



London Borough of Merton

Corporate Policy on Asbestos and Asbestos Management

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Policy Statement

The London Borough of Merton recognises and accepts the duty of care placed upon them by legislation, as well as their moral responsibility to maintain, manage, and operate the buildings under their control, with all reasonable and practicable measures to prevent the risk of exposure to Asbestos Containing Materials (ACMs) by staff, visitors or members of the public as a result of their operations.

Signed on behalf of London Borough of Merton.



Ged Curran
Chief Executive Officer

Date: 20/12/19

SUMMARY PAGE

Introduction

For many years, products containing asbestos have been extensively used for a range of applications in a variety of locations. Whilst the use of asbestos is now banned in the UK, asbestos containing materials (ACM's) are still present in a number of locations within the Council's corporate and departmental building portfolio including operational buildings, leisure facilities and schools.

Level of Risk

In situ, the majority of asbestos products pose negligible risk, with its condition regularly monitored through a rigorous risk assessment process. It will only require attention (typically via sealing or removal) if its condition deteriorates, or if maintenance or renovation works were pending that would disturb the asbestos.

Types of Asbestos

Asbestos is a naturally occurring mineral and products containing asbestos have been used for many years in a whole range of applications and locations including industrial, commercial and domestic premises. It has typically been used for thermal and sound insulation, fire protection or as a component of structural finishes, such as in walls and ceilings.

The three types of asbestos most commonly used are:

-) Amosite (Brown)
-) Crocidolite (Blue)
-) Chrysotile (White)

In many cases the presence of asbestos is not known until it is exposed through wear, through structural damage or during development work. Whilst the use of all forms of asbestos has now been banned in the UK, a great deal of asbestos is still in situ from previous installations.

Persons now considered to be most at risk from asbestos are those involved in building renovation and maintenance work, such as plumbers, gas fitters, carpenters and electricians.

In many cases, asbestos in situ poses little risk and should only be treated or removed if its condition deteriorates or remedial / renovation works are required. The key to successful management of asbestos is to identify locations and forms of asbestos, monitor its condition and take the appropriate remedial action as and when required.

Legal Requirements

Under the **Health and Safety at Work etc. Act 1974**, employers have duties to ensure, as far as is reasonably practicable, the health, safety and welfare of employees and the health and safety of others that maybe affected by the employers undertaking.

These duties are extended more specifically with regard to asbestos by the following legislation:

Control of Asbestos Regulations 2012 (CAR) – these revoke and replace previous regulations covering the prohibition of asbestos, the control of asbestos at work and asbestos licensing.

CAR prohibits the importation, supply and use of all forms of asbestos including a ban on the second-hand use of asbestos products and includes the ‘Duty to Manage’ asbestos in non-domestic premises and the licensing requirements for work with asbestos containing materials.

Construction (Design and Management) Regulations 2015 (CDM);

CDM requires arrangements to be in place to deal with asbestos during construction work, including refurbishment and demolition.

Where construction or building work is to be carried out and asbestos has been positively identified in areas relative to the work, asbestos will be removed as part of that project. In all cases LBM as the CDM client must provide designers and contractors who are bidding for the work (or who they intend to engage) with project-specific information about the presence of asbestos, so that the risks associated with design and construction work, including demolition, can be addressed.

It is not acceptable to make general reference to hazards that may exist. Therefore site-specific asbestos surveys should be carried out in advance of construction work to make sure that the information is available to those who need it.

Hazardous Waste (England & Wales) Regulations 2005, aim to ensure that hazardous wastes are properly managed from their production to their final destination.

Workplace (Health, Safety and Welfare) Regulations 1992 - require employers to maintain workplace buildings so as to protect occupants and workers.

School Premises (England) Regulations 2012 – require Local Authority maintained school premises and the accommodation and facilities provided therein must be maintained to a standard which ensures the health, safety and welfare of pupils, so far as is as reasonably practicable.

Education (Independent School Standards) (England) Regulations 2012 require independent school premises and the accommodation and facilities provided therein must be maintained to a standard which ensures the health, safety and welfare of pupils, so far as is as reasonably practicable.

