

# Thanet District Council

## Annex 6: Asbestos Policy

March 2020



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# Asbestos Policy

## 1.0 Introduction

- 1.1 Breathing in air containing asbestos fibres can lead to asbestos-related diseases, mainly cancer of the lungs and chest lining. Asbestos is only a risk to health if asbestos fibres are released into the air and breathed in. Past exposure to asbestos currently kills around 5000 people a year in Great Britain.
- 1.2 There is usually a long delay between first exposure to asbestos and the onset of the disease (15-60 years). Only by preventing or minimising these exposures now can asbestos-related disease eventually be reduced.
- 1.3 Any TDC home or building built or refurbished before the year 2000 may contain asbestos. As long as the asbestos containing material (ACM) is in good condition and is not going to be disturbed or damaged, there is negligible risk. However, if it is disturbed or damaged it can become a danger to health, because people may breathe in any asbestos fibres released into the air. Workers who carry out repairs and maintenance work are at particular risk. If asbestos is present and can readily be disturbed, is in poor condition and not managed properly, others who may be occupying the homes or buildings could also be put at risk.
- 1.4 TDC is responsible for the maintenance and repairs to homes, non-domestic (communal blocks) and 'other' properties (e.g. offices, commercial shops, depots, etc.), many of which will have been constructed using asbestos containing materials. As such, the organisation has a legal 'duty to manage' asbestos in its homes and buildings and this must be done in accordance with The Control of Asbestos Regulations (CAR) 2012.

## 2.0 Scope

- 2.1 TDC must establish a policy which meets the requirements of The Control of Asbestos Regulations (CAR) 2012, which came into force on 6<sup>th</sup> April 2012. In addition to this, the policy must provide assurance to TDC that measures are in place to identify, manage and/or mitigate risks associated with asbestos. In addition, TDC must establish an Asbestos Management Plan (AMP), which outlines key information on roles and responsibilities, and the management of information, works, and ACMs.
- 2.2 TDC must also ensure that compliance with asbestos is formally reported to the TDC Cabinet, including the details of any non-compliance and planned corrective actions.
- 2.3 The policy is relevant to all TDC employees, tenants, contractors and other persons or other stakeholders who may work on, occupy, visit, or use its premises, or who may be affected by its activities or services.
- 2.4 It should be used by all to ensure they understand the obligations placed upon TDC to maintain a safe environment for tenants and employees within the homes of each tenant, and within all communal areas of buildings and 'other' properties (owned and managed).

## 3.0 Regulatory Standards, Legislation, and Approved Codes of Practice

- 3.1 Regulatory Standards - the application of this policy will ensure compliance with the regulatory framework and consumer standards (Home Standard) for social housing in England, which was introduced by the Regulator of Social Housing (RSH).
- 3.2 Legislation - the principal legislation applicable to this policy is The Control of Asbestos

Regulations (CAR) 2012, which came into force on 6th April 2012. TDC has a legal obligation under Part 2, Section 4 of the legislation (Duty to manage asbestos in non-domestic properties) and is the 'Duty Holder' for the purposes of the legislation. TDC is the 'duty holder' by virtue of the fact that it owns and manages homes and buildings, housing tenants and leaseholders through the tenancy and lease agreement obligations it has.

3.3 Approved Codes of Practice and Guidance – the principal approved codes of practice and guidance (as updated) applicable to this policy are:

- ACoP L143 - 'Managing and working with Asbestos' (Second edition December 2013)
- HSG264 - 'Asbestos: The survey guide' (Second edition 2012, this holds ACoP status)
- HSG248 – 'Asbestos: The analysts guide for sampling, analysis and clearance procedures' (First edition 2006)
- 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)

3.4 Sanctions – TDC acknowledges and accepts its responsibilities in accordance with the regulatory standards, legislation, and approved codes of practice, and that failure to discharge these responsibilities properly could lead to a range of sanctions including prosecution by the Health and Safety Executive under the Health and Safety at Work etc Act 1974, prosecution under the Corporate Manslaughter and Corporate Homicide Act 2007 and via a serious detriment judgement from the Regulator of Social Housing (RSH).

