

Managing Asbestos in Premises – The Control of Asbestos Regulations 2012

Guidance for Deacons' Courts and Finance Committees

Health and Safety at Work etc. Act 1974

This Act imposes a duty on those having control of premises, to ensure, insofar as is reasonably practicable, that the premises and any plant or substance in them are safe and without risk to health.

The Control of Asbestos Regulations 2012

These regulations came into force on 6 April 2012, updating previous asbestos regulations to take account of the European Commission's view that the UK had not fully implemented the EU Directive on exposure to asbestos. In practice the changes are fairly limited. They mean that some types of non-licensed work with asbestos now have additional requirements – notification of work, medical surveillance and record keeping. All other requirements remain unchanged.

Who has a duty to manage asbestos?

Those having control of non-domestic premises, called the “duty-holder” in the legislation, have a duty to assess whether asbestos is, or is liable to be, present in these premises and to manage any such asbestos. The “duty-holder” in respect of properties owned by congregations will be the Deacons' Court or Finance Committee. Non-domestic premises include churches and church halls, but not manses.

Why manage asbestos?

Asbestos is a risk to health if fibres are released into the air and breathed in. As long as an asbestos-containing material (ACM) is in good condition and is not disturbed or damaged it is unlikely to cause any risk to health. Asbestos does not necessarily have to be removed from buildings but must be managed so as to ensure that nobody who come into contact with it, including tradesmen working at church premises, are put at risk.

There are 3 main types of asbestos, commonly known as blue, brown and white asbestos, all of which are hazardous, but blue and brown are more hazardous than white. In spite of the names, the different types cannot be identified accurately by colour and often the material will have been painted or mixed with another component. Accordingly, a laboratory analysis is necessary to accurately identify the type of asbestos present.

How do you know if there is asbestos in your building?

It is now illegal to use asbestos in the construction or refurbishment of buildings, but any building built or refurbished before the year 2000 may contain asbestos.

Asbestos and asbestos based products have been used as fire breaks in ceiling voids, fire protection around structural steelwork, thermal insulation for pipes and boilers, wall and ceiling panels, partitions, soffit boards, roofing and wall cladding, gutters, rainwater pipes and water tanks, textured coatings and vinyl or thermoplastic floor tiles. If there are any doubts about any of the materials in the premises it must be presumed that they contain asbestos. The only materials which can be safely assumed not to contain asbestos are stone, brick, timber and glass.

What does the duty to manage asbestos involve?

In order to manage the risk from asbestos, you, as the duty-holder must find out, by having a suitable and sufficient assessment carried out, whether asbestos is present in the premises. In making the required assessment:

- Such steps as are reasonable in the circumstances should be taken;
- The condition of any asbestos which is, or has been assumed to be, present in the premises should be considered;
- Account must be taken of building plans or other relevant information and of the age of the premises;
- An inspection must be made of those parts of the premises which are reasonably accessible;
- The assessment must be immediately reviewed if there is a reason to suspect that the assessment is no longer valid, or if there has been a significant change in the premises to which the assessment relates;
- The conclusions of the assessment and every review must be recorded.

Where such an assessment shows that asbestos is or is liable to be present, then:

- A determination of the risk from that asbestos must be made;
- A written plan identifying those parts of the premises concerned must be prepared;
- The measures which are to be taken for managing the risk must be specified in the written plan;
- The measures to be specified in the plan for managing the risk must include adequate measures for monitoring the condition of any asbestos, or any substance containing or suspected of containing asbestos; ensuring any asbestos or any such substance is properly maintained or where necessary safely removed; and ensuring that information about the location and condition of any asbestos or any such substance is provided to every person liable to disturb it, and also to the emergency services.
- You must ensure that the plan is reviewed and revised at regular intervals and without delay if there is any reason to suspect that the plan is no longer valid, or if there has been a significant change in the premises to which the plan relates.
- You must also ensure that the measures specified in the plan are implemented and that the measures taken to implement the plan are recorded.

You may appoint a competent person to carry out all or part of the work to meet the requirements of the regulations on your behalf, but the final responsibility remains with the Deacons' Court/Finance Committee as duty-holder.

In some cases, for example if there is no maintenance work planned, it may be considered sufficient for the assessment to be carried out by a non-professional. However, if it is decided to employ a suitably trained person to survey the premises to identify asbestos containing materials (ACMs), for example if the premises are to be refurbished in any way, it should be checked that such a person is accredited or certificated for asbestos survey work. If it is suspected that materials may contain asbestos, samples may have to be analysed and this should only be done by those who are suitably trained. UKAS operate accreditation schemes for laboratories and surveyors undertaking asbestos survey and testing. Details are available on their website www.ukas.com.

If it is decided to leave ACMs that are in good condition in place, a note must be made of where they are located on an asbestos register. ACMs can be marked with warning signs, or, alternatively, you must ensure that anyone working on the premises is aware of the presence of asbestos. Where it is not possible to safely manage asbestos left in place it must be removed by a contractor licensed by the Health and Safety Executive.

Checklist on how to comply with the duty to manage asbestos

- Check if ACMs are present or liable to be present in the premises
- Check what condition the material is in
- Assume that the material contains asbestos unless there is good evidence that it does not
- If maintenance or refurbishment work is planned consider whether an asbestos specialist is required
- Make a written record of the location and condition of the ACMs
- Assess whether the condition or location means that ACMs are likely to be disturbed
- Prepare and implement a plan to manage risks
- Review and monitor the plan regularly and at least once a year.

Important Note:

This introductory guidance note does not include all the detailed information which you will need if asbestos is found to be present, or is suspected of being present, in your premises. In that event, the Health and Safety Executive website (<http://www.hse.gov.uk>) should be consulted as all the detailed information you require can be found there. There is a useful short guide called “Managing asbestos in buildings” which can be downloaded at <http://www.hse.gov.uk/pubns/indg223.htm> and there is also a great deal of much more detailed information available on the HSE website.