

Current Asbestos Licences, HSE visits and notifications (1 April 2013 to 30 December 2013)

Archie Mitchel, the current head of the HSE's Asbestos Licensing Unit, has recently provided information regarding the number of licensed companies in the UK:

- Number of current licence holders – 465
- Number of inspection visits – 861
- Number of notifications – 27,371
- Number of licences issued (new and renewal) – 163
- Number of applications refused – Outright 12 and Conditional 3
- Number of appeals – 1
- Number of revocations – 1

Chrysotile Toxicity

For many years asbestos producers have argued that the toxicity of Chrysotile (white asbestos) is significantly lower than other forms.

Chrysotile, which is classed as a serpentine silicate, has a plate structure which then rolls to form a fibre (like a 'swiss roll') but the amphibole forms are chain silicates. Some argue that this results in very different levels of toxicity/carcinogenicity and therefore more relaxed controls are appropriate for chrysotile. The EEC and the UK have taken the opposite view and chrysotile is assigned the same control limit as for all other forms of asbestos.



Chrysotile Asbestos

Recent research reported in the Critical Reviews in Toxicology Journal* adds weight to the argument that chrysotile may be significantly less toxic than previously assumed. The paper reports that:

“Chrysotile, which is rapidly attacked by the acid environment of the macrophage, falls apart in the lung into short fibres and particles, while the amphibole asbestos persist creating a response to the fibrous structure of this mineral. Inhalation toxicity studies of chrysotile at non-lung overload conditions demonstrate that the long (>20 µm) fibres are rapidly cleared from

the lung, are not translocated to the pleural cavity and do not initiate fibrogenic response.”

The research goes on to conclude that:

“The importance of the present and other similar reviews is that the studies they report show that low exposures to chrysotile do not present a detectable risk to health. Since total dose over time decides the likelihood of disease occurrence and progression, they also suggest that the risk of an adverse outcome may be low with even high exposures experienced over a short duration.”

During a debate in the European Parliament** this research was used to block a tightening of existing legislation that would have required the removal of all asbestos. During the debate it was said that the proposed legislation would cost the UK agricultural industry alone £6 billion for the removal of asbestos cement buildings. The vote against the resolution means that the European Parliament now has until 2028 to properly examine the scientific information before a decision is made.

Important Note: Within the UK chrysotile is classified as a category 1 carcinogen and any work with, or disturbance of materials containing the mineral falls within the scope of The Control of Asbestos Regulations 2012.

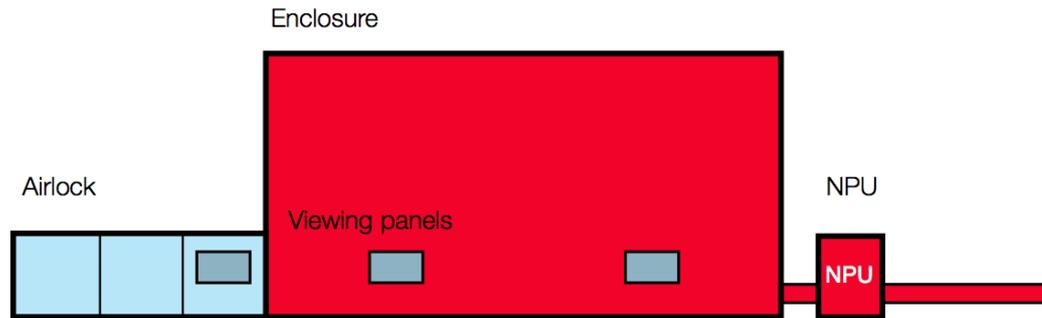
* Health Risks of Chrysotile Revisited. Bernstein, David; Dunnigan, Jacques; Hesterberg, Thomas; Brown, Robert; Velasco, Juan Antonio Legaspi; Barrera, Raúl; Hoskins, John; Gibbs, Allen

<http://www.ingentaconnect.com/content/apl/btxc/2013/00000043/00000002/art00001>

** UKIP MEP Roger Elmer presenting evidence within the report to the European Parliament

<http://www.youtube.com/watch?v=nyjFC-jrC-A&feature=youtu.be>

Viewing Panels in Asbestos Enclosures



Viewing panels allow asbestos removal supervisors and others to monitor work within the enclosure without the need for entry and hence unnecessary exposure to asbestos. The panels need to be located at suitable positions including within air-locks but sometimes suitable locations do not exist – such as in large or complex enclosures. In these situations CCTV is now expected.

The recently revised HSE Approved Code of Practice (ACoP) L143 makes reference to viewing panels at paragraph 248, which states that all areas should be monitored during work by a combination of viewing panels and/or CCTV which must be able to produce clear and distinct pictures. The ACoP also states that the panels must be kept clean and used by analysts before entry as part of the four-stage certification procedure.

