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## **HEALTH AND SAFETY COMMISSION**

### **CONSTRUCTION INDUSTRY ADVISORY COMMITTEE (CONIAC)**

#### **Evaluation of the duty to manage asbestos**

**A paper by Geoff Lloyd: HSE's Cancer and Asbestos Unit**

**Cleared by Louise Brearey (Head of Construction Sector)**

#### **Summary**

**This paper informs CONIAC of the arrangements being put in place to evaluate the duty to manage asbestos in non-domestic premises (regulation 4 of the Control of Asbestos Regulations 2006) and asks if CONIAC members can help to provide information towards the evaluation. The HSC Business Plan 2007/08 looks for the evaluation to be completed by April 2008.**

#### **Issue**

1. Evaluation of the duty to manage asbestos.

#### **Timing**

2. The HSC Business Plan 2007/08 looks for the evaluation to be completed by April 2008.

#### **Recommendation**

3. CONIAC members are asked to:
  - (a) note the arrangements being put in place to evaluate the duty to manage; and
  - (b) contact Geoff Lloyd (contact details at the end of this paper) if they feel they may have information which would help in the evaluation and which they would be willing to share with HSE.

#### **Background**

4. The duty to manage asbestos in non-domestic premises came into force on 21 May 2004 and is now contained in regulation 4 of the Control of Asbestos Regulations 2006.

The duty was introduced mainly to provide further protection to those working in maintenance and building trades such as carpenters, plumbers and electricians who are now the group of workers most at risk of contracting asbestos-related diseases. Around a quarter of deaths currently occur among those who worked in these trades. Research has shown that a common perception is that, although they know asbestos is dangerous, they do not think it is relevant to them. Findings indicate that they do not understand that substantial amounts of asbestos are still present in buildings and that they have difficulty in identifying asbestos and a lack of knowledge about the proper and effective precautions they should take.

5. The duty to manage seeks to address this by requiring those that have responsibility for the maintenance or repair of the premises (the dutyholder) to:
  - (a) take reasonable steps to determine the location and condition of materials likely to contain asbestos and assess the risks to health arising from those materials;
  - (b) make and keep an up-to-date record of the location and condition of the asbestos-containing materials (ACMs) or materials presumed to contain asbestos;
  - (c) prepare a plan setting out how the risks from the materials are to be managed and review and monitor that plan; and
  - (d) importantly, provide information on the location and condition of ACMs to anyone who is liable to work on or disturb them.

### **Argument**

6. The duty to manage now needs to be evaluated. There is a particular need to do so because the introduction of the duty was the subject of significant concerns about the relative costs and benefits of the duty. It is also necessary to evaluate other concerns such as whether it should be extended to domestic rented premises, whether there should be a duty to survey and whether accredited surveyors should carry out surveys. A commitment to evaluate the duty is included in HSC's 2007/8 Business Plan to be complete by April 2008.
7. For the evaluation to be meaningful, it will need to be based not just on robust information about how well the duty (as currently framed) is working. HSE needs to get information that will help in assessing whether or not the duty should be extended. It is also an opportunity to update information on how much asbestos still remains in the existing stock of buildings.
8. The main way in which HSE intends to obtain this information is through research conducted by an outside company via a survey of dutyholders and those involved in the maintenance and repair of buildings. HSE would like to supplement this research with information-gathering exercises such as analysing relevant data that stakeholders may have and are willing to share with HSE and carrying out limited surveys among such stakeholders.
9. The paper therefore asks whether CONIAC members can help to provide such supplementary information. The sole purpose would be to gain sufficient information about the duty to allow a robust evidenced-based evaluation of it to be made (there is

no question that information would be used for other purposes – e.g. enforcement). Information provided would be analysed by HSL (there would be no need for HSE to see the information). This request has already been made of CONIAC's Occupational Health Working Party at its recent meeting and suggestions of possible sources of information are being followed up. But if members of CONIAC feel they may be able to help, they should contact Geoff Lloyd (contact details below) for more information or to discuss any suggestions they may have.

### Consultation

10. We are in the process of contacting a wide range of stakeholders with a similar request for help. These include Royal Institute of Chartered Surveyors, Asbestos Removal Contractors Association, Asbestos Testing and Consulting, UK Accreditation Service, British Institute of Facilities Management, Federation of Small Businesses, British Occupational Hygiene Society, companies with large property portfolios and local authorities.

### **Action**

11. Members are asked to contact **Geoff Lloyd** (Cancer and Asbestos Unit: Tel: 020 7717 6272: Email: [geoff.lloyd@hse.gsi.gov.uk](mailto:geoff.lloyd@hse.gsi.gov.uk)) if they feel they may have information which would help in the evaluation and which they would be willing to share with HSE.