(1) London Borough Merton Asbestos Policy

This policy covers all properties owned, managed or maintained by the council and includes all operational buildings e.g. offices, libraries, day centres, schools and other educational establishments, leisure and green space properties, transport depot and workshops and premises leased to third parties. Non-operational properties are also included in this policy where the London Borough of Merton is the landlord or owner under tenancy, lease or other agreements as determined by Regulation 4 of the Control of Asbestos Regulations 2012.

This policy is based on approved codes of practice and guidance published by the Health and Safety Executive (HSE). Including:

-) **L143** Managing and working with asbestos. Control of Asbestos Regulations 2012. Approved Code of Practice and guidance
-) **HSG 264** Asbestos: The survey guide
-) **HSG 227** A comprehensive guide to Managing Asbestos in Premises
-) **HSG 210** Asbestos essentials. A task manual for building, maintenance and allied trades on non-licensed asbestos work
-) **HSG247** Asbestos: The licensed contractors' guide
-) **HSG248** Asbestos: The analysts' guide for sampling, analysis and clearance procedures
-) **L25** Personal protective equipment at work
-) **HSG53** Respiratory protective equipment at work: A practical guide

These approved codes of practice and guidance must be used in conjunction with this policy and must be complied with in their entirety

NOTE: The above is not an exhaustive list and all the guides can be accessed and downloaded free from: www.hse.gov.uk. For guidance and advice you should consult with the Safety Services Section.

The Council is committed to ensuring that all asbestos and asbestos containing Materials present within all buildings owned, managed or maintained by the Council are properly managed and controlled so that they will not present a risk to staff, clients, contractors, pupils or members of the public.

In order to discharge the above the London Borough of Merton will:

-) Prevent, as far as is reasonably practicable, exposure to asbestos;
-) Provide and maintain information on Asbestos Containing Materials (ACMs) including an asbestos register for all LBM buildings owned, managed or maintained by the London Borough of Merton
-) Implement an effective and positive asbestos management strategy, based on risk assessment, to ensure that all asbestos containing materials will be:

maintained in a sealed and safe condition; or isolated; or removed in accordance with on-going maintenance works;

- J Appoint suitably qualified staff to oversee the management of Asbestos and Asbestos containing materials;
- J CMT will ensure there are sufficient resources that can be used effectively to manage ACMs, in a planned and strategic manner;
- J Freely provide information to those who need it on asbestos and asbestos containing materials;
- J Promote awareness of asbestos and the Council's Asbestos Management System;
- J Maintain the momentum in development of expertise and best practice;
- J Regularly review the Asbestos Management System and make amendments where necessary.

(2) Information, Instruction and Training

Merton staff and contractors

- J All Staff and contractors involved in the use, maintenance or management of Merton owned, managed and maintained premises, must be able to recognise asbestos-containing materials (ACMs) and know what to do if they come across them in order to protect themselves and others. As a minimum these persons must have attended an Asbestos Awareness course.
- J Those who instruct, manage, or undertake works within Merton-owned, managed and maintained premises are required to have a higher level of competence, such as Duty Holder and Appointed Persons training, suitably accredited by an appropriate body such as UKAS or BOHS.

Third party competency

Where asbestos in one or more premises is to be managed by third parties under a lease agreement, demonstration of competency must be sought by the London Borough of Merton prior to making this agreement. Third party competency may be demonstrated in the any of the following ways:

- J The leaseholder can supply training documentation in line with their level of control over premises maintenance.

- J Where the leaseholder does not hold the requisite level of qualification, confirmation that a competent UKAS accredited specialist will be engaged to undertake a survey and provide technical advice to the duty holder.
- J Where the leaseholder does not hold the requisite level of qualification, arrangements are made for the leaseholder to make use of the Council's contracted asbestos specialist and costs recharged to the leaseholder as appropriate.

Further information

More detailed information on specific training requirements can be obtained by contacting the Safety Services Team on 020 8545 3388 or at health.andsafety@merton.gov.uk.

(3) Key Responsibilities

Summary of Key Roles and Responsibilities

The overall Council Duty Holder is the Chief Executive, responsible for ensuring there are reasonable and practicable measures in place to prevent the risk of exposure to Asbestos Containing Materials (ACMs), roles are delegated as follows;

Appointed Person

The Head of Safety Services is the Appointed Person, responsible for setting the standards for compliance across the organisation for Asbestos Management.

