



Asbestos Policy - Housing

Newark & Sherwood District Council
Policy Document
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Contents

Summary

1. Introduction
2. Purpose
3. Context
4. Objectives
5. Scope
6. Compliance
7. Roles and Responsibilities
8. Documentation and Records
9. Training
10. Implementation, Monitoring and Review
11. Regulatory Standards, Legislation and Approved Codes of Practice (ACoP)

Summary

This Asbestos Management Policy has been written to enable Newark and Sherwood District Council (NSDC) to effectively manage asbestos-containing materials within its Housing Assets (both domestic and non-domestic - common parts, Community Centres, stairwells etc) in accordance with the requirements of the Control of Asbestos Regulations 2012 (CAR 2012).

This policy forms part of the NSDC management systems for asbestos control, which also includes:

- NSDC Asbestos Management Plan (AMP)
- Contractors Code of Conduct
- Asbestos Information for Tenants
- NSDC Corporate Health and Safety Policy

Policy and Procedures will be used to clearly set out NSDC operational activity regarding the management of asbestos and methods used to conform to current legislation.

1. Introduction

- 1.1 Newark and Sherwood District Council (NSDC) recognises the potential risks to health with regard to the presence of asbestos-containing materials (ACMs) within its housing assets.
- 1.2 NSDC is fully committed to complying with all legislative and regulatory requirements together with relevant Approved Codes of Practice (ACoP) and its supporting Health and Safety Executive guidance.
- 1.3 To comply with the Statutory document **Control of Asbestos Regulations 2012 (CAR 2012)**, NSDC has in place procedures and processes to control the removal, monitoring, and management of asbestos-containing materials.
- 1.4 These procedures and processes are in place to ensure that ACMs are treated with extreme care, due diligence, and caution by all concerned, including employees, appointed contractors, and tenants alike.

2. Purpose

- 2.1 NSDC is committed to providing a safe and comfortable environment within all assets for which it has a responsibility.
- 2.2 NSDC will adhere to this ethos to help promote a safe and comfortable working environment for all persons who reside in and use its assets.

- 2.3 NSDC recognises its statutory obligations and common law duty of care and undertakes to comply with all the relevant legal requirements.
- 2.4 NSDC believes that effective management of Health and Safety is a core element to enable it to deliver high quality homes for its tenants and working environments for its employees and appointed contractors. To this end, management at all levels have been given the responsibility for ensuring that resources, facilities, information, instruction, training, and supervision are provided to ensure a safe, healthy environment for all.

3. Context

NSDC accepts its responsibility under the Health and Safety at Work Act etc 1974 (HSAWA) and the Control of Asbestos Regulations 2012 (CAR 2012). These place a duty upon NSDC to publish a document which demonstrates how it will manage ACMs within its assets (both domestic and non-domestic as defined within CAR 2012).

4. Objectives

- 4.1 The Control of Asbestos Regulations 2012 (CAR 2012) provide a legal framework for the management of asbestos risk in non-domestic premises (including “common parts”). A wide range of people potentially have obligations under CAR (specifically Regulation 4). These include (but are not limited to) employers and the self-employed, if they have responsibilities for maintaining or repairing non-domestic premises, and the owner of those premises, whether they are occupied or vacant. In all these cases, the extent of the practical duties will be determined by contractual and other existing legal obligations towards the asset.
- 4.2 It is the aim of NSDC to do all that is reasonably practicable to protect tenants, visitors, employees, appointed contractors, and others from health hazards arising from the presence of ACMs within NSDC responsible premises (by virtue of ownership, lease or other). The requirements contained within NSDC Asbestos Policy, will form the basis of, and the implementation of information and guidance contained within the associated Asbestos Management Plan (AMP).

5. Scope

- 5.1 This document applies to NSDC employees undertaking Housing functions and is to be always made available (via the NSDC Intranet or other agreed) to all relevant employees.
- 5.2 It should be noted that the Control of Asbestos Regulations 2012 (CAR) fall under the Health & Safety at Work etc Act 1974 (an enabling Act). As such, any employee, including Supervisors, Managers, Directors, and Senior Leadership may be found criminally liable if they have not fulfilled their duties under the Health & Safety at Work etc Act 1974 and associated legislation

5.3 NSDC Senior Leadership Team (under the scrutiny and guidance of the Risk Management Group - RMG) has overall responsibility for Health and Safety and it must ensure that:

- The NSDC Policy on Health and Safety is implemented.
- Effective management systems are in place to achieve exacting standards of Health and Safety.
- Health and Safety issues are represented through the RMG.