3.5 Tenants and HRA Commercial Leaseholders – TDC will use the legal remedies available within the terms of the tenancy and lease agreement should any tenant, leaseholder or shared owner refuse access to carry out essential asbestos related inspection and remediation works.

#### **4.0 Additional Legislation**

4.1 This asbestos policy also operates in the context of the following additional legislation:

4.1.1 Health and Safety at Work etc Act 1974

4.1.2 The Management of Health and Safety at Work Regulations 1999

4.1.3 The Workplace (Health Safety and Welfare) Regulations 1992

4.1.4 Personal Protective Equipment at Work Regulations 1992

4.1.5 Hazardous Waste (England and Wales) Regulations 2005 (Amendment 2009)

4.1.6 Control of Substances Hazardous to Health (COSHH) Regulations (as amended) 2002

4.1.7 Construction (Design and Management) Regulations 2015

4.1.8 Defective Premises Act 1972

4.1.9 Landlord and Tenant Act 1985

4.1.10 Data Protection Act 2018

4.1.11 Reporting of Injuries, Diseases and Dangerous Occurrences Regulations (RIDDOR) 2013

4.1.12 Homes (Fitness for Human Habitation) Act 2018

4.1.13 The Asbestos (Licensing) (Amendment) Regulations 1998

## **5.0 Obligations**

5.1 The duty to manage asbestos is included in The Control of Asbestos Regulations (CAR) 2012. The duty requires TDC to manage the risk from asbestos by:

5.1.1 Finding out if there is asbestos present, where TDC has an obligation to do so, in the homes and buildings owned and managed by the organisation (or assessing if asbestos containing materials are liable to be present and making a presumption that materials contain asbestos, unless the organisation has strong evidence that they do not). TDC must also identify its location and identify what condition it is in. If the home or building was built prior to the year 2000 the organisation will assume asbestos is present. If the home or building was built after the year 2000 asbestos is unlikely to be present and no further action will be required.

5.1.2 Making and keeping an up-to-date record (referred to as the 'asbestos register') of the location and condition of the asbestos containing materials or presumed asbestos containing materials in the homes and buildings owned and managed by the organisation.

5.1.3 Assessing the risk from the asbestos containing materials found.

5.1.4 Preparing an Asbestos Management Plan that sets out in detail how the organisation is going to manage the risk from the asbestos containing materials and taking the steps needed to put the asbestos management plan into action.

5.1.5 TDC must also review and monitor the asbestos management plan and the arrangements made to put it in place; and set up a system for providing information on the location and condition of the asbestos containing materials to anyone who is liable to work on or disturb these materials.

5.2 Anyone who has information on the whereabouts of asbestos in homes and buildings is required to make this available to the organisation as the 'duty holder', but the organisation then has to assess its reliability.

## **6.0 Statement of Intent**

6.1 TDC recognises that the main hazard in relation to asbestos is the non-identification of ACMs, and as such will protect those persons potentially exposed to asbestos as far as is reasonably practical by minimising the exposure through the use of appropriate control measures and working methods.

6.2 TDC accepts that asbestos is likely to be present in the majority of its properties built prior to the year 2000 and will therefore manage these properties accordingly.

6.3 In order to fully comply with the legislation TDC will have a Cabinet approved Asbestos Policy. In addition the organisation will have an Asbestos Management Plan and develop an Asbestos Register which will hold records of the assets which have asbestos

containing materials in them.

