

Asbestos

The duty to manage asbestos: a guide for dutyholders

What is the duty to manage?

Regulation 4 of the Control of Asbestos Regulations 2012 places a requirement on dutyholders to undertake a suitable and sufficient assessment as to whether asbestos containing materials (ACMs) are likely to be present in non-domestic premises under their control and then to manage the risk from these materials.

Who is the dutyholder?

The dutyholder is either the owner or occupier who is responsible for the repair or maintenance of non-domestic premises by virtue of a tenancy/contract or, where there is no tenancy/contract, the person who is in control of the premises. Often this will be the owner. In some circumstances, such as is sometimes the case with multi-occupied buildings, the responsibility may be shared. The owner may take responsibility for the common areas whilst the leaseholders may take responsibility for the parts they occupy. In some cases the responsibility may pass to the managing agent appointed to look after the property.

What are non-domestic premises?

The duty to manage applies to all non-domestic premises and the common parts of domestic premises. Examples of common parts are boiler rooms, lift shafts, foyers, corridors, vertical risers, external elements, etc.

Note: Whilst regulation 4 does not normally apply to domestic premises, additional legislative requirements are in place to cover asbestos risks in these types of property.

How do I comply?

Delegate the task

The dutyholder can nominate someone to carry out all or part of the work required to comply with their duties. The nominated person or organisation must know what they have to do and should be competent to do the work.

1. Determine if ACMs are present

Initially the dutyholder should determine if there are likely to be any asbestos containing materials on the premises and if so where they are likely to be. This involves considering the age of the building, reviewing all documentary information (e.g. records for the building including architects plans/ drawings and any previous surveys of the building) and carrying out a thorough inspection of the premises.

The inspection of the property will normally be in the form of an asbestos management survey which is often delegated to a third party with appropriate training and experience. The dutyholder has a responsibility to ensure that whoever is instructed to undertake the survey is competent to do so, has adequate expertise, knowledge and resources and has appropriate insurance cover for undertaking asbestos surveys. The HSE strongly recommends using accredited surveyors for undertaking asbestos surveys.

Guidance on asbestos surveying can be found in HSE publication HSG264 Asbestos: The Survey Guide which is aimed at surveyors carrying out asbestos surveys as well as those people who commission surveys e.g. dutyholders/ clients.

If there is very strong evidence that no asbestos materials are present in the premises (e.g. the building was constructed without using ACMs) then no further action is required other than to record this evidence.

2. Assess the condition of ACMs

The condition of any ACMs should be assessed in order to determine the likelihood of fibres being released from an ACM by taking into consideration factors such as the type of material and its condition.

If an asbestos management survey has been carried out then this assessment will usually have been carried out by the surveyors in the form of a material assessment.

3. Assess the risk

The dutyholder should assess the potential risk from ACMs. This assessment should consider how likely it is that the ACM will be disturbed or damaged by taking into account factors such as: the information gathered from the material assessment, how much ACM there is, accessibility, nature of occupancy and activities which could lead to exposure e.g. maintenance.

4. Record the assessment information

A record should be created detailing the location of the known or presumed ACMs.

This record is often referred to as an asbestos register and is a simple document detailing the location of any ACMs along with details of their extent, condition, and product type. It should also give details of any areas which have not been accessed or inspected and which should be presumed to contain asbestos.

The asbestos register must be kept up-to-date and should be available on site for the entire life of the premises.

5. Make the management plan

A written management plan should be prepared which details how the risks from asbestos are going to be managed.

Typical information which should be documented within a management plan includes:

- Details of who will be responsible for managing the asbestos risk
- A copy of the asbestos register or details of how to access it
- Instructions that no work can be carried out on the fabric of the building without first checking the asbestos register. This should include arrangements for:
 - Ensuring that the register is checked in good time before any work starts
 - Ensuring that the presence of asbestos has been understood and taken into account
 - Ensuring that the correct control measures will be used and that trained contractors will carry out the work
- Details about any necessary work arising from the assessment e.g. repair or removal of ACMs
- Arrangements for monitoring the condition of ACMs
- Details of how the management plan will be communicated

In order to develop a management plan, a decision needs to be made as to what action needs to be taken for each ACM.

The basic options for management are:

- Leave the ACM in place and manage
- Protect/seal the ACM
- Repair/remove the ACM

6. Action the management plan

The dutyholder should ensure that the management plan is implemented in order to manage the risks.

The plan should prioritise any actions and give high priority to damaged materials or those likely to be disturbed.

Procedures and responsibilities should be included within the plan in order to ensure that the asbestos register is shared within anyone carrying out maintenance or other work.

7. Review & update the management plan

The management plan should be thoroughly reviewed every 12 months or where there have been changes in circumstances (e.g. work undertaken, ACMs removed or repaired, changes in occupancy or use of the building).

The condition of any known or presumed ACMs should be checked periodically in order to ensure that they have not deteriorated or been damaged. The frequency of monitoring will depend upon the location of each ACM along with other factors which could affect its condition.

Periodic checks should be made to ensure that the arrangements and procedures for managing asbestos are effective and that people are aware of their responsibilities.

8. Communicate & share the management plan

The dutyholder should ensure that the plan is readily available and should:

- Inform employees what the arrangements are
- Provide information regarding the location of ACMs to the emergency services
- Provide employee representatives and trade union representatives with copies of the management plan

Further reading

Managing and working with asbestos L143 HSE Books 2013
ISBN 978 0 7176 6618 8

Managing asbestos in buildings: A brief guide INDG223 (rev5)
HSE Books 2012 ISBN 978 0 7176 6487 0

Asbestos: The survey guide HSG264 HSE Books 2012 ISBN
978 0 7176 6502 0