5.4 The CAR 2012 will apply when any work with asbestos, or with any product containing asbestos, is carried out. They require the employer to ensure that an employee's and tenants' exposure to asbestos is prevented (or reduced as far as reasonably practicable). Employers are required to assess any risk before they carry out any work with ACMs so that a correct decision can be made about the measures necessary to control exposure.

6. Compliance

6.1 There are many health and safety regulations that directly or indirectly place duties on employers in relation to asbestos. These are outlined in relation to the management of asbestos to all assets (both domestic and non-domestic) for which NSDC have responsibility.

6.2 The Health and Safety at Work etc Act 1974 (HSW) requires employers to conduct their work in such a way that their employees will not be exposed to health and safety risks, and to provide information to other people about their workplace which might affect their health and safety. Section 3 of the HSW Act contains general duties on employers and the self-employed in respect of people other than their own employees. Section 4 contains general duties for anyone who has control, to any extent, over a workplace;

6.3 The Management of Health & Safety at Work Regulations 1999 requires employers and self-employed people to assess the risk to the health and safety of themselves, employees, and people not in their employment, arising out or in connection with the conduct of their business – and to make appropriate arrangements for protecting those people's health and safety. Any assessment made for the purposes of the Asbestos Regulations will not need to repeat for the Management Regulations.

6.4 The Workplace (Health, Safety and Welfare) Regulations 1992 requires employers to maintain workplace buildings (to additionally include in this instance domestic assets) to protect occupants and workers.

6.5 The Construction (Design & Management) Regulations 2015 require the Client to pass on information about the state or condition of any premises (including the presence of hazardous materials such as asbestos) to the CDM Principal Designer before any work begins and to ensure that the health and

safety file is available for inspection by any person who needs the information.

6.6 The Control of Asbestos Regulations (CAR) 2012 requires employers to prevent the exposure of their employees (and those affected by such works) to asbestos, or where this is not practicable, to reduce the exposure to the lowest possible level.

Regulation 4 specifically requires “Duty Holders” to:

- Take reasonable steps to find materials in premises likely to contain asbestos and check their condition.
- Presume that materials contain asbestos unless there is robust evidence to suppose that they do not.
- Make and maintain a written record of the location and condition of asbestos and presumed asbestos-containing materials (ACMs) and keep the records up to date.
- Assess the risk of likelihood of anyone being exposed to these materials.
- Prepare a plan to manage that risk and put it into effect to ensure that:
 - a. Any material known or presumed to contain asbestos is kept in a good state of repair.
 - b. Any material that contains or is presumed to contain asbestos is, because of the risks associated with its location or condition, repaired or if necessary, removed.
 - c. Information on the location and condition of the material is given to anyone potentially at risk.

6.7 An Approved Code of Practice (ACoP) published by the Health and Safety Executive “L143 Managing and Working with Asbestos (CAR 2012)”, provides guidance on the means to be used to comply with the regulations when work is carried out with asbestos. In addition, the HSE and Regulator of Social Housing have published “Guidance Notes” that provide detailed advice on various aspects of preventing or controlling exposure to asbestos.

6.8 The importation of asbestos and its supply and use within Great Britain is prohibited. With effect from November 24th, 1999, the ban was extended to Chrysotile (white asbestos), and the supply of second-hand asbestos cement products was prohibited. **The CAR 2012 only relates to any assets constructed prior to 2000.**

6.9 Waste containing more than 0.1% (w/w) asbestos, including bonded material such as asbestos cement, is classed as special waste and disposal is controlled

under the Hazardous Waste (England and Wales) Regulations 2005. All movements of special waste must be pre-notified to the Environment Agency and disposal must be at a suitable licensed facility.

7. Roles and Responsibilities

- 7.1 Specific roles and responsibilities are to be detailed within the NSDC Asbestos Management Plan (AMP).
- 7.2 Regulation 4 of the Control of Asbestos Regulations 2012 (CAR) puts an explicit legal duty upon the “Duty Holder” for assets (premise) to manage the potential risk from asbestos.
- 7.3 NSDC is responsible for maintenance and development works within its properties (both domestic and non-domestic “common areas”).
- 7.4 The Compliance Team within Housing Maintenance and Asset Management have the responsibility for ensuring that NSDC meets its legal obligations with respect to the control of exposure to asbestos.