- 6.4 TDC will hold accurate records against each property it owns or manages, identifying whether the property has had its initial asbestos management survey and when the next re-inspection is due.
- 6.5 Survey and re-inspection dates, details of ACMs and asbestos management survey reports will be held electronically.
- 6.6 TDC will employ competent external contractors (in line with HSG264) to undertake asbestos management surveys. Licensed asbestos removal operatives and/or contractors will be employed to carry out licensed remediation works (where necessary) to non-domestic (communal blocks/'other' properties) and domestic properties as outlined in section 8 of this policy.
- 6.7 TDC will employ suitably competent persons to undertake asbestos re-inspections and the removal of non-licensed asbestos.
- 6.8 TDC will also undertake an intrusive refurbishment and demolition (R&D) survey to domestic and non-domestic properties as and when required as per HSG264. This will also be in accordance with the criteria set out in the TDC Asbestos Management Plan, which should be read in conjunction with this policy.
- 6.9 TDC considers good communication essential in the safe delivery of asbestos management and will therefore ensure that information about asbestos containing materials (known or suspect) is provided to every person liable to disturb it, accidentally or during the course of the work. This includes employees and tenants.
- 6.10 TDC will ensure that all contractors' employee and public liability insurances are up to date on an annual basis.
- 6.11 TDC will ensure contracts/service level agreements are in place with the contractors responsible for delivering the compliance service.
- 6.12 TDC will ensure there are effective contract management arrangements in place.
- 6.13 TDC will provide leaseholders and tenants with an asbestos survey report on request.
- 6.14 TDC will provide tenants with information about asbestos that will; tell them of possible asbestos containing materials (ACMs) in their home, advise what to do if they wish to carry out DIY or employ a contractor to undertake work, and advise who to contact if ACMs are accidentally disturbed.
- 6.15 TDC will generally not use asbestos labelling in domestic premises, however, in non-domestic premises and common areas of domestic blocks, labelling will be used where practicable.
- 6.16 TDC will implement a robust process to deal with all changes to stock, including new property acquisitions, disposals and stock transfers, in order to ensure that properties are not omitted from the compliance programme, and to ensure the programme remains up-to-date.
- 6.17 TDC will ensure that there is a robust process in place for the management of immediately dangerous situations identified from any asbestos related works undertaken on TDC's properties.

## **7.0 Compliance Risk Assessment/Inspection Programmes**

- 7.1 Non-Domestic Stock – TDC will review existing asbestos management survey information prior to carrying out any repairs or planned maintenance works which may involve working on, or adjacent to, any asbestos containing materials within a non-domestic (communal block) or ‘other’ properties (e.g. offices, commercial shops, depots, etc.). This is to ensure that any asbestos containing materials likely to pose a risk are identified prior to works commencing and the details passed onto the relevant operatives or external contractors and managed in an appropriate way. Where required a new hybrid R&D/management survey will be commissioned prior to work commencing.
- 7.2 TDC will ensure that all non-domestic (communal blocks) and ‘other’ properties in ownership or management have an initial asbestos management survey carried out. All surveys comply with the CAR 2012 legislation and are therefore dated after 6<sup>th</sup> April 2012 when the legislation came into effect.
- 7.3 Thereafter all non-domestic (communal blocks) and ‘other’ properties will have a re-inspection survey and an assigned re-inspection date where applicable. This date will be in accordance with the specific needs of the building. It will either be annually or at a period dictated by the previous survey/re-inspection. Re-inspection dates may change following the re-categorisation of a property or a building.
- 7.4 TDC will not need to re-inspect any non-domestic (communal blocks) or ‘other’ properties built after the year 2000, or where the initial asbestos management survey confirms that there are no asbestos containing materials present.
- 7.5 Domestic Stock – TDC will review existing asbestos management survey information prior to carrying out any void repairs, day to day repairs, or planned maintenance works which may involve working on or adjacent to any asbestos containing materials within a domestic property. This is to ensure that any asbestos containing materials likely to pose a risk are identified prior to works commencing, and the details passed onto the relevant operatives or external contractors and managed in an appropriate way.
- 7.6 Where there is no previous asbestos related information in respect of a domestic property which requires an asbestos survey ahead of void repairs, day-to-day repairs or planned maintenance work, a survey will be undertaken and the scope of the survey agreed in accordance with the works due to be carried out. If the void only requires the standard safety checks (gas, electric and EPC) and there is no intrusive repair work, an asbestos survey is not required.
- 7.7 TDC will not need to re-inspect any domestic properties built after the year 2000, or where the initial asbestos management survey confirms that there are no asbestos containing materials present.
- 7.8 Refurbishment Work – TDC will undertake an intrusive refurbishment and demolition (R&D) survey to domestic, non-domestic (communal blocks) and ‘other’ properties prior to planned maintenance works taking place to the areas of the property that are likely to be disturbed as part of the proposed works. This will be in accordance with the criteria set out in TDC’s Asbestos Management Plan, which should be read in conjunction with this policy.
- 7.9 Garages – TDC will carry out asbestos management surveys on garages prior to any work being carried out.
- 7.10 Commercial Stock Assigned to the HRA – TDC will ensure they have records of an asbestos management survey where properties they own or manage are managed by