Designated Duty Holders

Person or Persons, who manage, maintain or repair council buildings. Responsible for cooperating with the Appointed Person, following corporate policy, identifying and managing any Asbestos containing Materials, preparing an action plan, managing work on the premises under their control and making information available to those who require it.

Safety Services

Safety Services are responsible for developing and implementing corporate Policy, providing advice and guidance, monitoring compliance and managing Schools Asbestos reviews.

Employees

Responsible for being aware of the presence of any Asbestos Containing Materials not interfering with any control measures to prevent exposure to ACMs and cooperating with the Duty Holder and Appointed Person.

Corporate Facilities Management

Responsible for the management of information on the council's central property database, the Corporate Property Asset Register.

(4) Main Roles and Responsibilities

Designated Duty holder

The Control of Asbestos Regulations 2012 includes the role of 'Duty holder'. The 'Duty holder' is anyone responsible for maintaining and repairing all or part of a property, or who has control of the building.

The duty to manage is placed on the person or organisation that has the main responsibility for the maintenance or repair of each non-domestic premises and common parts of domestic premises. The duty holder may be the owner or, where there is an explicit written agreement, such as a tenancy agreement or contract, the duty holder may be the occupier or the landlord, sub-lessor or managing agent. It may also be the tenant. Where there is a tenancy agreement or contract, the extent of the duty will depend on the nature of that agreement. In some circumstances the duty to manage may be shared.

The duty to manage asbestos in premises leased to third parties is strictly dependent on both the competency of the third party and the terms of the lease agreement in relation to property management arrangements. It is the duty of the London Borough of Merton as the property owner to seek documented assurance of competency, as defined above under section **(2) Information, Instruction and Training**, prior to assigning the duty to manage to a third party.

-) If the London Borough of Merton is assured of the leaseholder's competency to undertake the duty to manage, **and** the duty is explicitly agreed in the leaseholder's property management arrangements, it shall be the leaseholder's responsibility to manage asbestos within the property.
-) In all other cases, the duty to manage asbestos within the property will remain with the London Borough of Merton.

Note: In cases where the duty is incumbent on the leaseholder, the departmental duty holder or appointed person for Merton must have suitable arrangements in place to ensure the tenant is undertaking the role of duty holder and discharging that duty accordingly.

Change in Property Management Arrangements.

During any review of property management or change of ownership, the review team or individual council representative will become the duty holder and assume the responsibility for ensuring the review complies with the requirements of the control of Asbestos at Work regulations 2012.

This will include the appropriate consultation with the Appointed Person and any other duty holders relevant to the review and subsequent management of the property.

Changes or termination of tenancy or contract.

Where the terms of a tenancy or contract are altered or if the building becomes vacant, the owner or leaseholder becomes the duty holder and must make sure all relevant information on asbestos is passed on to any new occupier or tenant.

The requirements placed on 'Duty Holders' are as follows:

-) take reasonable steps to determine the location and assess the condition of materials likely to contain asbestos
-) presume materials contain asbestos, unless there is positive scientific evidence to prove they do not
-) assess the risk of the likelihood of anyone being exposed to asbestos from these materials
-) Make and maintain a written record of the location and the condition of the ACMs and presumed ACMs.
-) manage, repair or remove any material that contains or is presumed to contain asbestos, if necessary, because of the likelihood of disturbance, and its location or condition
-) prepare an Asbestos Management plan setting out how the risks from the materials are to be managed and take the necessary steps to put the plan into action
-) put in place robust arrangements to provide information on the location and condition of ACMs to anyone who may disturb them during work activities
-) monitor the condition of ACMs and presumed ACMs and;
-) review and monitor the action plan and the arrangements made to put it in place
-) put in place procedures for dealing with accidents, incidents or emergencies with respect to any uncontrolled release of asbestos into the workplace

Responsibilities of the designated Duty holder

The 'Duty holder' is anyone responsible for maintaining and repairing all or part of a property, or who has control of the building and they must;

