

Summary of comments made on consultative document with HSE response

Comments on questions 1 and 2

The comments received on these questions have been combined, as many of the respondents covered similar issues in response to both questions.

Q1 Do you agree with the proposal to follow AWPD requirements such that there should be a new regime to exempt work that produces only sporadic and low intensity exposure from the requirements of licensing, notification and medical surveillance?

Yes = 142 (28.2%) No = 319 (63.3%) Not stated = 43 (8.5%)

Q2 Which of the following most closely resembles your view of the proposal to remove work with asbestos-containing decorative coatings from the scope of licensing?

- a) Work with asbestos-containing textured decorative coatings should be removed from the scope of the licensing regime and the controls proposed in this consultation document should be required.
- b) Work with asbestos-containing textured decorative coatings should remain licensable and the current level of controls required to do the work should be maintained.
- c) Neither of the above, another option should be considered.

**a = 116 (23%) b = 332 (65.9%)
c = 34 (6.8%) Not stated = 22 (4.4%)**

Comment	HSE response
'Sporadic and low intensity' is too ambiguous and confusing, open to abuse and needs further interpretation/better definition. Could allow employers to dictate the type of work done. 'Sporadic' causes particular confusion. High number of notifications for removal of textured decorative coatings containing asbestos (TCs) cannot be considered to be sporadic – TCs found in millions of premises – accumulative exposure will be high for those doing this work every day (and their families).	<p>A clarification of S&LI has now been included in Regulations such that no exposure can be considered to be sporadic and low intensity if it exceeds or is liable to exceed a concentration in relation to a specified period approved by the Commission. The Commission has approved 0.6 fibres per cm³ over 10 minutes in any working day as being the level at which no exposure can be considered to be sporadic and low intensity.</p> <p>Sporadic relates to exposure and not the number or duration of jobs undertaken.</p> <p>Some work with asbestos will always produce low intensity exposure because of the nature of the material eg textured coatings and any excursions to higher levels of exposure will only be sporadic even if working continuously.</p>
Unlicensed removal of TCs will result in inadequate control and potential for low	The requirement to have adequate controls in place remains and has been

Comment	HSE response
level of exposure over significant periods of time as unlicensed contractors will not necessarily adhere to the Regulations (intentionally or otherwise), there will be insufficient/non-existent risk assessments and workers will not be properly trained or have proper equipment. Low levels of enforcement outside licensing will allow bad working practices to continue.	strengthened in the revised Regulations. Training requirements have been also strengthened. This is not an argument for licensing, which is intended for the <i>highest risk</i> work activities. All work with asbestos, whether licensed or unlicensed, has to be undertaken by trained workers in accordance with a plan of work and using proper controls to prevent exposure to and spread of asbestos fibres. Further details of the controls necessary for work with TCs have been included in the ACoP.
Unlicensed work and no 4 stage clearance will result in residual ACM's in buildings, exposing the public to asbestos fibres (including children in domestic premises, schools etc) and possibility of repeated disturbance over time.	Research demonstrates that a visual clean following removal of TCs is sufficient and will ensure that clearance levels below 0.01 fibres per cm ³ are achieved. It has been specified in the ACoP that contractors should provide residents with a certificate of visual clearance.
The use of the following proposed methods will result in higher exposure to workers and the public: no on site decontamination unit, no extraction equipment, 2 stage airlock instead of 3, no 4-stage clearance by UKAS lab (so no proof that all asbestos has been removed), no notification.	Research has shown that these methods will not result in a marked increase in risk to workers or members of the public. Notification cannot be linked to higher levels of exposure to asbestos fibres.
Need proper risk assessments and method statements. However, how to ensure this? 'Favourable' or poor risk assessments could exempt work, or employers may not bother with risk assessment – content that, if exempt from licensing, it is not a real hazard. Is there a mandatory requirement for training of those carrying out risk assessments?	Risk assessments must by law be suitable and sufficient and are required for any work with asbestos. The requirements to be considered are specified in law. The ACoP specifies that anyone undertaking an asbestos risk assessment must be competent.
TCs release asbestos fibres and there is no 'safe' level of exposure – chrysotile is a category 1 carcinogen - exposure to all asbestos should be reduced to a minimum. Should therefore remain in licensing.	Regulations require exposure to be prevented as far as is reasonably practicable. Exposure must then be reduced to the minimum that is reasonably practicable. This applies whether work is licensed or not.
The scope of exemptions detailed in the ACoP from the sporadic and low intensity 3 part concept is too wide.	The exemptions are based on the exemptions in the amending directive and on research which shows that work with certain materials, if carried out using proper controls, will meet the requirements of the sporadic and low intensity concept.
The proposed Regulations send the wrong message to unlicensed contractors (and the general public) etc that TCs 'aren't dangerous' (and may	Regulations, and the licensing regime in particular, must be proportionate or they will fall into disrepute. All the requirements and controls in the Regulations will still apply