HSE guidance aimed specifically at licensed contractors makes numerous references to viewing panels (*Asbestos: The licensed contractors' guide, HSG247*) including:

- Minimum size 600 x 300 mm
- Normal height from ground 1500 mm
- In addition to positions in enclosure walls, viewing panels are to be installed in the inner stages of airlocks and baglocks
- To be used to assess the effectiveness of dust suppression because Perspex attracts airborne dust
- To be used by the analyst before entry for stage 2 of the four-stage certification process – avoiding entry if the standard of cleaning is obviously unacceptable
- Interestingly the guidance states that if viewing panels (and/or cameras) are absent this should be recorded in the analysts site notes

For improved visibility, proprietary viewing panel “bubbles” are now commercially available.



Viewing Panels - Airlock



Viewing Panel - Main Enclosure



Proprietary Viewing Panel Bubble

Supervision of Asbestos Removal Works

Supervision of asbestos removal works by either a client or principal contractor is a thorny issue. Asbestos removal is obviously a highly specialised operation – recognised as such by the HSE by the licensing regime. However, statute and case law require that contractors cannot simply be left “to get on with it”. A couple of examples are given below.

Health and Safety at Work etc Act 1974, Sections 2 and 3

An important case in 1996 (*R v Associated Octel*) demonstrated that certain maintenance tasks must be considered as part of ‘the conduct of the employers undertaking’ and as such the employer carries some responsibilities for the safety of operations undertaken by sub-contractors. In addition, it was stated during the trial that Octel needed to maintain control over the activities of contractors to discharge its statutory duty to its own employees under section 2(1) of the Act.

The Construction (Design and Management) Regulations 2007

Principal contractors are required to plan, manage and monitor the construction phase in a way which ensures that, so far as is reasonably practicable, it is carried out without risks to health or safety. This would normally include site tours, inspections and audits.

Does a Client or Principal Contractor Require an Asbestos Licence?

At first sight The Control of Asbestos Regulations 2012 might be thought to also require the client or principal contractor to hold a licence to undertake appropriate supervision of licensed asbestos sub-contractors as Regulation 2(2) states that ‘work with asbestos’ includes ‘supervision’ of the removal, repair or disturbance of work with materials containing asbestos.

Fortunately, the 2013 ACoP clarifies that ‘supervisory work’ means work involving direct supervisory control which in turn has previously been considered by the Asbestos Liaison Group in their memo 05/12. The memo states that the term means direct and immediate influence over the way that the asbestos work is being undertaken and ‘goes beyond the level of control typical of project management or quality assurance roles’. To make things even clearer the document goes on to state that supervisory licences are not required for:

1. the client who has engaged the contractor doing the work;
2. the principal contractor where the work with asbestos is being done by a sub contractor;
3. an analyst checking that the area is clear of asbestos at the end of the job;

4. a person carrying out quality control work eg. monitoring outside enclosures or checking that the work has been carried out to the agreed standard;
5. a consultant or other party reviewing tender submissions on behalf of the client;
6. where the work done is exempt from licensing requirements by virtue of Regulation 3(2).

Over recent times the HSE has reduced the number of supervisory licences as it is of the opinion that many were previously issued to companies who were engaged in project management rather than directly supervising asbestos work *per se*. That said, there are some circumstances where third party individuals or organisations do exercise direct supervisory control over work with asbestos and it is important to realise that in such cases the individuals or organisations need to demonstrate that they have the necessary skills, expertise, knowledge and experience of work with asbestos, together with excellent health and safety management systems. The memo also points out that “*where problems are found regarding the way a job is supervised (or with any aspect of the general standards found on site) the supervisory licence holder will have liabilities under health and safety law*”.

Currently there are only 4 companies holding supervisory licences.

War Anniversary 1914 – 2014 Schools Receive Asbestos Warning

The HSE has issued a warning to schools, many of which are undertaking special projects to commemorate the centenary of the start of the First World War.

Unfortunately many gas masks and protective ‘tin’ helmets used asbestos within their manufacture. Crocidolite (blue asbestos) was used within the majority of gas filter cartridges tested by the HSE and chrysotile (white asbestos) was used as a liner within many First World War ‘Brodie’ type helmets.



In a letter to the three Departments for Education the HSE advises schools to immediately withdraw such equipment and to seal the items in strong polythene bags. Gas mask filters can either be properly encapsulated by specialist contractors for subsequent display in a sealed cabinet, or schools may seek advice from the local authority regarding safe disposal. Asbestos pads can be removed by specialists for subsequent use in teaching.