another person or organisation (i.e. are managed by managing agents). These properties will also be included on the TDC asbestos programme, so an asbestos reinspection survey can be requested from the managing agent prior to the existing one expiring. If the managing agent fails to carry out an initial asbestos management survey or reinspection survey, TDC will step in and carry out the test and re-charge the managing agent for the cost of this work.

## **8.0 Compliance Follow up Work**

- 8.1 TDC will ensure there is a robust process in place for the management of any follow-up works required following the completion of an asbestos management survey.
- 8.2 Where asbestos is positively identified and, as a result of a risk assessment (conducted in accordance with published guidance), removal, sealing or encapsulation is recommended, this will be carried out as follows:
  - 8.2.1 Non-licensed works – as defined in regulation 2 of CAR 2012 – by specifically trained contractors with appropriate equipment and working procedures in place which are sufficient to comply with the CAR 2012;
  - 8.2.2 Notifiable non-licensed works – as defined in regulation 2 of the CAR 2012 – by a licensed asbestos removal contractor (LARC) licensed by the Health and Safety Executive in compliance with the CAR 2012; or
  - 8.2.3 Licensed works - as defined in regulation 2 of the CAR 2012 – by a LARC, licensed by the Health and Safety Executive in compliance with the CAR 2012.

## **9.0 Record Keeping**

- 9.1 TDC will establish and maintain a programme of non-domestic (communal blocks) and 'other' property surveys and re-inspections, and an Asbestos Register of all the asbestos containing materials by type, address, location and condition.
- 9.2 Survey and re-inspection dates, details of ACMs and asbestos management survey reports will be held electronically.
- 9.3 Spreadsheets will be used to record the details of all asbestos surveys undertaken on TDC's non-domestic (communal), domestic and other properties. This will include the date of the most recent survey and/or re-inspection where applicable.
- 9.4 The findings from the asbestos survey, including any ACMs and remediation works identified and subsequently completed (including evidence of removal and encapsulation) should also be recorded on the spreadsheets.
- 9.5 Appropriate asbestos information will be made available to all interested stakeholders as required.

## **10.0 Key Roles and Responsibilities**

- 10.1 TDC Cabinet will have overall governance responsibility for ensuring the asbestos policy is fully implemented to ensure full compliance with the regulatory standards, legislation and approved codes of practice. As such, they will formally approve this policy and review it every two years (or sooner if there is a change in regulation, legislation or codes of practice).
- 10.2 TDC's Cabinet will receive regular updates on the implementation of the Asbestos Policy and asbestos performance along with notification of any non-compliance issue which is



identified. This is so they have assurance that the policy is operating effectively in practice.

- 10.3 TDC's Cabinet will receive reports in respect of asbestos management performance and ensure compliance is being achieved. They will also be notified of any non-compliance issue identified.
- 10.4 The Head of Housing and Planning has strategic responsibility for the management of asbestos and for ensuring compliance is achieved and maintained. They will oversee the implementation of the Asbestos Policy.
- 10.5 TDC's Compliance Manager will be responsible for overseeing the delivery of the agreed survey inspection programmes and the prioritisation and implementation of any works arising from the surveys.
- 10.6 The housing teams will provide key support in gaining access into properties where access is proving difficult and use standards methods to do so. They will also facilitate the legal process to gain access as necessary.
- 10.7 TDC's Head of Housing and Planning will be responsible for ensuring the policy is reviewed every two years, and will notify the CMT and operational team responsible for the delivery of the compliance programme, of the upcoming review. They will ensure that this review process takes place before the policy expires in March 2022.
- 10.8 The Head of Housing and Planning will ensure that this policy is saved on the shared drives and distributed to all relevant members of staff.

