



Guidance Alert

Asbestos - New Survey Guide Due 2010

The new asbestos survey guide, HSG 264, which replaces the existing guide for bulk sampling of asbestos in commercial and domestic properties (MDHS 100) has been released. The key areas to be aware of are summarised below:

Competence

It is the duty holder's responsibility to ensure that they appoint a competent organisation or person to undertake the asbestos survey. In practice, this means requesting references with respect to previous survey portfolios undertaken and ensuring that the organisation or surveyor appointed is accredited or certified by a third party. Organisations can demonstrate that they are technically competent to undertake surveys for asbestos containing materials (ACMs) through accreditation to ISO/IEC 17020. Individual surveyors can also demonstrate that they are technically competent to undertake specified surveys through holding 'personnel' certification from a Certification Body accredited by UKAS (United Kingdom Accreditation Service) for this activity under ISO/IEC 17024. The Duty Holder should not appoint or instruct an independent surveyor to carry out a survey unless the surveyor is competent.

Types of Survey

When the new Survey Guide is published, there will be two classifications of asbestos survey, not three as there is currently.

Type 1: Management Survey

This is the standard survey that should be carried out for the continued management of asbestos in premises. The purpose of the survey is to locate, as far as reasonably practicable, the presence and extent of any suspect ACMs in the building and assess their condition. Sampling is the most common approach that has been used for surveys. However, a management survey can also involve presuming the presence or absence of asbestos. A management survey can be completed, using a combination of sampling ACMs and presuming ACMs or, indeed, just presuming. Any materials presumed to contain asbestos must also have their condition assessed (ie material assessment).

Management surveys may involve minor intrusive work and some disturbance. The extent of intrusion will vary between premises and depend on what is reasonably practicable for individual properties. Factors include the type of building, the nature of construction, accessibility etc.

Type 2: Refurbishment and Demolition Surveys

This survey is used to locate and describe, as far as reasonably practicable, all ACMs in the area where the refurbishment work will take place or in the whole building if demolition is planned. The survey will involve destructive inspection as necessary, to gain access to all locations, including those that may be difficult to reach. Refurbishment work may vary from relatively small to large projects. Small scale work may occur in different parts of a building at different times over several years. A full sampling programme is undertaken in these areas to identify possible ACMs and to obtain estimates of the volume and surface area of the ACMs present. The survey is primarily designed to identify ACMs so that they can be removed in preparation for the refurbishment or demolition.

Survey Restrictions and Caveats

The value and usefulness of the survey can be seriously undermined where either the client or the surveyor imposes restrictions on the survey scope or on the techniques/methods used by the surveyor. Information on the location of all ACMs, as far as reasonably practicable, is crucial to the risk assessment and development of the management plan. Any restrictions placed on the survey scope will reduce the extent to which ACMs are located and identified, incur delays and consequently make managing asbestos more complex, expensive and potentially less effective. Survey restrictions and caveats can significantly undermine the management of asbestos in buildings. They should be included only where absolutely necessary, and should be fully justified. Most can be



HEALTH & SAFETY NEWS

Issue	1
Date:	02/02/10
Page:	2 of 9

avoided by proper planning and discussion. They MUST be agreed between the Duty Holder and the Surveyor and documented in the survey report.

Further Information

The Control of Asbestos Regulations 2006

The Control of Asbestos Regulations 2006 (CAR 2006) encompasses all the pre-existing regulations for management and use of asbestos material. In summary, the duty holder's responsibilities under the Control of Asbestos Regulations 2006 as applied to premises, are to:

- take reasonable steps to find out if there are materials containing asbestos in non-domestic premises, and if so, its amount, where it is and what condition it is in
- presume materials contain asbestos unless there is strong evidence that they do not make, and keep up-to-date, a record of the location and condition of the asbestos containing materials - or materials which are presumed to contain asbestos
- assess the risk of anyone being exposed to fibres from the materials identified; prepare a plan that sets out in detail how the risks from these materials will be managed, take the necessary steps to put the plan into action
- periodically review and monitor the plan and the arrangements to act on it so that the plan remains relevant and up-to-date
- provide information on the location and condition of the materials to anyone who is liable to work on or disturb them.

There is also a requirement on anyone to co-operate as far as is necessary to allow the duty holder to comply with the above requirements.

