

Managing asbestos in schools is no longer a sensible option

The HSE has told HSB that it has no plans to investigate more than 100 schools in England where the management of asbestos gave the Education Funding Agency (EFA) “significant cause for concern”. The HSE justified its refusal to investigate on the grounds that the EFA subsequently received assurances from the schools that they had taken action and were, as a result, managing asbestos appropriately.

THE EXTENT OF THE PROBLEM

The schools were identified in an EFA survey that also found that almost one in five schools was not compliant with their asbestos duties. The real picture is likely to be more disturbing still, with the EFA noting that the 5,592 schools that did respond to the survey (25.2% of all schools in England) are “unlikely to be representative of the full schools estate” and may contain “a selection bias towards schools that already manage asbestos well”. Further evidence that the situation is worse than even that revealed in the EFA report emerged in a survey of teachers by the National Union of Teachers (NUT) in March (see box 1).

The EFA, which merged with the Skills Funding Agency on 3 April to form the Education and Skills Funding Agency (ESFA), carried out the survey between 29 January and 31 March 2016, and published the results in February 2017¹. Of the responding schools: 4,646 (83.1%) reported the presence of asbestos; 872 (15.6%) said that there was no asbestos on the premises; and 74 (1.3%) claimed they did not know whether or not asbestos was present. Overall the report concludes:

n 2,884 schools (51.6% of schools responding) had generally appropriate asbestos management arrangements in place (see box 2) or had no asbestos;

n 1,648 schools (29.5%) “generally had appropriate management arrangements in place, but their responses indicated a need to take some action to improve”, which was explained in advice that was automatically generated by the survey;

n 1,060 schools (19.0%) were not compliant and received automatically generated advice; and n 114 of the 1,060 non-compliant schools (2.0% of all respondents) gave significant cause for concern and were contacted.

Of significant concern

The 114 schools of “significant concern” were “either unsure if their buildings contained asbestos, had not conducted an asbestos survey or were missing several important, legally required pieces of documentation or processes”. The EFA claimed that all 114 schools subsequently provided assurances that asbestos, where it was still present, was being managed effectively and that, as a result, all 114 schools had adequately addressed its concerns. The EFA also notified the duty holder at each of the schools of the need to take remedial action. Furthermore, the schools “confirmed that where asbestos has been removed, this was completed in accordance with health and safety guidance”. The assurances, explained the EFA, meant that it did not have to refer any of the schools to the HSE for further investigation.

When HSB asked the HSE whether or not it was satisfied with the EFA’s decision not to refer any schools to it, the HSE replied that it “had agreed to carry out a small number of targeted inspections [of] schools if the EFA had serious concerns that [it was] unable to resolve. In the event, none was necessary as the EFA received adequate responses ... from the 114 schools in question. The HSE is satisfied with this conclusion to the survey.”

Howard Fidderman argues that the new government needs to eradicate asbestos from school, not manage it

BOX 1: NUT ASBESTOS SURVEY

In March 2017, NUT members completed an online survey about asbestos management in their schools. The survey revealed that nearly half of the teachers had not been told whether their school contained asbestos. Of the 46% of teachers who had been told that their school contained asbestos:

- n 50% had not been told where the asbestos was located (although, intriguingly, nearly 75% said asbestos was in locations accessible to children and staff, such as floors, ceilings and window frames);
- n 75% said that staff had not been provided with asbestos awareness training;
- n 85% had not been shown their school’s asbestos management plan; and
- n almost 25% knew of incidents of potential asbestos exposure.

¹ NUT (2017), “NUT 2017 asbestos survey report”, bit.ly/2rG8e5o.

BOX 2: ASBESTOS MANAGEMENT ARRANGEMENTS

Of the 4,646 schools that told the EFA that they had buildings containing asbestos:

- n 1,400 (30.1%) had reviewed their asbestos management survey in the previous 12 months;
- n 2,691 (57.9%) had reviewed or updated their asbestos registers in the previous 12 months;
- n 3,760 (81.0%) had an asbestos management plan;
- n 4,497 (96.8%) had processes and procedures in place detailing the control measures to prevent disturbance of any known asbestos-containing materials; and
- n 4,599 (99.0%) had processes to ensure that anyone who might disturb asbestos had received information regarding the presence (or potential presence) of asbestos.