Comment	HSE response
<p>undermine HSE's previous work on asbestos). Removing TCs from licensing whilst still requiring precautions will lead to confusion. Need simple, clear, consistent messages – contradicting previous messages will lead to doubt.</p>	<p>except that work can be undertaken by an unlicensed employer without notification. HSE is not saying that work with TCs is safe. In fact, the ACoP specifies how work with TCs should be undertaken. There are no contradictory messages, and HSE will reinforce the correct messages to employers and workers.</p>
<p>Figures achieved in initial research are a result of good working practices as carried out by licensed contractors under controlled conditions including negative pressure, 3-stage airlock, decontamination facilities – supervised by the Health and Safety Laboratories and don't include high-release work such as from concrete. The research is flawed. The risk assessment is also flawed.</p>	<p>Further research has addressed these issues. Comments on the risk assessment have been reviewed but the assessment is considered sound.</p>
<p>Some Artex contains 'clumps' of chrysotile so can't all be defined as sporadic and low intensity. Fibre concentrations in samples vary (sometimes higher than 5%). Need to clearly define 'textured coatings' as some contain more fibres than 'Artex'. Figure of 2-5% asbestos content of TCs is by weight, content by bulk is higher. Furthermore, page 15 para 58 c of the CD states that chrysotile is often contaminated by amphiboles.</p>	<p>As far as is known only chrysotile asbestos was added to textured coatings and depending on product varied from around 2-5% by weight. As the product was commercially produced there is no reason to suppose that the formulation varied. Obviously poor quality control and malfunction of the manufacturing line could have potentially produced textured plasters with a higher chrysotile content but no information is available to support this claim. The product itself does not readily release fibres so it is very unlikely that even if a slightly higher content of chrysotile was present, this would be make a significant difference to the airborne concentration. Although chrysotile has been known to occur with some tremolitic impurities, in refined chrysotile asbestos it is rare to find any tremolite fibres.</p>
<p>Research suggests it is possible to reach 0.08fppc, which is too close to the proposed control limit to support the removal from licensing.</p>	<p>WATCH concluded that 0.08 fibres/ml (4h TWA), as chrysotile fibre, is the most reliable estimate of the upper end of the range of potential exposures that could arise for operatives engaged in the removal of asbestos-containing textured decorative coatings, under the conditions specified in the [draft] Control of Asbestos at Work (CAW) Regulations. This conservative estimate is below the new tighter control limit and way below the fibre levels that can be generated by work with the more friable asbestos materials which are licensed.</p>

Comment	HSE response
Suggested control regime is untested and HSE/HSL don't really know the accumulative effects of low-level chrysotile exposure.	New research addresses this. All the estimates are conservative.
Should consider licensing other (or all) ACMs eg rope gaskets & paper lining (up to 100% asbestos), CAF joints, asbestos cement etc. All asbestos waste is disposed of in the same way, irrespective of type, it is all dangerous, so should all be licensed.	<p>The licensing regime must remain proportionate and is intended for the <i>highest risk</i> work activities. Licensing work with all ACMs could place an unjustifiable burden on those needing work done. The new regime is risk based and if work with ropes etc is liable to exceed the Control Limit or the exposure cannot be considered to be sporadic and low intensity, then the work will be licensable.</p> <p>Permissioning regimes are exceptional responses to conditions which could present significant health and safety risks. They bring greater regulatory scrutiny, more transparency and demand a more systematic approach by duty holders and regulators.</p>
There is evidence to suggest that fibre levels down to 0.0001 over 50 yrs in children will lead to an "unacceptable" level of deaths by HSE's criteria	There is no evidence to suggest that children will be exposed for 50 years as a result of removal of TCs.
It is unclear who will carry out a visual inspection or decide whether air sampling is necessary.	An independent visual inspection and air sampling are not necessary – this is explained in the ACoP. The ACoP specifies that a visual inspection should be carried out by the contractor who should provide residents with a certificate of visual clearance.
Clean-up after TC removal is often insufficient with licensed contractors (1/3 requires re-clean), and will be worse without 4-stage clearance. Also, lack of clearance could cause alarm for clients.	New research addresses this. An independent visual inspection and air sampling are not necessary – this is explained in the ACoP. The ACoP specifies that a visual inspection should be carried out by the contractor who should provide residents with a certificate of visual clearance.
Proposals in UK regulation 3 does not properly implement the Directive. Other elements are also not consistent with requirements of the Directive – eg. Article 12b, Article 15(1) & Article 11.	Following advice from solicitors, HSE is satisfied that the Directive has been adequately implemented in the proposed Regulations. Where wording has been changed, this has been done to provide a clearer interpretation of the intentions of the Directive where it is felt that the original wording is not sufficiently clear.
Non-removal before demolition will result in asbestos trapped in rubble, which is often re-used in construction.	Total of asbestos content in rubble following removal of TCs will be below 0.1% and is considered safe for re-use.