Domestic Premises

While the CAR 2006 Regulation 4 duty applies specifically to non-domestic premises, the wider duties for managing asbestos risks under CAR 2006 and the Health and Safety at Work etc Act 1974 apply to workers in all workplaces.

Local Authorities and other housing organisations who own or are responsible for domestic properties have legal duties to ensure the health and safety of their staff (and others) in domestic premises used as a place of work. These organisations also have a duty to identify asbestos under CAR 2006 Regulation 5 where work (eg non-licensed) with asbestos is planned.

The Duty-to-Manage framework set out in CAR 2006 provides a mechanism for protecting workers and achieving compliance in domestic properties and, indeed, many organisations with both domestic and non-domestic property portfolios have essentially adopted the CAR 2006 Regulation 4 model for their management arrangements in both sets of premises.



Prosecutions

£100,000 Fine for Care Home

A care home provider has been fined £100,000 with costs of £45,000 after a disabled teenager was lowered into a bath of scalding water and died from her injuries.

Yelena Hasselberg-Langley, 18, suffered severe burns when she was lowered into the excessively hot bath at a supported living home in Oxfordshire.

Lifeways Community Care Ltd - which runs the home on Owens Way, Oxford - was sentenced at Oxford Crown Court today after being prosecuted by the Health and Safety Executive (HSE).

Ms Hasselberg-Langley was a resident at the home and required 24-hour care. She was registered blind, was paraplegic and had epilepsy.

On 27 August 2007 she was lowered into a bath of excessively hot water and suffered severe burns. She was admitted to the John Radcliffe Hospital in Oxford before being transferred to the specialist burns unit at the Queen Victoria Hospital in East Grinstead. Ms Hasselberg-Langley died on 31 August 2007.

Lifeways, who are registered at 118 Garratt Lane, London, had pleaded guilty to breaching Section 3(1) of the Health and Safety at Work Act etc 1974.

This was a successful joint investigation which was initially led by Thames Valley Police (TVP) with technical assistance from HSE. The TVP report was passed to the Crown Prosecution Service who decided that they would not pursue criminal proceedings against any of the individuals involved. The HSE then continued with the criminal investigation.

The court heard that the HSE investigation found that although the bath was fitted with a special valve to prevent scalding, this valve had never been set. In addition to this, staff had no training in the risks of scalding and there was no bath thermometer.

Following the incident, Lifeways Community Care Ltd, were issued with an Improvement Notice by HSE requiring them to establish proper procedures to minimise the chance of a similar incident occurring.

HSE Inspector, Nina Judkins, said:

"It is difficult to imagine a more vulnerable resident than Yelena. The risk of scalding to people who are so vulnerable that they cannot prevent harm to themselves is a well-known danger in the care industry.

"The consequences of scalding can, in addition to causing excruciating pain, be fatal - as so shockingly seen in this case.

"HSE has extensive, freely-available guidance on how the risk of scalding can be controlled. If this guidance had been followed then this tragedy would not have happened.

"Everyone involved with the care of vulnerable service users must ensure that they have the necessary safeguards in place. Cases like this are completely avoidable if the correct guidance is followed."



Smoker Fined £600 for Smoking in their Taxi

A local taxi driver has been fined out over £600 after being found guilty of three offences relating to smoking in a smoke-free place.

Smoking enforcement officers confirmed that the driver previously received a written warning and a fixed penalty for two offences in 2007 and 2008.

The latest offences occurred between May and August 2009 and resulted in a fine of £525, and included further costs of £85 and a £15 victim surcharge.

Smoking in public places in Wales become illegal in April 2007. The ban includes pubs, restaurants and other public places where people congregate. The ban also includes work places, and requires work-based vehicles such as taxis and buses to be smoke free.

So far, Swansea Council has issued 53 fixed penalties to people for smoking in company and licensed vehicles and have had six successful prosecutions for the same offences.

John Hague, Cabinet Member for the Environment in Swansea Council, said: "Since the introduction of the ban on smoking in public places, the Council has taken its responsibilities very serious in terms of ensuring people comply with the ban.

"We have noticed less compliance in the ban by some drivers of commercial and licensed vehicles.

"We would urge companies to remind staff who drive vehicles to remember that vehicles used for work are also considered a public place and the legislation covers these vehicles."

Salus Be Wise

The ban on smoking in public places came into effect in 2007. It is a ban that covers all areas that are deemed public, which is why a Taxi is affected.