Paula Kitching, of the Historical Association, which supports history teachers in secondary and further education said: *“Schools shouldn’t panic if they have any of these items, they should hand them into museums and then the museums can ensure they are treated properly. We wouldn’t want schools to panic but the report indicates that the materials can be made safe and if that is the case then we would advise schools to hand them in.”*

<http://www.asbestosexposureschools.co.uk/pdfnewslinks/Gas%20Masks%20-%20Letter%20with%20Advice.pdf>



CONSTRUCTION PLAN OF WORK 2014/2015

The HSE has recently published its Construction Plan of Work for 2014/2015 and has announced that occupational disease and ill health will be a priority area. Inspectors will also be visiting larger home building and one-off developments as well as reviewing the performance of clients, designers and other duty-holders.

Licensed asbestos removal work will be a specifically targeted area and asbestos management issues will be reviewed during other site visits.

The full Plan of Work can be accessed at

<http://www.hse.gov.uk/construction/work-plan-2014-15.pdf?ebul=gd-cons/apr14&cr=1>

Face-Fit Testing – What’s it all about?

The Control of Asbestos Regulations 2012, Regulation 11, requires that employers must, so far as is reasonably practicable, prevent employees being exposed to asbestos. Where it is not reasonably practicable then the employer must first take a series of steps (design processes, systems, engineering controls such as ventilation) to reduce exposure, before respiratory protective equipment (RPE) is introduced. In other words RPE is the last line of defence.

When working with asbestos, or working in an asbestos contaminated environment, the worker may therefore be completely reliant upon the adequacy of RPE. In addition to its design and proper maintenance, it is

imperative that RPE fits the worker properly as face shapes vary and certainly there is no 'one size fits all' RPE. Proper fit is established by face-fit testing.

Face fit testing is discussed in Paragraph 304 of the recently revised HSE Approved Code of Practice L143:

"Employers should make sure that the selected facepiece (tight and loose-fitting types) is the right size and can correctly fit the wearer. For a tight-fitting facepiece (disposable masks, half-face masks and full-face masks) the initial selection should include fit testing to make sure the wearer has equipment which fits correctly. Employers should have systems in place to make sure that face-fit testing is carried out and repeated as necessary on a regular basis. Employers should make sure that whoever carries out fit testing is competent to do so."

Two types of face-fit testing are generally available: qualitative (giving a simple pass or fail result) and quantitative (giving a numerical effectiveness result).

Qualitative Face-Fit Testing

Usually in this method a bitter or sweet tasting chemical is used. If the subject can taste the chemical then the seal is inadequate. The test is subjective and requires initial screening to confirm that the subject can detect the chemical being used. It is suitable for half masks but not for full-face RPE used by licensed contractors inside enclosures.



Pass or Fail taste detection testing

Quantitative Face-Fit Testing

Sophisticated equipment is required – either a test chamber or, more recently, portable devices, which count ambient particles simultaneously both outside and inside the face-piece providing an efficiency factor.



Widely used particle counting face-fit testing equipment

For both types of testing the subject under test undergoes a series of exercises and recites a written script to assess the adequacy of the face seal under simulated work activities. The wearer must be clean-shaven and annual retesting is recommended. Similarly, retesting is necessary if the worker changes to a different make or model of RPE, gains or loses weight or has significant dental work.

Recent Prosecutions

Former M&S Store - Property Developer Prosecuted. No Asbestos Survey Resulted in Worker Exposure

<http://press.hse.gov.uk/2014/developer-in-court-for-breaking-asbestos-safety-code/?ebul=qd-cons/apr14&cr=40>

Portsmouth Demolition Contractor Removed AIB from Bungalow without a Licence

<http://press.hse.gov.uk/2014/portsmouth-company-in-court-over-asbestos-exposure-dangers/?ebul=qd-cons/apr14&cr=41>

Building Company Failed to Inform Workers of Known Asbestos

<http://press.hse.gov.uk/2014/firm-in-court-for-failing-to-communicate-known-asbestos-risk/>

Building Contractor Demolished Ceiling Without Asbestos Survey – Residential Property

<http://press.hse.gov.uk/2014/bath-building-contractors-exposed-workers-to-deadly-asbestos-dust/>

Window Fitting Company Released Asbestos at School

<http://press.hse.gov.uk/2014/suffolk-firm-in-court-after-workers-exposed-to-asbestos/>

Kensington & Chelsea Prosecute Hostel – Fine Includes Victim Surcharge

<http://www.noodls.com/view/7FAD391DC438A94058EF3490D523D1A4EAA933F4?142xxx1396986709>



“Taking a Sensible Approach to Asbestos”

Please contact us for impartial advice or further information

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