Comment	HSE response
Should license work where fibre release (defined as >0.010 fibres per ml) will occur and exposure is likely.	No justification for such a proposal. It does not fit with HSC's policy on asbestos licensing which should be for the highest risk work.
Regulations 18 & 22 apply to 'employees exposed to asbestos' and not 'work with asbestos' – this could be anyone, so a lower cut off is required.	Regulations have been amended to take account of this.
Unlicensed work will be carried out without insurance – public will be left without redress. Also, RIA doesn't address possible increased insurance costs for non-licensed firms working with TCs.	There is no evidence that unlicensed work will be uninsured. Licensed contractors can get insurance. Unlicensed contractors should also be able to get insurance – the insurance industry has indicated that a market for this type of insurance may develop further. Employers' Liability Compulsory Insurance is compulsory.
Waste will not be properly disposed.	Appropriate disposal is applicable to both licensed and unlicensed contractors. There is no evidence to suggest that unlicensed contractors will dispose of asbestos in an inappropriate manner.
Need strategy for policing/enforcing unlicensed work – how to do this with no notification?	Same as for work with asbestos cement and other unlicensed materials. We need to ensure that people are aware of the risks and what they can do to protect themselves. Later this year we will be running two targeted asbestos initiatives, one aimed at those workers who are most at risk – building maintenance and repair workers, and particularly those involved in plumbing, and secondly reinvigorating our duty to manage campaign which has been running since 2002. The initiatives will include targeted inspections by inspectors and visits by Health and Safety Awareness Officers, a new 'one stop shop' asbestos website that will include information and free guidance, plus simple tools to help workers and businesses meet their legal duties and protect themselves from the risks which asbestos can pose. There will be associated media campaigns and importantly, close working with key partners like the trade unions, trade associations, where we recognise that we have a shared agenda.
Work carried out in residential premises (and other high-risk) should be separate because of risk to occupiers, especially the young.	There is no evidence to suggest that children will be harmed as a result of removal of TCs by unlicensed contractors.
Regulation 3 conflicts with the more stringent requirements of COSHH and	Risk assessments are not covered by regulation 3(2) – they must be undertaken