Please review this white paper on smoking in Taxis. This paper classes taxis as a public space and therefore is covered under the Smoke Free Premises etc. Wales Regulations 2007. The White paper also discusses the points of a driver smoking in a non-smoking vehicle:

"Hitherto the discussion in this paper and publicly has been about passengers being prevented from smoking. But there are also issues about smoking by drivers.

"What should be the legal position if a driver smokes in a non-smoking taxi? Some passengers might be particularly averse to tobacco smoke and might therefore want to travel in a taxi which they could be certain was completely free of smoke. Should they have sanctions if the driver smokes?"

This raises the problem of evidence noted above. More especially, there does not seem any realistic prospect of requiring the driver to leave the taxi, or going to a police station. If the 'non-smoking' designation is to be maintained, for the benefit of the passenger, the passenger's only recourse would seem to be to report the driver to the licensing authority (the PCO in London, the local authority elsewhere) for any disciplinary action they may wish to take."



HEALTH & SAFETY NEWS

Issue	1
Date:	02/02/10
Page:	5 of 9

You might also like to review precisely the reasons why smoking was banned in the first place, relating to second hand smoke. The smoke can:

- cause headaches
- coughs
- dizziness
- nausea
- nose, throat and eye infection

But these are only the immediate health concerns, prolonged exposure to second hand smoke can lead to:

- asthma attacks
- lung cancer
- heart disease
- strokes
- low birth-weight babies
- asthma
- ear problems
- cot death.

Fine after Man Dies at Heathrow

A major airport services company has today been fined £90,000 after a man was crushed to death under a vehicle at Heathrow Airport in 2008.

The Health and Safety Executive (HSE) prosecuted Aviance UK Ltd, which is based in Grey Street, Newcastle upon Tyne, for its role in the incident. The company pleaded guilty to breaching Section 2(1) of the Health and Safety at Work Act etc. 1974, at the City of London Magistrates' Court, on 27 November 2009.

Aviance UK was today fined £90,000 and ordered to pay costs of £18,800 at the Central Criminal Court (Old Bailey).

The court heard that on 25 March 2008, Mohammed Taj, 52, from Hayes, a vehicle maintenance specialist, was repairing a defective vehicle used to pull baggage trolleys, also known as a baggage tug, which had broken down near Heathrow Airport's Terminal 1. The vehicle was raised 60cm in the air on a single trolley jack as its only means of support. The worker was underneath the tug when the trolley jack moved backwards, dropping the tug onto him. He died at the scene shortly afterwards from head injuries.

The HSE investigation showed that the maintenance van supplied by Aviance UK routinely carried a trolley-jack but never carried axle stands or other means of support which should be used.

Aviance UK did not have an adequate system for ensuring that the maintenance van returned to the workshop for axle stands, or that defective vehicles were recovered and proper vehicle hoists used.

HSE inspector, Stephen Kirton said:

"Mr Taj's tragic death could have been avoided if axle stands were routinely carried in the company maintenance van and were used by staff. Mr Taj could be alive today if just £30 had been spent on a pair of axle stands.



"Working under poorly supported vehicles has been recognised by HSE as serious problem for many years. We've recently published guidance in this area which clearly states that people should never work below vehicles supported only by jacks. This should be read by all managers in the motor vehicle repair industry."

News

Load Safety Campaign: Vehicle Spot Checks

Spot checks on hundreds of vehicles will take place in the coming weeks in support of a new drive to ensure that loads are being transported securely.

The Health and Safety Executive's new load safety campaign is focused on reducing the number of death and injuries linked to workplace transport.

Loading and unloading accounts for one in five workplace transport incidents - many resulting from loads not being properly restrained.

Unsafe loads on vehicles injure more than 1,200 people a year and cost UK businesses millions of pounds in damaged goods.

There will be eight days of spot checks at locations across the North West, with officers from the HSE and the Vehicle Operator Services Agency (VOSA) inspecting the loads of vehicles that have been pulled over at random.

Similar spot checks took place in April last year with close to 80 per cent of loads found not to be sufficiently restrained.

Drivers/businesses who are found to have unsafe loads face fines or even risk having their vehicle ordered off the road.

As part of the wider 9 week campaign, hauliers and transport managers will be mailed with guidance and top tips on loading and unloading safely and radio and trade press adverts.

