Asbestos in schools
The need for action

All-Party Parliamentary Group on Occupational Health and Safety

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Introduction

Exposure to asbestos fibres can cause both lung cancer and another fatal cancer of the lining of the lung called mesothelioma. Even low levels of exposure can cause mesothelioma and every year over 4,000 people die in Britain as a result of past exposure to asbestos. The disease is invariably fatal with most victims dying within 18 months of diagnosis. It often does not appear until around 40 years after the person first breathes in the dust.

However, it is not a problem that is confined to industrial workers, nor is it a problem of the past. More than 75 per cent of Britain's state schools contain asbestos. Much of that is badly maintained, meaning that children and staff are exposed to this killer fibre. Over 140 school teachers have died from mesothelioma in the past ten years. An unknown number of cleaners, admin staff and caretakers have also died. The number of children who have died as a result of exposure to asbestos while at school is unknown but evidence given to the Education Select Committee hearing on asbestos in schools estimated that up to 300 people a year could subsequently die from their asbestos exposure as a child at school.

While we cannot do anything about the past exposure, we can prevent any more children and staff being exposed to asbestos.

This report, from the All-Party Parliamentary Group on Occupational Safety and Health, investigates the scale of the issue and makes recommendations about stopping this time-bomb in our schools.

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The scale of the problem

A report commissioned by the Medical Research Council (MRC) examined the extent, type and location of asbestos in schools and concluded that "It is not unreasonable to assume, therefore, that the entire school population has been exposed to asbestos in school buildings."

Of the 29,000 schools in Britain, more than 75 per cent contain asbestos. Fourteen thousand schools were built after the second world war and almost all those built before 1975 contain asbestos. Most of the other schools that were refurbished during this period also contain asbestos.

The materials of greatest concern are those that readily release asbestos fibres such as asbestos lagging, sprayed asbestos and asbestos insulating board (AIB), all of which are present in schools. Asbestos is not only found in lagging in pipes and boiler rooms, it was also sprayed on ceilings and structural beams or used extensively in the construction of schools in walls, ceilings, heating baffles, window and door surrounds, with much of it in locations that are vulnerable to damage by children.

The MRC report assessed lifetime asbestos exposures and estimated the numbers of asbestos fibres inhaled by a child during their time at school with the asbestos being in good condition. It concluded that every day, background asbestos fibre levels in schools are five to five hundred times greater than outdoor levels. The report stated "Children attending schools built prior to 1975 are likely to inhale around three million respirable asbestos fibres ... Exposure to asbestos in school may therefore constitute a significant part of total exposure."

In 2011 the Supreme Court accepted the Industrial Injuries Advisory Council's definition of a "significant" exposure as being "a level above that commonly found in the air in buildings and the general outdoor environment" and that an exposure above that would materially increase the risk of mesothelioma developing. Both the Supreme Court and the Government's Advisory Committee on Science also accepted

the expert medical, epidemiological and legal opinion that "there is no known threshold exposure to asbestos below which there is no risk."

Many school staff and pupils have inhaled considerably more fibres than estimated in the MRC report as frequent asbestos incidents in schools have released dangerous levels of asbestos fibres into classrooms. Asbestos management concentrates on preventing maintenance work disturbing the asbestos; however, tests have shown that common everyday classroom activities can also release dangerous levels of asbestos fibres. It was discovered in 1987 that slamming a door just five times released levels of amosite fibres more than six hundred times greater than background levels, despite the fact that the AIB panels around the door appeared to be in good condition. As no warning was issued to the thousands of other schools with potentially the same problem, the release of asbestos fibres continued.

Twenty years later, in 2006, the problem was re-identified. When the doors were slammed and walls and columns were hit in system-built schools, the asbestos fibres ejected into the classrooms were at levels eight hundred times greater than background levels. Other tests have shown that removing books from a classroom stationary cupboard with an AIB back panel releases levels one hundred times greater than background levels, as does displaying the children's work with drawing pins or staples, a practice that was common in schools. In some schools these releases of asbestos fibres have occurred every day over the course of many years so that the cumulative exposures of staff and pupils are considerable. The result is that the occupants of schools are at risk of dying from the asbestos-related cancer mesothelioma.

Britain's death toll from asbestos

Britain has the highest mesothelioma incidence in the world, at more than twice that of France, Germany or the USA. An HSE report concluded that this is because of the quantity and types of asbestos that Britain imported, but all types of asbestos can cause mesothelioma.