It is the Compliance Surveyor (Asbestos Management) within this team, who is responsible to take day to day management responsibility for the assessment of risk, and the implementation of a suitable risk control programme. It is the responsibility of Senior NSDC Leadership Team to ensure that adequate resources are provided to this role.
- 7.5 In areas/assets leased to third parties, the leaseholder has a responsibility to co-operate with NSDC in the implementation of this policy and any actions that may arise to fulfil “The Duty.”
- 7.6 NSDC will appoint a suitably qualified Compliance Surveyor (Asbestos Management) to lead the day to day management of asbestos and associated risks.
- 7.7 NSDC will employ a suitably qualified and accredited Asbestos Consultant (AC) to provide advice, support (surveys) in the management of asbestos as and when required.
- 7.8 NSDC employees have general duties under Health and Safety legislation and in relation to working with asbestos that can be summarised as follows:
 - To co-operate with NSDC asbestos safety arrangements and processes, including this Asbestos Policy and the Asbestos Management Plan (AMP) and the Corporate Health and Safety Policy.
 - To take reasonable care of themselves and others while working on asbestos-related activities.

- To report to their Line Manager, and the Statutory Compliance Surveyor (Asbestos Management) any problems with safety arrangements in connection with asbestos. These in turn will be assessed and reported to the Health & Safety Team for investigation and consideration for possible “near-miss” reporting and/or consideration under RIDDOR.

7.9 Contractors (both in-house and contracted) shall co-operate with all NSDC safety arrangements and work within the arrangements laid down in their agreed risk assessments and method statements (RAMS) and as per the procedures and processes laid within the NSDC Asbestos Management Plan (AMP).

7.10 Surveying of properties for asbestos and annual re-inspections (non-domestic “common areas”) will only be undertaken by a NSDC appointed, UKAS accredited Asbestos Consultant.

7.11 NSDC will ensure that the management actions within the Asbestos Management Policy (AMP) are undertaken to ensure that identified asbestos is maintained and in a good state of repair. This will include (but not limited to) the interrogation of the NSDC nominated Compliance Management Software and the data held within before proceeding with any intrusive or destruction works (both reactive and planned).

7.12 NSDC will implement a monitoring and review of procedures to include:

- A system of re-inspections on identified ACMs to be undertaken by the NSDC surveying AC to review their condition in accordance with the Asbestos Management Plan (AMP) and CAR 2012 (no longer than 12 months to all common parts/communal areas).
- It is a legal requirement that all ACMs identified within common parts/communal areas are subject to documented, ongoing re-inspections of no more than twelve monthly intervals from the last date of inspection/survey.
- ACMs positively identified within domestic dwellings will be assessed and rated for risk by using the material and priority (M + P = R) methodology to determine an appropriate re-inspection regime based upon each ACM “Risk Category Selection,” from High Risk, Medium Risk, Low Risk to Very Low Risk as per HSG 264: Asbestos; The Survey Guide.
- The Asbestos Management Plan (AMP) will be reviewed annually by the Compliance Surveyor (Asbestos Management) and any other key stakeholders.
- The AMP will be reviewed more frequently where there is reason to suspect that the plan is no longer valid, or where there has been significant change in the premises or to legislation and/or guidance.

7.13 Training, Awareness and Responsibility

- It will be the responsibility of the Housing Maintenance and Asset Department, to ensure that all department staff and contractors responsible for the implementation of this policy have had appropriate training and awareness with regard to duties required for the safe management of asbestos in accordance with their level of responsibility. This is to be reported and overseen in conjunction with HR and the Corporate Health & Safety Team.
- It is the responsibility of the Compliance Surveyor (Asbestos Management) to ensure that all AMP data and subsequent revisions are managed in accordance with NSDC procedures. This data is to be stored and managed using the nominated NSDC Compliance Management Software. It should be noted that ALL information relating to asbestos is to be stored electronically for a minimum of 40 years before a review for removal.
- The Housing Maintenance and Asset Department will ensure that all documentation associated with any remediation project is recorded on the NSDC Compliance Management Software.

7.14 Emergency actions - The Statutory Surveyor (Asbestos Management) and Corporate Health and Safety must be contacted in an emergency to provide immediate advice on the necessary actions to be taken. The AMP will review and record all specific procedures/processes in greater detail for day-to-day activities.

7.15 Emergency Services - The Statutory Surveyor (Asbestos Management) in agreement with Corporate Health and Safety will contact the Nottinghamshire Fire & Rescue to ascertain preferred access/format options to view all recorded asbestos information.

8. Documentation and Records

8.1 Detailed records should be kept and be readily available, especially in respect of the location and condition of confirmed or suspected asbestos-containing materials. It is recommended that the following items be included within NSDC's Compliance Management Software and iTrent (training records):

- NSDC Asbestos Policy
- NSDC Asbestos Management Plan
- Relevant Asbestos Management meeting minutes
- Responsibility structure
- Asbestos surveys and reports
- Drawings showing the location of known and presumed asbestos-containing materials

- Asbestos removal and remedial works (RAMS, ASB5, HSE license and insurance details)
- 4 Stage Clearance and Test Reports/Certificates
- Independent monitoring/audit reports
- Records and incident reports – To be stored on personnel file and all RIDDOR/”Near-miss” to be centralised within Health and Safety.
- Training records – To be stored centrally within iTrent (personal file).