Comment	HSE response
MHSW Regulations 1999 (regulation 8) requiring a formal risk assessment for all substances hazardous to health. Removal of air monitoring (regulation 19) conflicts with COSHH. Exemption from regulation 15 will lead to confusion – duty holder’s requirement should be proportionate to level of risk, as with other legislation.	for all asbestos work. The others exemptions do not change from those in CAW 2002 although the threshold for exemption is tighter. The exemption for air monitoring is in the AWPD. Air monitoring is qualified in the COSHH Regulations.
Shouldn't compare TCs with Asbestos Cement, which is usually external work.	For TCs, it is proposed that any fibres released will be contained preventing spread. The levels of asbestos fibres in the air will be below the new tighter control limit.
Who will provide instruction and training to unlicensed organisations who don't understand the regulations?	Same as now. There are plenty of training organisations.
Implications for resource for unlicensed contractors – to ensure competence of those carrying out risk assessments etc. Also, firms will seek to recoup investment in training/equipment by getting as much TC removal work as possible, resulting in high accumulated exposure (not sporadic).	Those undertaking this work must be competent. Research demonstrates that exposures will normally be sporadic.
Short-term non-continuous maintenance should be clearer in ACoP, particularly regarding AIB – some of the current definitions are wrong (pp73/74). Also, licensable & non-licensable sections are too simple.	This has been made clearer in revised ACoP.
Who will be qualified to assess exposure for a particular job?	Specified in the ACoP as someone with adequate training and knowledge of regulations, i.e., someone who is competent to do so.
AWPD does not <i>require</i> exemptions, as suggested in CD, it <i>allows</i> them. However, it does not exempt the need to provide evidence of ability to carry out work with asbestos. Also, regulations weaken the directive as in Article 3(3)a	Exemptions have been implemented in UK on a risk-based analysis. In accordance with national law and practice, all licensed contractors have to provide evidence of ability to obtain a licence. Employers and workers have to provide evidence of ability if an inspector asks for it. 'Non-friable' reference from Article 3 removed because it could potentially encompass even short term jobs with, for example, AIB. HSE does not consider that this is the intention of the Directive, and the Regulations have been drafted in this way to ensure the intention is clear.
Control methods suggested in ACoP and assumed levels of risk for unlicensed work are not practical in the real world – in reality, little control is	It is a legal requirement to reduce exposure to asbestos so far as is reasonably practicable and this applies to all work with asbestos.

Comment	HSE response
actually exerted over how this kind of work is done.	
Is bulk-sample analysis exempt from licensing etc?	Yes, but accreditation is required.
There should be a distinction between repair/small maintenance jobs and TC removal.	Research shows that all work with TCs meets requirements of regulation 3 if proper controls are used.
The risk assessment in the CD reveals that there will be a small increase in deaths as a result of TC change – any increase is unacceptable, and contrary to section 1(3) of HSWA.	Risk assessment does not show that there will be an increase in deaths. In any case, licensing is not about controls to prevent exposure which apply to all work with asbestos.
There should be a 'limit of accumulation' as multiple sporadic and low intensity work could accumulate to greater potential exposure.	Research shows that multiple sporadic and low intensity work will not result in a high level of risk.
The risk assessment must be based on historical data – new work must be high risk until proven otherwise.	The ACoP allows fibre concentration to be estimated using available data – this data could be from the published research.
TC removal should remain licensable, but with changes to notification requirements (eg a block weekly notification, or none at all).	The risks from TCs are not sufficiently great to justify keeping them within the licensing regime – there is no point in having a 'lower tier' of licensing, as licensing is for high risk work, so there should be one set of requirements.
Changing regulations for TCs will mean (for housing authorities): reviewing survey reports, amending MDHS100 risk assessments, issuing new data and amended guidance (not a cost saving).	These costs could be offset by savings made through increased competition of unlicensed contractors. Licensed contractors can continue to be used for this work.
Unlicensed contractors removing TCs applied to AIB will result in high exposures.	Risk assessments should identify the presence of AIB, and licensed contractors should be used if AIB is likely to be disturbed.
In the Directive, risk assessments will be subject to consultation with workers – this is not in the proposed Regulations.	This had been previously implemented through other legislation such as the Safety Representatives and Safety Committee Regulations 1977 and the Consultation with Employees Regulations 1996
Law would offer little protection to workers who refused to do work with TCs – causes anxiety.	The Regulations provide more than adequate protection for all those who are liable to be exposed to asbestos.
All asbestos should be removed (not encapsulated) – this will ultimately be necessary.	It is widely accepted that removal is not always required, or desirable, as it can cause unnecessary exposure to workers.

Q3 Do you agree with the proposal to align CAW requirements for minimising worker exposure more closely with the COSHH hierarchy of controls listed in order of priority?