The incidence of mesothelioma in the USA has stabilised at about 14 cases per million population per annum since 1999 whereas in Britain it has increased year on year and is presently 38.4 cases per million of the population per annum. Twice as many people die from the consequence of asbestos exposure in Britain than are killed on the roads.

As the asbestos materials deteriorate the number of school teachers dying from mesothelioma has increased, from three a year in the 1980s to 15 a year. More than 267 school teachers have died of mesothelioma since 1980, with 140 dying in the last ten years. School caretakers, cleaners, cooks, secretaries, teaching assistants and nursery nurses have also died of the cancer.

Schools are a special place because they contain children. In 2013 the Committee on Carcinogenicity (CoC) confirmed that children are more at risk from the dangers of asbestos than adults as they will live longer, providing greater opportunity for any asbestos disease to develop. The younger the child the greater the risk, with the lifetime risk of developing mesothelioma for a five year old child being about five times greater than an adult aged thirty. As the science is incomplete, the CoC were unable to conclude whether children are also more vulnerable because their bodies are still developing. The Government is reviewing its asbestos policy for schools in light of the CoC's conclusions.

Everyone attends school, so the numbers facing potential exposure are much larger than in any other workplace. Although it is known how many teachers have died, it is not known, because of the long latency, how many children have subsequently died. The teachers' deaths are therefore the tip of the iceberg.

In March 2011, the Supreme Court unanimously upheld a judgment in the case of Dianne Willmore that she had been negligently exposed to asbestos at school as a child. This is the first case successfully taken through the courts of a former pupil exposed to asbestos at school.

In 2013 a leading epidemiologist gave evidence to the Education Select

Committee that a reasonable estimate is that in Britain between 200 and 300 people will die each year of mesothelioma because of their asbestos exposure experienced as a child at school in the 1960 and 1970s. Over a twenty year period that means that between 4,000 and 6,000 former pupils could die. Although asbestos is generally managed better now it is also older and most of it remains in place, therefore increasing the risk of fibre release and exposure. So long as the exposures continue, then so will the deaths.

Managing asbestos in schools

UK Government policy is that, so long as asbestos is in good condition and is not likely to be disturbed, it is better to manage it for the remaining life of the school rather than remove it. Because of this policy most of the asbestos remains in our schools and will have to be managed long into the future. Although some schools and local authorities have effective systems of asbestos management, many do not. A nationwide survey published in 2010 of more than 600 school safety representatives showed that that only 28 per cent of respondents said the presence of asbestos-containing materials (ACM) was clearly marked in the workplace. When it comes to keeping an accurate register of where asbestos is, only one third of respondents were aware that a register was kept, and only 20 per cent of the total sample confirmed that the register was shown to contractors before they commenced work.

Inspections carried out over the last five years have found flaws in asbestos management in a number of schools that have required advice and enforcement action to be taken. Common faults include a lack of asbestos awareness and poor standards of training; asbestos management plans found to be ineffective; confusion over areas of responsibility; and the less accessible asbestos has frequently not been identified because of inadequate surveys. A report by the Asbestos Consultants Association, ATAC, concluded that the systems of asbestos management in many schools are ineffective and at times dangerous. They stated: "These are not minor problems that have crept in over recent years; rather they are fundamental problems that are endemic in schools in the UK."

The other problem with the policy is that the asbestos is often not in good condition, or it is unsealed and hidden. Tests have shown it can be disturbed by normal school activity and asbestos fibres released over the course of many years without anyone being aware of that. No doubt these schools thought that they were managing their asbestos safely, whereas in reality they were not.

Training

If headteachers, school business managers and other school staff are expected to be responsible for asbestos and to manage it, then they have to be trained. In addition all members of teaching and support staff need to be trained in asbestos awareness so that they can avoid disturbing asbestos in their schools and can also prevent pupils doing so. It is equally important that those officials who supervise and allocate resources are trained so that they are aware of their responsibilities under the law and aware of the level of resources that are needed to manage the asbestos safely. This includes the relevant officials in local authorities and school governors, particularly those in academies and free schools. Training should be in either asbestos management or asbestos awareness, dependent on the individual's role.

HSE commissioned a review of senior management of health and safety in schools. The review recommended a mandatory programme of health and safety awareness training and concluded that "It was not believed that anything other than a mandatory programme will ever sufficiently raise awareness of health and safety in schools for it to become a priority."