-) Determine the location and assess the condition of materials likely to contain asbestos.
-) Presume materials contain asbestos, unless there is strong evidence to suppose they do not.
-) Assess the risk of the likelihood of anyone being exposed to asbestos.
-) Make a written record of the location and condition of the ACMs via the asbestos register kept by Corporate Facilities Management.
-) Manage, repair or remove any material depending on the likelihood of disturbance, and its location or condition.
-) Prepare an Asbestos Management plan setting out how the risks from the materials are to be managed in each premise under their control and take the necessary steps to put the plan into action.
-) Make available and provide information on the location and condition of ACMs to anyone who may disturb them.
-) Monitor the condition of ACMs and presumed ACMs.
-) Review and monitor the action plan and arrangements at least annually.
-) Put procedures in place for dealing with accidents, incidents and emergencies.
-) Bring to the attention of the occupants of premises under their control the requirement of every person in that premises to cooperate with the duty holder so as to enable the duty holder to comply with the Control of Asbestos Regulations 2012
-) Ensure they undertake all relevant training commensurate with the role of Designated Duty Holder as detailed in this policy.

Delegating tasks

The duty holders' legal responsibilities cannot be delegated, but duty holders can nominate others to undertake all, or part of, the work to assist in compliance with the duties. Anyone, or any organisation, who is nominated must know exactly what it is they have to do and must have the appropriate level of competency to do this work.

To help comply with the legal requirements and to ensure that Asbestos Containing Materials (ACMs) in premises are properly managed, The Designated Duty holder can also identify a suitably competent person as an **Appointed Person** who will be responsible for the overall management of asbestos compliance. An appointed person(s) is essential where there is a large and complex building portfolio.

The asbestos management survey data and information must be used to complete an asbestos register for each building including building diagram(s) showing the ACM locations. This information will also feed into the building risk assessment, which will be used to develop the Asbestos management plan. The Duty Holder needs to establish clear lines of responsibility for asbestos management and implementation of the plan.

Appointed Person

For the London Borough of Merton the Appointed Person for compliance of Asbestos Management is the Head of Safety Services.

The appointed person will need suitable and sufficient resources, skills, training and authority to ensure that the ACMs are managed effectively. Part of their responsibilities will include managing asbestos compliance survey processes and procedures, which includes contractual and reporting arrangements, quality and subsequent use of the data. The Appointed person will coordinate with Departments to nominate suitably competent persons to manage the information in relation to the property portfolio under their control.

Departmental Responsibilities

All departments are responsible for ensuring that they comply with the Corporate Asbestos Policy and the Control of Asbestos Regulations 2012 relating to all aspects of the management of asbestos.

All information on asbestos must be maintained in the Council's Property database administrated by FM. Departmental arrangements must include provision to collate and pass this information to FM for inclusion to the register and to ensure all persons who need to access the information have that detail.

All departments are responsible for the drafting and revision of departmental asbestos management arrangements and procedures and the allocation of roles and responsibilities to individual employees to ensure those arrangements and procedures are fully implemented.

All departments must provide the Head of Safety Services with the names, qualifications and designation of all relevant duty holders or appointed persons relevant to their department.

All departmental and corporate FM Project Managers will ensure that all works undertaken on behalf of the client or Merton in direct response to repairs and maintenance are undertaken in compliance with this policy.

Property Management and Review

In addition to the above responsibilities, this section is responsible for ensuring that all relevant and applicable information and documentation with respect to the management of asbestos is collated and submitted to the Facilities Management Compliance team for retention on the Corporate Property Asset Register.

Corporate Facilities Management

In addition to the general duties to manage Asbestos, Facilities Management are responsible for the collation, management, administration and maintenance of the council's Corporate Property Asset Register, which will be used to hold all information on asbestos. The database contains information relating to the

Management of asbestos including the asbestos registers for all operational and non-operational buildings including, recreation grounds, parks and cemeteries. This database acts as the council's asbestos register and will be made available to all persons who require information in pursuance of their duties.

Children, Schools and Families

(i) Contracts, Procurement and School Organisation Section

Where this section procures, manages, organises or co-ordinates construction, refurbishment, building services or building maintenance works of any kind within a school or other building, they are responsible for all aspects of asbestos management and statutory compliance with respect to those works.