Yes = 449 (89.1%) No = 9 (1.8%) Not stated = 46 (9.1%)

Comment	HSE response
Proposed wording does not align with COSHH, which requires respiratory protective equipment (RPE) as last option –regulations 11 (1, 2 & 3) address RPE in convoluted manner. Should replace 'reasonably practicable' with 'practicable' or 'normally/usually' for controls, particularly re. RPE.	Proposed Regulations go beyond COSHH as RPE is not a last option, and should always be used if the control limit is likely to be exceeded or if it is reasonably practicable to do so. It is reasonably practicable to use RPE in the majority of situations where work with asbestos is being undertaken.
Proposed regulation 3 conflicts with COSHH requirement for a formal risk assessment and with regulation 8 of MHSW regulations 1999. Regulation 19 would remove COSHH requirement for air monitoring to measure cumulative exposure, removing validation of risk assessments.	Risk assessments are not covered by regulation 3(2) – they must be undertaken for all asbestos work. The others exemptions do not change from those in CAW 2002 although the threshold for exemption is tighter. The exemption for air monitoring is in the AWPD. Air monitoring is qualified in the COSHH Regulations.
Mandatory use of air-lines should be considered as filtration is not an adequate method of RPE.	The Regulations and ACoP require that RPE should be suitable for the work carried out and designed to provide protection well above that required for exposures expected.
Regulation 11(1)(b) places a duty on an employer to ensure that the number of employees exposed at any one time is as low as is reasonably practicable without reference to any limit of exposure.	This has been addressed in the wording of the Regulations.

Q4 Do you agree with the proposal to implement a single Control Limit of 0.1f/cm³ as a 4-hour TWA as measured using the WHO method? If not, please give details.

Yes = 430 (85.3%) No = 24 (4.8%) Not stated = 50 (9.9%)

Comment	HSE response
A 4hr TWA instead of 8hr is gold plating, doesn't reflect COSHH or EU Directive, and adds additional costs and burdens in UK.	The 4hr TWA reflects GB working conditions. An 8hr TWA would allow the possibility of doubling-up the control limit to 0.2f/cm ³ over 4hrs which is not

Comment	HSE response
	considered an acceptable position. RIA concludes that the extra costs will be negligible.
Amphibole is a greater risk than serpentine, and control limits should reflect this.	Control limits come from the Directive. A single limit keeps the Regulations simple and easy to understand.
Must also ensure that fibre counting method is failsafe so asbestos fibres are not inadvertently discounted: there are reservations about PCM.	PCM comes from the Directive – the new method should count more fibres than before.
Sampling for chrysotile is problematic - fibres are seldom seen on field samples – maybe because it is hydrophilic, electrostatically charged or carrying heavy levels of matrix attached to the fibrils, settling out very quickly and reducing the levels of airborne fibre for sampling purposes – may be a problem re. low counts with TC removal.	Many thousands of counts of chrysotile fibres on membrane filters have been made since the 1960's. There is not evidence to support that the method undersamples respirable fibres of chrysotile compared to other types of asbestos. If fibres settled out because they are agglomerated with other particles this means they are not respirable and hence will not form part of the worker's exposure.

Q5 Do you agree with the approach to the requirements for identification of asbestos.

Yes = 428 (84.9%) No = 21 (4.2%) Not stated = 55 (10.9%)

Comment	Response
No need to identify type of asbestos as there is one standard for all types.	The Directive requires identification of type so that the type of asbestos can be notified. Despite single control limit it is still important to identify type because of differing levels of risk for different fibre types.
Employer should ensure the client has confirmed presence, type and <i>condition</i> .	This amendment has been made to the Regulations.
Type of material, not type of asbestos, is important. Material most commonly found should be reported where materials are presumed to contain asbestos.	The risk assessment requires the nature and degree of exposure to be determined and this must take account of the type of material present. Information from previous risk assessments can be used where identical work is being carried out.
Needs to be clear in ACoP for regulation 5 that a Type 2 survey under regulation 4 is not adequate for demolition or refurbishment and a Type 3 is necessary. Also need to address prospect of costly duplication of surveys carried out under both regulations 4 and 5.	This has been made clearer in the ACoP.
The test for water absorption needs rewriting and placing in a more suitable document. Paragraph 26 refers to a density determination but the method for	The proposed test is considered to be effective.

Comment	Response
this has not been adequately described in any document. .	

Q6 Do you agree with the approach to requirements for the evidence of ability to do asbestos demolition and removal work?

Yes = 441 (87.5%) No = 9 (1.8%) Not stated = 54 (10.7%)

Comment	Response
There will be no advance assessment of competence of non-licensed contractors by HSE and no one will scrutinise the subsequent plans of work as there is no requirement for independent assessment of notification. Also, who will ensure compliance with training, insurance, waste disposal? – Should clients be able to demonstrate their ability to oversee controls/plans of work...?	These are legal requirements which must be complied with. Licensing and notification are for <i>high risk</i> work – HSE already has mechanisms in place for carrying out checks on unlicensed work. Clients do not need to demonstrate ability to oversee controls. However, section 40 of the HSW Act places the onus them to prove they did what was reasonably practicable in any legal proceedings.
Should put a specific duty in Construction (Design & Management) Regulations for this	Amendments to those Regulations would need to be addressed separately.
Any breach should have heavy penalties.	The penalties currently available are considered appropriate.