Peter Brown from HSE said: "There is absolutely no excuse for unsafe loads. We hear from drivers that they were only 'going down the road' or 'they were running late' but these just won't wash, not when people's health or lives are at risk.

"Vehicles are at risk of overturning if a load moves and makes them unstable. Load shifts can also put those workers who are unloading the van or lorry at the other end at risk.

"Materials falling from vehicles pose a danger to other road users as well as causing annoying traffic disruption. Apart from this, there is the cost to business of a lost or damaged load.

"Take those few extra minutes to secure your loads or at best you could face a fine or, at worst, risk death or injury to your self or others.

John Fitch, VOSA's Research and Development Manager said: "VOSA and HSE recognise that insecure loads present a great risk to road safety.



We are keen to participate in HSE's new campaign to highlight the issues of insecure loads, provide education and information for the haulage industry and reduce congestion caused by load loss."

Kate Gibbs, Head of Communication for the Road Haulage Association said: "A considerable amount of work has been conducted into load security. Key stakeholders have been involved in assessing where the main problems are and seeing what can be done to make improvements.

"Items such as vehicle design and specification including the correct restraints for specific loads, loading dynamics, route planning, loader and driver training are just a few of the factors that need to be considered before loads are despatched".

Guidance

COMAH – Revised Guidance

Safety reports are required under Regulation 8 of the Control of Major Accident Hazards Regulations 1999 (COMAH). Guidance for operators of top tier COMAH establishments has been revised to reflect the changes in arrangements for the submission and assessment of the five-year safety report review.

Regulation 8 specifies that the safety report is reviewed and, where necessary, revised in a number of circumstances. In summary, operators should:

- review the safety report where changes could have significant repercussions with respect to the prevention of major accidents or the limitation of consequences of major accidents to persons and the environment
- where changes do have significant repercussions, revise the safety report to reflect the changes
- in any event, undertake a review of your full safety report every five years.

The purpose of review and revision is to ensure that the safety report remains up to date and continues to provide an accurate representation of the major accident hazards on site and the measures in place to control them.

The two significant changes to the assessment of five-year safety reports revisions are:

- a six month pre-meeting will be held between the Operator and the COMAH Competent Authority (COMAH CA) to discuss content of the five-year revision
- five-year revisions will receive less desk-top assessment by COMAH CA technical specialists. Instead there will be a move towards on-site verification of demonstrations made in the safety report.

The operator should also now clearly signpost any changes in the safety report since the last assessment and produce a report to support this. This will speed up the assessment process and make it more efficient.



Reports

Violence at Work

This report contains details from the 2008/09 British Crime Survey (BCS) on violence at work. It provides an overview of the extent of violence at work in England and Wales and examines the nature of these incidents and the risk factors that may affect victimisation. Findings from the survey are summarised below:

The extent of violence at work:

- the risk of being a victim of actual or threatened violence at work is low; the 2008/09 BCS indicates that 1.4% of working adults were the victims of one or more violent incidents at work
- approximately 327,000 workers had experienced at least one incident of violence at work in the 2008/09 BCS, 45% fewer than the peak of 592,000 in 1997
- there was an estimated 627,000 incidents of violence at work according to the 2008/09 BCS, comprising 321,000 assaults and 305,000 threats
- the number of incidents of violence at work has fallen by 55% from the peak of 1,404,000 in 1995 to the current level respondents in the protective service occupations, for example police officers, were most at risk of violence at work, with 9.0% having experienced one or more incidents of actual or threatened violence while working during the year prior to their interview. Others at risk included health professionals, at 3.8%, and health and social welfare associate professionals, with 2.6%.

The nature of violence at work:

- the 2008/09 BCS found that 1.3% of women and 1.5% of men were victims of violence at work once or more during the year prior to their interview
- it is estimated that over a third (36%) of all people assaulted or threatened at work were repeat victims, with almost a quarter (24%) experiencing three or more incidents of workplace violence during the year, and a further 12% having experienced two incidents
- strangers were the offenders in 59% of cases of workplace violence. Among incidents where the offender was known, the offenders were most likely to be clients or a member of the public known through work

Consequences of violence at work:

- the 2008/09 BCS found 47% of assaults at work resulted in injury, with minor bruising and scratching accounting for the majority of the injury type recorded.



HEALTH & SAFETY NEWS

Issue	1
Date:	02/02/10
Page:	9 of 9