The section is also responsible for ensuring that all relevant and applicable information and documentation with respect to the asbestos element of any construction, refurbishment, building services or building maintenance works is produced and passed to the Corporate Services Facilities Management Team for amendment and upkeep of the Schools Asbestos register and compliance with this policy. A copy of any changes must also be passed to the duty holder for inclusion to the site files.

(ii) Schools.

The identity of the duty holder in schools and similar premises will depend on how responsibility for maintenance of the premises is allocated. For example in most schools, the duty holder will be the employer. Who the employer is varies with the type of school. For local authority managed schools, e.g. community schools and voluntary-controlled schools, the employer is the local authority. For voluntary-aided and foundation schools, it will be the school governors, and for academy and Free Schools, the academy trust will be the employer. For independent and fee-paying schools, it may be the proprietor, governors or trustees. Budgets for repair and maintenance of school buildings are sometimes delegated to schools by the local authority, with capital expenditure remaining the responsibility of the local authority. In such cases, the duty to manage asbestos is shared between schools and the local authority.

Where a school directly or indirectly procures, manages, organises or co-ordinates construction, refurbishment, building services or building maintenance works of any kind the school are responsible as Duty Holders for all aspects of asbestos management and asbestos statutory compliance with respect to those works.

The School Duty holder is also responsible for ensuring that all relevant and applicable information and documentation with respect to the asbestos element of any construction, refurbishment, building services or building maintenance works is passed to Corporate Safety Services for the purposes of compliance with this policy.

Schools Private Finance Initiative (PFI)

The Head of Schools Contracts and Organisation is responsible for the collection and management of information relating to Asbestos in PFI schools. They will ensure effective communication exists between the schools and the PFI contractor as part of the New Schools management team and the representative of the London Borough of Merton.

The Head of Schools Contracts and Organisation will ensure that all information relating to the management of Asbestos in PFI schools is directly available to the duty holder of those schools in order that they may comply with legislation in respect of their duty as the operational duty holder of the premises.

Corporate Safety Services

-) Responsible for the Corporate Asbestos Policy and arrangements to comply with legislation; this includes;
 - o Act as Appointed Person (see [Delegating Tasks](#), page 10) for the purpose of corporate compliance.
 - o Advise and determine the Compliance Competency Framework.
 - o Compliance monitoring.
 - o Process and procedure for the management of information
 - o Responsible for the development and maintenance of asbestos management plans relating to asbestos in schools and associated schools buildings.
 - o Monitor compliance with corporate policies and legislative arrangements.

▪ General Responsibilities

The following duties are placed on all Council employees. Individual employee responsibilities must be detailed within Departmental policies:

-) Be aware of the possible presence of asbestos
-) If you suspect previously unidentified asbestos or notice deterioration in asbestos products, bring this to the attention of your manager / supervisor.
-) Do not to interfere with control measures that have been implemented to safeguard employees and others from exposure to asbestos.
-) Corporate Facilities Management will ensure that staff are made aware of the asbestos management survey within their work place. All employees will need to ensure that they comply with this policy and any specific instruction from their manager / supervisor in relation to the management of asbestos.
-) Where a problem arises relating to the condition of ACMs on the premises or during work with an asbestos-containing material, the employee must inform a responsible person immediately, e.g. supervisor / line manager / Corporate Facilities Management / Corporate Safety Services.

-) In the case of an accident or emergency employees must respond quickly to ensure effective action can be taken by their manager or supervisor to correctly handle the situation.
-) If an employee feels that they have been exposed to damaged ACMs, or that they have disturbed ACMs during their work activities, they **MUST** inform their supervisor / line manager; Corporate Facilities Management and Corporate Safety Services immediately.
-) Ensure they undertake all relevant training as detailed in this policy and local arrangements.

(5) Council Arrangements for Managing Asbestos

Asbestos-containing materials (ACM's) will be managed in compliance with this policy to ensure the prevention of the release of asbestos fibres in the air that can be inhaled by employees and others who may be present.

All work involving ACMs must be carried out in strict conformity with this policy and statutory obligations.