Q7 Do you agree with the proposed approach to training requirements?

Yes = 442 (87.7%) No = 11 (2.2%) Not stated = 51 (10.1%)

Comment	Response
Refresher training every year is too onerous (every 3 years for first aid). Should give guidance and allow employer to decide frequency of refreshers.	Annual refresher training for those working with asbestos is not considered too onerous considering the high level of risk involved and the level of training required.
Need constraints for competency of trainers. Training bodies should be approved to ISO standards (eg BIOSH P405, P402).	This may be looked at as part of future reviews. We are developing a voluntary code in conjunction with stakeholders on training requirements.
There is much poor training around (eg for surveyors) – HSE should produce an 'approved' list of training providers.	HSE does not approve trainers but is developing a voluntary code in conjunction with stakeholders on training requirements.
Great care will need to be taken in ensuring that there is neither over or under reaction to the training and information requirement. There should be a lower level of training for 'sporadic' or maintenance type work.	There are 3 different levels of training specified in the ACoP.

Q8 Do you agree with the proposal that only those who are competent, as defined, to work inside an enclosure are allowed to do so?

Yes = 387 (76.8%) No = 63 (12.5%) Not stated = 54 (10.7%)

Comment	Response
There may be some confusion between the terms of persons who work in enclosures and those who enter enclosure. Consultation makes reference to both terms.	Wording of the ACoP has been amended to take account of this comment.
Inspections by a 'Contract Administrator' or other similar person such a Laboratory Technician should have the ability to enter the enclosure for inspection of progression and standards of work.	Wording has been changed taking account of this comment.
There may be situations where a tradesman needs to enter an enclosure e.g. a plumber if there is a leak. This requirement should cater for such eventualities. Also, We need to ensure that fire and ambulance crews are aware and that surveyors and others are included to enter - possible enhancement of regulation 3 (2) (a), (b), (c).	Wording of the ACoP has been changed taking account of this comment.
Need a provision to allow trainees inside enclosures under supervision.	Wording has been changed taking account of this comment.
Definition of 'competence' should be in body of the Regulations, as with WAH Regulations.	A definition of competence in the ACoP is considered adequate.

Q9 Do you agree with the proposal to clarify and simplify the asbestos Regulations by bringing the requirements of ASLIC and the Prohibitions Regulations into CAW and creating one combined set of Control of Asbestos Regulations?

Yes = 450 (89.3%) No = 8 (1.6%) Not stated = 46 (9.1%)

Comment	Response
The proposals are neither material based, as were the Asbestos Licensing Regulations 1983, nor risk based, as were the Control of Asbestos at Work Regulations 2002. HSC should take the opportunity to rationalise this situation having regards to the discussions on sensible risk management.	The proposals are risk based, with the ACoP providing a materials-based interpretation in order to simplify the requirements.
Presentational issues - flow diagrams would be useful, to explain when client need licensed contractor for example. Also, contents list should be more clearly set out to help reader.	HSE does not consider such a diagram would be appropriate in the ACoP but a flow diagram may be developed as guidance in the future.

Q10 Do you agree with the proposal to produce a single Approved code of Practice to cover all Control of Asbestos Regulations including Licensing other than the management of asbestos in non-domestic premises?

Yes = 448 (88.9%) No = 10 (2%) Not stated = 46 (9.1%)

Comment	Response
Should also combine L127 (the management of asbestos in non-domestic premises) into new ACoP. If not, L127 will need amending to remain compatible with new Regulations.	L127 has been kept separate as it is intended for a different audience – it has been updated to remain compatible with the new Regulations.
Combined ACoP is too confusing, especially for clients and general maintenance contractors. Previous system is clearer.	One combined document is considered to be a more sensible approach and received overwhelming support. HSE will endeavour to make the final published document as clear as possible.
Should sub-divide the combined ACoP in to licensed and non-licensed for clarity, or colour code different sections.	This would become very complicated and could require duplication of text etc. HSE will endeavour to make the final published document as clear as possible.
There should be a streamlining of 'Asbestos Guidance' publications, Also, Regulations and/or ACoPs should refer specifically to guidance documents where relevant.	A number of guidance documents have already been consolidated into the Licensed Contractor's Guide and the Analysts Guide and other asbestos guidance publications will be reviewed following the laying of Regulations.