We also asked the HSE specifically whether it planned to visit the 114 schools to confirm the claims that their management of asbestos is now adequate. The HSE replied: “HSE interventions are targeted according to risk. The work undertaken by the EFA has led it to conclude that all 114 schools have adequate arrangements in place to manage asbestos, where present. In these circumstances, there is no reason for the HSE to intervene. The Department for Education (DfE) and ESFA are now planning to seek written assurance from all duty holders that their schools are compliant with existing legislation. This will build on the 2016 survey and ensure that there is a clear understanding of how asbestos is being managed across the school estate in future years.”

Chris Keates, general secretary of the NASUWT, which is the largest teaching union, described the 19% non-compliance as “deeply concerning” and the 2% as “shocking”. She emphasised that the voluntary nature of the survey meant it was “reasonable to assume that schools that know they are not compliant would be less likely to respond. Therefore, the true number that are failing to comply could be substantially higher, with hundreds of schools putting pupils and teachers at risk by failing to manage asbestos effectively.”

HSB COMMENT

The acceptance by the EFA and the HSE of the assurances from the schools is concerning. Non-compliant schools received automatically generated advice, and those causing significant concern were also “contacted” by the EFA. In every instance, the schools convinced the EFA that they had implemented sufficient changes. Is it unreasonable to hope that the HSE would have physically inspected at least a selection of these schools? No regulator should accept mere paper and verbal assurances from a duty holder that its management of asbestos is satisfactory, particularly where that duty holder had recently provoked “significant concern”?

The HSE’s claim that standards are now adequate ignores the fact that standards before the survey in almost half of the respondent schools were not fully compliant, ranging from just short of compliance to significant shortcomings. Where were the HSE proactive inspections that would have picked up these schools? The problem of asbestos in schools is, after all, hardly an unknown quantity.

Finally, three in four schools in England did not reply to the survey. The EFA and NASUWT both believe that the respondents were more likely to be at the better end of asbestos management than those that did not reply. Why then is the HSE not visiting at least a selection of non-responding schools? It is not difficult to identify schools and buildings whose age makes the presence of asbestos an increased risk.

Towards eradication?

As a result of the survey, the EFA published revised non-statutory advice on 23 February on managing asbestos in schools². For its part, the HSE told HSB that it was “continuing to work with the ESFA and through the Asbestos in Schools Steering Group to promote the effective management of asbestos by schools, local authorities and academy trusts”.

Guidance on managing asbestos, however, can only work up to a point. It is difficult to dispute Keates’ insistence that: “These results seriously call into question the DfE’s fundamental assumption that asbestos can be managed safely left in situ, as clearly this is not happening in too many cases ... The DfE must bring forward proposals for the phased removal of all asbestos in schools without delay.” The NUT made a similar call, as did the TUC last year (HSB 450 p.5) and an all party group of MPs, which recommended the removal of all asbestos from all educational establishments by 2028 (HSB 445 p.9).

A similar commitment made its way into the Labour Party’s 2017 election manifesto (HSB 459 p.3), although the election result means that Labour is unlikely to have an opportunity to realise its commitment. This is unfortunate. As the NUT pointed out in its survey report: “Schools are unlike the majority of other workplaces in that majority of their occupants are children, who engage in normal, but boisterous, behaviours that are likely to disturb asbestos.” **HF**

¹ EFA (2017), “Asbestos management in schools. Data collection report”, bit.ly/2ngy8fg.

² EFA (2017), “Managing asbestos in your school. Departmental advice”, bit.ly/2nLWcWf; EFA (2017), “Asbestos in schools: Where it may be located. Departmental advice for school leaders, governors, staff, local authorities, academy trusts and charitable trusts”, bit.ly/2mZfvNa.

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