Dear Mr Lees

I am writing in response to your letters of 23 June 2004 to Mr Timothy Walker and myself. I have been asked to reply to both letters as they cover similar issues. I apologise for what may appear to be a long delay regarding this reply but I would like to reassure you that your concerns have been extensively considered in the intervening weeks.

In order to determine the risks to staff and children from the use of drawing pins in the classroom, the Health and Safety Laboratory (HSL) has, on HSE’s behalf, carried out a series of tests looking at potential fibre emissions. I attach a copy of the report together with a summary from Dr Mark Piney, HM Specialist Inspector. This concludes that inserting drawing pins into asbestos insulating board (AIB) and withdrawing them does not cause a significant level of fibre release. Although this activity did cause some airborne respirable fibre release, between 0.00000632 f/ml and 0.00000316 f/ml for a short period, these levels are extremely low (ie between 0.5% and 60% of the normal background level of airborne asbestos in the UK generally). Such exposure would only occur during the actual activity itself and an estimate of the contribution that these additional fibres would make to overall exposure concluded that, in a typical day, they would at worst increase exposure by 0.006% and 0.44% of the normal daily dose of people in the UK.

HSE has reassessed the information in your report but can find no conclusive evidence which gives a clear idea of actual levels of asbestos exposures people were subjected to. It is also HSE’s view that after this length of time it would not be possible to get such evidence, especially as the school itself has now been demolished. However, taking into account the above tests and based on expert advice from HSE’s Specialist Inspectors, it is our opinion that exposures to teaching staff and pupils are likely to have been very low and it is highly unlikely that they would have posed a significant long-term risk to health.
You also raised specific concerns about current exposure to asbestos in a letter addressed to HSE’s Bristol office on 17 October 2001. As a result HSE wrote to those organisations detailed in your letter that fell within the South West area. Those letters explained what the law requires on asbestos and where to obtain further advice, e.g. from HSE publications. We subsequently received oral and written confirmation that they had obtained the relevant guidance; undertaken an asbestos survey and were committed to providing effective management of asbestos materials in future.

I refer to the paragraphs in your letters concerning the responsibilities of HSE in respect of past exposure to asbestos in schools. Any decisions made in the past concerning exposure will have been made by HSE at the time on the basis of the law as it then stood and on the evidence then available. HSE builds on its own past experience and on continuing scientific progress in many areas of health and safety, including exposure to asbestos, in order to be able to regulate them more effectively for the future. However, I must point out that new regulations in this field are not made with retrospective effect.

In your letter to Mr Walker you claim that the number of deaths of Primary School teachers from mesothelioma is disproportionately high. This is not borne out by the facts. Whilst any mesothelioma death is unacceptable, statistics gathered by HSE show that the mortality rate for female teachers is in line with the average for the whole of the working female population.

At the end of your letter you asked a number of specific questions which I will now address:

Questions 1 and 2 relate to HSE inspections in schools and particularly to asbestos management. HSE does not keep the specific information you asked for about such inspections. However, as I mentioned in my previous letter, HSE has very recently introduced new legislation requiring those in charge of non-domestic premises to identify and manage asbestos. As part of the supporting campaign to raise awareness of the duty to manage and to encourage effective and proportionate compliance, HSE is targeting multi-site organisations including Local Authorities and Education Departments. This involves inspectors making visits to ensure dutyholders take effective action to develop adequate asbestos management plans.

HSE does not keep specific information you asked for in questions 3, 4, 5, and 6. However, HSE does maintain public databases of all prosecution cases taken by HSE since April 1999 which resulted in a conviction (http://www.hse-databases.co.uk/prosecutions/) and all enforcement notices issued since April 2001 (http://www.hse-databases.co.uk/notices/).
With regard to questions 7 and 8 the Health and Safety Commission’s (HSC) policy on the investigation of cases of ill-health requires HSE to use discretion in selecting suitable incidents. Investigations are undertaken to:

a. Determine the causes of the incident;
b. Secure compliance with the law;
c. Assess the lessons to be learnt to influence the law and guidance, and
d. Decide what response is appropriate to a breach of the law.

In selecting which reports of ill-health should be investigated one of the factors to be taken into account is the practicality of determining the cause of the ill-health and the likelihood of collecting sufficient evidence to support any appropriate enforcement action. As Mr Walker explained to you in his letter of 26 July 2002, it was for these reasons that it was not considered appropriate to carry out retrospective investigation in this case.

HSE’s priority now will be to focus on preventing asbestos related deaths and diseases in the future. The new legal requirement to manage asbestos in non-domestic premises which became law on 21 May 2004 will go a long way towards helping to prevent accidental exposure to asbestos. In the immediate future HSE will be focusing on the education sector as part of the supporting campaign aimed at increasing awareness of, and compliance with, the new legislation.

I feel we have now reached the point where further correspondence on these specific issues will be of little benefit unless you have any new information that I should take into account.

However, I would like to invite you to join with HSE in our campaign to improve the management of asbestos in schools. This involves the challenge of publicising the risks from asbestos in schools to a potentially huge audience. Perhaps you could give this matter some consideration. If you would like to take this further, please let me know.

Yours sincerely

Bill Macdonald
Head of Asbestos Policy