Q11 Do you agree with the proposed changes to licensing such that a) licences have a maximum time limit of 3 years, b) removal of the exemption from licensing for employers using their own staff in their own premises for licensable work?

a)
Yes = 448 (88.9%)
No = 3 (6%)
Not stated = 53 (10.5%)

b)
Yes = 418 (82.9%)
No = 27 (5.4%)
Not stated = 59 (11.7%)

Comment	Response
After 3 yr period, companies should provide proof of work, training, accident rates etc before renewal of licence.	An assessment is already carried out, and a review of procedures is due in the future but will have no effect on wording of Regulations or ACoP.
Revocation of a licence is not sufficient – due to seriousness of asbestos exposure, any breaches should result in license being removed, and often in prosecution – not just in 'most serious cases'.	HSE continues to ensure the licensed asbestos industry improves through a variety of different actions.
Disagree with b) – adds further burdens, and there is no case to do so.	Considering the risks involved when working with asbestos containing materials, the exemption, which originally related to manufacturing, is no longer considered appropriate. The proposal received overwhelming support.
There should be an on-site audit before licence renewal.	Site inspections take place over the period of the licence.

Q12 Do you agree with the proposal that accreditation be required for someone to undertake a four-stage clearance certificate procedure?

Yes = 441 (87.5%) No = 9 (1.8%) Not stated = 54 (10.7%)

Comment	Response
All 3 rd party involvement in asbestos work should be subject to UKAS accreditation, including surveying	Whether or not mandatory accreditation of surveyors is necessary will be addressed in the future following a review of the Duty to Manage.
UKAS accreditation is an expensive burden that does nothing to improve standards.	HSE considers that accreditation has helped help to maintain and improve standards.
Those undertaking 4-stage clearance should be totally independent from removers.	The ACoP advises that an independent analyst should be used – this has been amended to make it clearer.
The requirement that laboratories be accredited to ISO17025 is ultra-vires as it is a quality system, and is therefore not a matter about which the Secretary of State is entitled to make regulations by the authority given to him under Schedule 3 of the HSW Act.	This issue has been considered and it has been confirmed that accreditation is intra-vires.
Individuals should be more liable for their own errors, rather than employers – accreditation should be for individuals – this stops inexperienced analysts working.	Accreditation is for organisations – it is the responsibility of an organisation to ensure that its staff are competent.

Q13 Do you agree with the proposal to remove the two Short Term Exposure Limits (STELs) from the Regulations and include a peak exposure limit of 0.6 f/cm³ over 10 minutes in ACoP such that no worker exposure, however short in duration should exceed that peak?

Yes = 429 (85.1%) No = 18 (3.6%) Not stated = 57 (11.3%)

Comment	Response
This is gold plating, and there is no scientific reason for it considering the nature of health effects from asbestos.	Without a peak-exposure limit, very high short-term exposures would be allowed, particularly when short jobs are being carried out – this is not considered acceptable.
This is unenforceable as the level of detection is higher than the limit – can't sample reliably at this level.	No, see annex 1 of HSG 248 10 minute sample at 4 L/min recommended to give 40 L sample and LOQ is well below 0.6 fibres per cm ³ .
Need better guidance on methodology of sampling to get accurate samples at this level.	See above
Requirement that the limit is not exceeded 'for any duration however short' is not acceptable – how could an instantaneous concentration be measured?	Wording has been changed taking account of this comment.
To remain consistent with COSHH, should be 0.9fibres per cm ³ over 15 minutes.	The peak exposure limit follows on from STELs which were measured over 10 minutes. It was deemed preferable to maintain consistency with previous

Comment	Response
	requirements.
Should maintain STELs.	STELs are not required by AWPD but we have maintained a short term limit in the ACoP.
Peak exposure limit should be in the Regulations, not ACoP, regardless of European dimension, as this is a weakening of legislation – it is possible to exceed the requirements of the directive (which are insufficient) in our own law.	See above. ACoP still imposes a strict duty on employers.