The necessity for governors to be trained in all aspects of their duties was further emphasised in 2013 in the conclusion of the Education Select Committee enquiry into the role of school governing bodies. They stated "However, too many governors have not received suitable training and we recommend that the Government require all schools to offer training to new governors..."

In 2012 the DfE published on-line basic asbestos awareness guidance for schools. It is a step in the right direction, however, it is not mandatory.

It is recommended that standards should be set and the training should be mandatory and properly funded.

Phased removal is necessary

Some schools do have well resourced systems of asbestos management, but even the best system can fail, and when it does, asbestos fibres can be released and the occupants exposed.

As well as the ever-present potential for fibre release, effective asbestos management in a school can be expensive, time-consuming and requires a sustained commitment. Even the most simple task such as cleaning a light fitting attached to a ceiling that contains asbestos has to be performed in controlled conditions with the person wearing protective overalls and a mask, as does painting a wall that contains asbestos or drilling a screw hole to hang up a picture.

In the 1980s, the Association of Metropolitan Authorities and ILEA had a policy of phased removal with priority being given to the most dangerous materials. It was because they considered it safer and, in the long run, also cheaper than the continual drain on resources that effective management requires. The practice stopped when the organisations ceased to exist; however, phased removal remains the policy of Nottinghamshire, which has a large number of schools containing asbestos.

In 2013 the Australian Government passed the Asbestos Safety and Eradication Bill. It underlines the Australian Government's commitment to solve their asbestos problem once and for all and represents the fundamental strategic thinking that is urgently required in Britain. It aims to prevent exposure to asbestos fibres in order to eliminate asbestos-related disease and will achieve this by a number of means including the prioritised removal of all asbestos from public and commercial buildings. In introducing the Bill, the Minister agreed in

principle that removal of asbestos from schools will be prioritised, adding "Obviously, exposure to children is particularly repugnant..."

It is recommended that the phased removal of asbestos from schools is adopted as national policy in the UK with priority being given to the most dangerous materials. That will result in the problem being eventually resolved, whereas if it is not adopted as policy then asbestos will remain a problem in schools indefinitely. It will be a continual, and growing, drain on resources as the asbestos continues to deteriorate and there will be the ever present potential for the asbestos to be disturbed and fibres released.

Regulations

Twenty five years ago the US Government undertook an audit of the asbestos in their schools and assessed the risks to the occupants. Because of the particular vulnerability of children, they treated schools as special places and promulgated asbestos regulations specifically for them. The regulations and accompanying codes of practice clearly lay out what is required of school authorities, and because of their specific nature there is no ambiguity about what applies to schools and what does not.

The asbestos problem in UK schools is far greater than in the USA but despite the considerably greater risks, the issue is not seen as a high priority. Regulations have not been drafted specifically for schools, but instead they come under the generic regulations and Approved Codes of Practice (ACoPs) of all workplaces. It is right that the workers in schools have the same protection as other workers but regulations have mainly been drafted for people who work on asbestos, such as maintenance workers, and only by default apply to the occupants of the buildings. This has at times led to confusion and ambiguity so that government officials, local authorities and schools have been unsure what applies to schools and what does not.

Codes of Practice and guidance have to be clearly drafted so that a busy headteacher knows immediately which regulations apply to them and which do not, what they and their staff have to do to comply with the

law and what actions they need to take to keep the staff and pupils safe from the dangers of asbestos.

However it is not just the guidance on the regulations which need to be looked at but the actual regulations themselves.

If a school finds out that contractors, staff and pupils are being exposed to asbestos, they have to take certain actions depending on the level of exposure. There is the Control Limit and the Clearance Level. HSE state "The Control Limit is not a 'safe' level and work activities involving asbestos should be designed to be as far below the Control Limit as possible." Following work on asbestos, or a release of asbestos fibres in a school, staff and pupils are allowed back in the classroom when the airborne asbestos fibre levels are below the Clearance Level (a tenth of the present Control Limit.) However it is not a safe level either, as the occupants will inhale 6,000 fibres an hour. These are workplace levels designed for people working on asbestos for a limited period of time and yet they are applied to the occupants of schools. If the levels are not safe for adults, then they are certainly not safe for children who are more vulnerable.

As far back as 1983 the Department for Education considered a proposal for an 'environmental' limit specifically for schools, given that teachers and pupils could be breathing in raised levels of asbestos for six or seven hours a day. It recommended that, because of the particular vulnerability of children, a level 1/100th of the workplace control levels would not be unreasonable in schools. An environmental level has never been introduced, and instead workplace control levels are still applied to classrooms.