#### **11.0 Competent Persons**

- 11.1 TDC will ensure that the manager with lead responsibility for operational delivery is suitably qualified. This qualification will be obtained within 12 months of the approval of this policy, or within 12 months of the start of employment for any new operational leads.
- 11.2 TDC will ensure that competent (as per HSG264) contractors are procured and appointed to deliver asbestos management surveys.
- 11.3 TDC will ensure that competent licensed asbestos removal contractors are appointed for all notifiable non-licensed work or licensed works.
- 11.4 The operational team with responsibility for delivery will check the relevant qualifications of employees working for these contractors on an annual basis and evidence this appropriately.

#### **12.0 Training**

- 12.1 TDC will ensure that all operatives working for, or on behalf of, the organisation have the relevant training required for their role. This will be managed via periodic assessments of training needs and resulting programmes of internal and/or external training.

#### **13.0 Performance Reporting**

- 13.1 Robust key performance indicator (KPI) measures will be established and maintained to ensure TDC is able to report on performance in relation to asbestos.
- 13.2 KPI measures will be produced and provided at service level on a monthly basis and at CMT and to elected members on a quarterly basis. As a minimum these KPI measures will include reporting on:

### 13.3 The total number of:

Data – the total number of:

- Properties – split by non-domestic properties (communal blocks) and ‘other’ properties;
- Properties on the asbestos management/re-inspection programme;
- Properties not on the asbestos management/re-inspection programme;
- Properties with a valid ‘in date’ survey/re-inspection. This is the level of compliance expressed as a number and a %;
- Properties where the survey/re-inspection has expired and is ‘out of date’. This is the level of non-compliance expressed as a number and a %;
- Properties which are due to be surveyed/re-inspected within the next 90 days. This is the early warning system;
- The percentage of domestic stock with full asbestos data
- The number of follow up works/actions arising from any surveys, and the numbers ‘completed’, ‘in time’ and ‘overdue’.

Narrative - an explanation of the:

- Current position;
- Corrective action required;
- Anticipated impact of corrective action;
- Progress with completion of follow-up works – number of actions – ‘completed’, ‘in time’ and ‘overdue’.

### 14.0 Quality Assurance

- 14.1 TDC will require external contractors to provide the results of their own 5% quality assurance audit checks, as required by UKAS, on a monthly basis.
- 14.2 TDC will commission an independent audit of asbestos at least once every two years. This audit will specifically test for compliance with the regulation, legislation and codes of practice and identify any non-compliance issues for correction.

### 15.0 Non-Compliance/Escalation Process

- 15.1 The definition of non-compliance in relation to this policy refers to any incident which results in a potential breach of legislation or regulatory standard, or which causes a risk to health or safety.
- 15.2 Any non-compliance issue identified at an operational level will be formally reported to the Head of Housing & Planning in the first instance.
- 15.3 The Head of Housing & Planning will agree an appropriate course of corrective action with the relevant operational team(s) in order to address the non-compliance issue and report details of the same to TDC’s CMT.
- 15.4 TDC’s Head of Housing & Planning will ensure the Cabinet Member for Housing and

Safer Neighbourhoods is made aware of any non-compliance issue so they can consider the implications and take action as appropriate.

- 15.5 In cases of a serious non-compliance issue TDC's CMT and Monitoring Officer will consider whether it is necessary to disclose the issue to the Regulator of Social Housing in the spirit of co-regulation, or any other relevant organisation such as the HSE, as part of the Regulatory Framework.

## **16.0 Glossary**

16.1 This glossary defines the key terms used throughout this asbestos policy:

- 16.1.1 Duty Holder: the owner of the non-domestic premises or the person or organisation that has clear responsibility for the maintenance or repair of non-domestic premises, for example through an explicit agreement such as a tenancy agreement or contract.
- 16.1.2 UKAS: the appointed national accreditation body for asbestos surveyors. Accreditation is a means of assessing, in the public interest, the technical competence and integrity of organisations offering evaluation services.