The Asbestos Regulations include the 'Duty to Manage Asbestos' in non-domestic premises. Guidance on the duty to manage asbestos can be found in 'Managing and working with asbestos. Control of Asbestos Regulations 2012. Approved Code of Practice and guidance L143. ISBN 9780717666188

Management of asbestos in the workplace involves:

1. Surveying the premises in accordance with HSG 264 / HSG 248 to determine whether ACMs are present.
2. Presuming materials contain asbestos, unless there is strong evidence to the contrary.
3. Assessing the amount and condition of the ACM.
4. Making and keep up to date a record of the location and condition of the ACMs in the premises.
5. Assessing the material risk from the ACMs.
6. Preparing a written plan that sets out the location of each ACM and how the risk from this material will be managed (see section 8).
7. Creation and review of emergency procedures to prevent or control exposure to Asbestos Containing materials
8. Taking steps to put the plan into action
9. Reviewing and monitoring the plan and the arrangements
10. Providing information on the location and condition of the material to anyone who is liable to disturb it.

NOTE: *items 1-5 above would normally be undertaken by suitably accredited external services. Items 6-9 should be undertaken by a suitably competent person(s) who have extensive knowledge of the individual premises, the occupants and the nature of the use of the premises on a day to day basis.*

Managing asbestos means everyone who needs to know about the asbestos must be effectively alerted to its presence. No one who might come into contact or work on or near asbestos particularly damaged or deteriorated asbestos should be allowed to start work that could disturb asbestos without being given the relevant information. The condition of the asbestos-containing materials (ACM's) should be monitored and the asbestos containing-materials should be properly maintained.

Those who are responsible for the 'day to day' site management of a Council premise (e.g. Service Manager, Head Teacher, etc.) will need to:

-) Ensure compliance with this policy.
-) Accommodate any inspection or surveying work.
-) Accommodate any remedial work identified from the surveying program.
-) Develop and implement an asbestos management plan for the premises.
-) Monitor the condition of known or presumed ACMs in their building.
-) Ensure that the necessary checks are undertaken to avoid the disturbance of any ACMs known or presumed.
-) Communicate information available on all ACM's to staff and others and ensure their understanding of all risks.

In particular, ensure that no modifications/alterations or additions are undertaken which could disturb any presumed or identified Asbestos Containing Materials (ACMs) in their establishment without the appropriate checks being undertaken. These checks will need to be carried out and results known prior to the works commencing.

Where work is planned on any Merton owned or managed property the relevant Asbestos information must be made available to the relevant people involved in the work prior to any work starting, including pre start surveys or enabling work. Checks must be made by the project manager or person responsible for the work to ensure there is sufficient understanding of the whereabouts of Asbestos containing materials and any limitations of work in relation to ACM's.

(6) Asbestos Management Plans

The 'Designated Duty Holder' is responsible for ensuring that there is a written asbestos management plan for all of their premises in their control. This will be developed in conjunction with Safety Services who will advise on suitability and content. This will include assessing the risk of the likelihood of anyone being exposed to fibres from ACMs (including presumed ACMs) in their premises.

The plan must set out the location of the ACM and how the risk from this material will be managed. The plan and the arrangements should be reviewed at least annually **or** when there has been a significant change to the physical premises, organisation / use or personnel.

The Asbestos Management plan is a compilation of a number of pieces of information and will contain the following:

The Asbestos Management Survey (undertaken by an accredited Asbestos surveyor)

The Asbestos Register compiled from the survey which includes the type, location, condition, material risk and recommended action.

Asbestos Management Audit (undertaken by the council's Asbestos contractor or suitably competent person).

Asbestos Management Action Plan (compiled by the Asbestos contractor / competent person in conjunction with the building occupier / manager)

Six Monthly asbestos action review (a review of actions taken locally by the building manager or local duty holder).

Asbestos training and contractor register (record of staff training and contractor competence relative to each site).

Asbestos remediation documents (records of work done in relation to management of materials provided by the competent contractor).

Information and Guidance

Further Information and guidance is available on the intranet or you can also contact the Safety Services Team on 0208 545 3388 or email health.andsafety@merton.gov.uk.

END