In 2014 the Netherlands will be introducing an environmental level for the occupants of buildings. It will be 3 fibres in a cubic metre of air compared to the UK Clearance Level which is 10,000 fibres in a cubic metre of air.

In reality many schools do not know the levels of asbestos fibres that people in their buildings are exposed to. The CoC were concerned at the lack of contemporary data on asbestos fibre levels in schools and

recommended that there "would be benefit in generating new exposure data."

A system of widespread air sampling in schools would identify those schools and rooms where asbestos fibres are being released. It would also provide updated data on fibre levels in schools so that a more accurate assessment of the risks to staff and pupils could be made.

It is recommended that a trial is commissioned to perfect a system of widespread air sampling in schools.

Policy of openness

Most people are not aware of the presence and dangers of asbestos in schools and what measures should be taken to prevent fibre release. This is because the problem has been played down and when an incident does occur, unjustified assurances have been given. It is also common that parents are not informed of the presence of asbestos in their children's schools, and a survey found that more than half of school staff were not informed either. In contrast, twenty five years ago laws were passed in the USA that parents and teachers must be given an annual report on the presence and condition of asbestos in their school and the measures taken to manage it. If the problem of asbestos in schools is to be properly addressed in this country, a policy of openness is essential and has to be adopted without further delay. It is not only ethically wrong that staff and parents are not informed of the presence of asbestos, in the case of the staff it is also contrary to good practice and against the law.

It is recommended that parents, teachers and support staff are annually updated on the presence of asbestos in their schools and the measures that are being taken to manage it.

Civil action and justice for victims

Another factor that militates against leaving the asbestos in place is that there is the ever present threat of the governors, headteacher or local authority being prosecuted for a failure in asbestos management,

as has happened on a number of occasions. In free schools and academies the responsibility rests with the governors who might be reluctant to take on the role if they fully realise the legal and financial implications.

Most mesothelioma sufferers, and their families, would like the HSE, or the police, to investigate how and why they were exposed and where there was negligence, to bring the full force of the criminal law against the people who caused the illness leading to their death. However none of the 40,000 mesothelioma deaths since records began in 1968 have been the subject of a criminal investigation. Neither has there been a single criminal prosecution brought against the individuals or organisations who caused the deaths.

As a result, when people are diagnosed with mesothelioma, they and their families seek to identify themselves how the exposure to asbestos occurred. If negligence is found then the only recourse to justice is through the Civil Courts, and the only remedy open to the Civil Courts is financial damages. While that can never compensate for the death of a loved one, it can provide some financial stability for any dependants.

It is particularly difficult to bring a successful civil action against a school for causing a death from mesothelioma, because in many cases staff and pupils have been unaware that asbestos exposure has taken place. In spite of that there have been a number of successful cases where substantial damages have been awarded to teachers and support staff whose mesothelioma was caused by asbestos exposure at school. So far the courts have only judged one case of a former pupil. There are, however, other staff and former pupils who are dying of mesothelioma who are presently embarking on civil actions. It is inevitable that this will continue as long as there is asbestos in schools.

There is a further problem of obtaining compensation for former pupils and non-employees who subsequently develop mesothelioma as most public liability insurance for schools specifically excludes asbestos exposure. Local authorities self-insure and can therefore meet future

claims, but schools outside local authority control do not necessarily have the means to do so, and this is a particular problem for the increasing number of academies and free schools. If there is no contingency to meet future claims the governors could be personally legally and financially responsible. The Mesothelioma Compensation Bill provides compensation for employees negligently exposed to asbestos where their former employer's insurance policy cannot be traced. However it does not include former school pupils as they are not employees.

It is important that the Government finds a solution and, in the interim, informs governors of their potential liabilities and the implications.

Removing asbestos eradicates ongoing costs as the continuing threat of litigation, the drain on resources in managing asbestos and the expense of insurance cover is also removed.

Why inspections are important

A few years ago very few pro-active asbestos inspections took place in schools and therefore the faults were not identified until it was too late as contractors, staff and pupils had already been exposed. After a number of serious asbestos incidents had occurred in schools, HSE initiated a series of proactive inspections, and advice was given so that standards could be improved.

