous systems of asbestos management.
- A system of on the ground inspections to be implemented to assure that all schools attain satisfactory standards.
- Policy of openness. This will ensure effective regulation.
- Identification and removal of all asbestos when schools are refurbished.
- All asbestos to be identified and a policy of phased removal adopted, with priority being given to removal of the most dangerous asbestos materials.

Only then will our teachers and children be safe.

*Michael Lees*  
*31<sup>st</sup> July 2010*

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