8.2 All records shall be reviewed and submitted to the Compliance Surveyor (Asbestos Management) for inclusion within the NSDC Compliance Management Software. It is the duty of NSDC to ensure that organisations and personnel employed are competent, suitably trained, have current asbestos training suitable to their role, and have the necessary equipment to undertake their duties adequately and safely.

9.0 Training

9.1 NSDC will ensure that appropriate asbestos training is provided for all relevant staff likely to come into contact with asbestos or responsible for the management of asbestos. Training will be provided to relevant new employees as soon as possible and refresher training for existing employees provided on a regular basis, when significant changes to the regulations/guidance or following an incident report recommendation. This will be centralised through HR and Health & Safety.

9.2 Regulation 10 of the CAR 2012 requires employers to make sure that “anyone liable to disturb asbestos during their work, or who supervises such employees, receives the correct level of information, instruction and training to enable them to carry out their work safely and competently and without risk to themselves or others”.

9.3 In order to ensure that NSDC is following the requirements of Regulation 10 of CAR 2012, Corporate Health and Safety (in agreement with Asbestos management) shall demonstrate that they have undertaken a training needs analysis to identify all persons who require asbestos training, and the level required. A requirement for the following courses has been identified:

- UKATA/IATP Asbestos Awareness (basic)
- UKATA/IATP Asbestos “Duty to Manage”
- BOHS P405 Management of Asbestos in Buildings (including Asbestos Removal)
- Refresher training

9.4 A full training needs matrix to include personnel and roles will be included within the NSDC AMP.

10. Implementation, Monitoring and Review

- 10.1 Following approval by NSDC Senior Leadership Team, the Housing Maintenance and Asset Department will implement this policy.
- 10.2 The NSDC Directorate will ensure that all Departments are made aware of this policy.
- 10.3 The policy will be posted on the NSDC intranet and will be included in NSDC staff communications.
- 10.4 Department Managers will convey the contents of the policy to all their staff.
- 10.5 The Compliance Surveyor (Asbestos Management) will review the policy annually or when changes to legislation are implemented.
- 10.6 Regular checks will be carried out by the Statutory Compliance Manager and Compliance Surveyor (Asbestos Management) to ensure that actions required by this policy and the subsequent Asbestos Management Plan (AMP) are being carried out.
- 10.8 Annual audits will be carried out by the Health and Safety Team in conjunction with the Statutory Compliance Surveyor (Asbestos Management) to determine compliance with current legislation, guidance, and NSDC standards.

11. Regulatory Standards, Legislation and Approved Codes of Practice (ACoP)

- 11.1 **Regulatory Standards** – We must ensure we comply with the Regulator of Social Housing’s regulatory framework and consumer standards for social housing in England; the Home Standard is the primary one applicable to this policy.
- 11.2 **Legislation** – The principal legislation applicable to this policy is:
 - The Control of Asbestos Regulations 2012
- 11.3 **Approved Code of Practice (ACoP)** – The principal ACoP applicable to this policy is:
 - ACoP L143 – “Managing and working with Asbestos” (Second edition December 2013)
- 11.4 **Guidance** – The principal guidance applicable to this policy are as follows:
 - HSG264 – “Asbestos: The survey guide” (Second edition 2012)
 - HSG248 – ‘Asbestos: The Analysts’ Guide’ (2nd Edition 2021).
 - HSG247 - ‘Asbestos: The licensed contractors’ guide’ (First edition 2006).

- HSG227 - 'A comprehensive guide to managing asbestos in premises' (First edition 2002).
- HSG210 - 'Asbestos Essentials – A task manual for building, maintenance and allied trades and non-licensed asbestos work' (Fourth edition 2018)

11.5 **Additional Legislation** – This policy also operates within the context of the following legislation:

- The Health & Safety at Work etc 1974
- The Management of Health and Safety at Work Regulations 1999
- The Construction (Design & Management) Regulations 2015
- The Workplace (Health, Safety and Welfare) Regulations 1992
- The Hazardous Waste (England & Wales) (Amendment) Regulations 2016
- Housing Act 2004
- Homes (Fitness for Human Habitation) Act 2018
- Landlord and Tenant Act 1985
- Reporting of Injuries, Diseases, and Dangerous Occurrences (RIDDOR) Regulations 2013
- Defect Premises Act 1972
- Data Protection Act 2018
- The Asbestos (Licensing)(Amendment) Act 1998