Lord Young's report into health and safety regulation, 'Common Sense Common Safety', declared that schools were a low-risk environment, and this has been used as a basis for government policy. It appears that this definition was based solely on fatality rates from injuries, but totally ignored diseases caused by work, including cancers caused by asbestos exposure. Very few people would consider that schools are low risk when it is estimated that 6,000 former pupils will die from mesothelioma over a twenty year period. In addition, because asbestos is present in the majority of schools, many millions of vulnerable children and staff working in the schools will remain potentially at risk for the foreseeable

future. It is therefore unjustified to classify schools as a 'low-risk environment.'

In March 2011 the government announced that it will no longer undertake proactive inspections in workplaces it has defined as 'low risk.' These include offices, shops and local authority schools. This is a retrograde step and will mean that unsafe standards will again pass undetected in many schools, leaving staff and pupils at risk. A policy of cost recovery for inspections has also been introduced by the HSE where enforcement action is required; however, the HSE states that "law-abiding businesses will be free from costs and not have to pay a penny."

Schools would not therefore be charged for proactive inspections unless they fail to comply with the regulations.

It is recommended that pro-active inspections to determine the standards of asbestos management are reinstated. Without these, there is no safety net to pick up instances of poor management that expose staff and pupils to risk, and there is no wider intelligence about the success of the government's policy on the management of asbestos in schools.

Much better information is needed

Asbestos materials are part of the structure of a building and therefore if the building is in a poor state then it is likely that the asbestos will be as well. The Schools Capital Review published in April 2011 stated that "Significant parts of the school estate were and are in an unacceptable state." According to the Chief Executive of the Government's Partnership for Schools, 80 per cent of the school stock was beyond its shelf life, and a Financial Times report quoted DfE estimates of an £8.5bn backlog of repairs. But even the most basic repairs are impeded and made more costly by the presence of asbestos, and when schools are refurbished or replaced, considerable cost overruns have occurred through unexpected asbestos remedial and removal work, with at times the asbestos work costing a third or more of the refurbishment costs.

Despite asbestos potentially presenting one of the largest costs in refurbishment or maintenance, the government is unaware of the extent of asbestos in the nation's schools. However, each local authority already holds the data on the extent, type and condition of asbestos in their schools, and therefore it would be a relatively simple matter, and sound financial practice, to collate the data centrally. It would enable the government to make realistic funding estimates and to allocate proportionate resources. It would also enable the Government to produce a priority list for refurbishment or replacement of those schools presenting the greatest risk to their occupants.

The Government has prioritised 261 of the most dilapidated schools in England for refurbishment. However, this is a small fraction of the total number in need. The Schools Capital Review (2011) was critical that there is no centrally collated data on the condition of the school stock in England, and recommended that the DfE "urgently needs to build up a better picture of the condition of the educational estate that it funds .... the first step should be to collate all existing information sources and to establish a simple, well-designed database to manage this information." The government has accepted this recommendation but chosen to specifically exclude asbestos from the audit. Because of this it will not be possible to prioritise those schools containing the most dangerous asbestos, and any financial forecasts will be meaningless.

It is recommended that data is centrally collated on the extent, type and condition of asbestos and this is an integral part of the data collection of the condition of the nation's schools.

Conclusion

It is clear that, at present, there are serious deficiencies in the way that asbestos is managed in schools. In part this is because a number of different government departments are responsible for the issue, not all of which come under the remit of occupational safety in respect of workers. There is also a view that successive governments have seen the issue as 'too big to handle'. The longer the issue remains unaddressed the more people will be exposed. The long term cost to the state will continue to

grow and the bill will have to be picked up by future generations, just as we are now seeing the cost of what happened in the 1950s, 60s and 70s. There is a need for both greater coordination of work in this area, but more importantly a long-term strategy aimed at eradicating the problem once and for all.

Recommendations

The All-Party Group recommends that:

- The Government should set a programme for the phased removal of asbestos from all schools, with priority being given to those schools where the asbestos is considered to be most dangerous or damaged.
- Standards in asbestos training should be set and the training should be mandatory and properly funded.
- A trial should take place to perfect a system of widespread air sampling in schools.
- A policy of openness should be adopted. Parents, teachers and support staff should be annually updated on the presence of asbestos in their schools and the measures that are being taken to manage it.
- Pro-active inspections to determine the standards of asbestos management should be reinstated, with a view to reducing future costs.
- Data should be collected centrally on the extent, type and condition of asbestos in schools and this becomes an integral part of the data collection of the condition of the nation's schools.

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