
Guidance on Clients Responsibilities on appointing Asbestos Contractors

GN002-V0519-Clients Responsibilities on appointing Asbestos Contractors

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GUIDANCE ON CLIENTS RESPONSIBILITIES ON APPOINTING ASBESTOS CONTRACTORS

1. INTRODUCTION

- 1.1. Clients are at the head of the procurement chain and have the final say on how projects are run. They have enormous opportunities to set standards for project delivery, including health and safety management. Therefore the law requires that clients (a) make suitable arrangements for managing a project and (b) maintain and review these arrangements throughout the project to ensure health and safety risks are managed appropriately.
- 1.2. Commercial clients have a duty under Sections 2 and 3 of the **Health and Safety at Work etc. Act 1974** to ensure the health, safety and welfare of their employees *and* any persons who visit their premises or may be affected by work done on their premises. The **Construction (Design and Management) Regulations 2015 (CDM 2015)** place explicit responsibilities on clients.

Successful projects require good coordination and cooperation between all parties. Clients' decisions, actions and inaction have an enormous impact on how work can be delivered, causing contractors to fail to meet industry and legal standards and potentially leaving clients with substantial criminal and civil liabilities, lengthy delays and disruptions to projects.
- 1.3. Clients are not expected to be 'experts' in either construction work or asbestos work and do not need to directly manage or supervise the work themselves. However, they are responsible for ensuring appropriate arrangements are in place to manage and organise projects during both the 'pre-construction' and 'construction' phases of the project. This means appointing suitably competent people and providing them with sufficient information, time and resources to do the job properly.
- 1.4. The human cost of asbestos disease is devastating and significant exposures are entirely avoidable. When asbestos is managed well, inadvertent exposure is prevented and asbestos will be dealt with in a controlled and safe manner. The financial and reputational costs of getting asbestos management wrong are substantial.

2. CLIENTS, PRINCIPAL DESIGNERS AND CONTRACTORS

- 2.1. CDM 2015 responsibilities fall on three main duty holders. The **CLIENT** has overall responsibility for the successful management of the project (CDM 2015 regulations 4 and 7 and guidance at paragraphs 23-45 of HSE publication L153 *Managing Health and Safety in Construction*). Clients must appoint a **PRINCIPAL DESIGNER** and a **PRINCIPAL CONTRACTOR** (regulation 5). All three must communicate and coordinate effectively with each other (paragraphs 66-68 of L153).

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- 2.2. In practice, the asbestos contractor is likely to fulfil the roles of both principal contractor and principal designer. Principal designers manage 'pre-construction' health and safety, ensuring cooperation between clients and others, and obtaining and interpreting relevant information, such as asbestos surveys. Principal contractors manage the 'construction phase', maintaining liaison with the client and principal designer throughout. Experience has shown that the early involvement and liaison between all duty holders delivers more successful projects.

3. THE DUTY TO MANAGE AND ASBESTOS SURVEYS

- 3.1. Regulation 4 of the Control of Asbestos Regulations 2012 (CAR 2012) places a 'duty to manage' asbestos on those in control of non-domestic premises. Clients must assess the presence, location and condition of asbestos on their premises, and have management arrangements in place to make sure it cannot be inadvertently disturbed. The 'duty to manage' asbestos in non-domestic premises is a broad topic and clients should refer to the sources of further information below for more detailed guidance. There is no legal duty to *remove* asbestos: before appointing an asbestos contractor, a client should have considered whether it would be more appropriate to manage the asbestos materials in-situ.
- 3.2. Regulation 5 of CAR 2012 requires employers to identify the presence of asbestos (and its type and condition) *before* any building/maintenance/demolition etc. work is carried out that is liable to disturb the asbestos. Conducting a survey is the first step towards managing asbestos: a good survey will identify what is (or could be) present and this information must be then used to develop an appropriate management plan. Where asbestos materials have been identified, or are liable to be present, the management plan would typically be based on a Management Survey. Where the client has commissioned work requiring refurbishment or demolition that will disturb the fabric of the building a Refurbishment and Demolition Survey would be required.

In the past, some clients have specified "all risk contracts" for refurbishment or demolition work. In these cases, it is highly unlikely that they will be complying with their legal duties CDM 2015 and the Health and Safety at Work etc. Act 1974.

4. APPOINTING THE RIGHT PEOPLE

- 4.1. Clients need to make reasonable enquiries, satisfying themselves that contractors are appropriately resourced, have effective management systems and competent for the work.

Asbestos Removal Contractors Association ([ARCA](#)) members are required to demonstrate high standards of workmanship and health & safety management, and maintain appropriate levels of insurance. ARCA members need to complete two satisfactory unannounced site audits (that is, they have no prior notice of an audit), every year, to maintain membership, so providing reassurance that good practices are continually demonstrated.

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- 4.2. For licensed asbestos work, an analyst must be appointed to verify that a work area has been thoroughly cleaned and the level of airborne fibres in the work area is as low as reasonably practicable, prior to handover for reoccupation or demolition etc. It is desirable that the analyst is employed directly by the client. This arrangement helps avoid any conflict of interest (perceived or real). UKAS accredited analysts can be found on the [ATaC website](#)

5. SCOPE OF WORK

- 5.1. A clear, precise and accurate scope of work (or brief) provides a foundation for the whole project. Clients need to describe (a) why they are having asbestos work done, (b) what will follow on from the asbestos removal, and therefore, (c) what asbestos material needs to be removed. Where possible, the client should:
- Discuss the type of survey required with contractor and surveyor, and
 - Discuss how the area will be determined 'clean' and fit for reoccupation with contractor and analyst.

6. PROVIDE ACCURATE INFORMATION TO CONTRACTORS

- 6.1. CDM 2015 gives clients the responsibility for preparing pre-construction information (paragraphs 42-43 of L153). Asbestos surveys are a critical component of such information. The asbestos contractor / principal designer should assist by helping to assess the adequacy of the information, identifying gaps and advising how these can be addressed. For example, if it was not possible to access all areas when the asbestos survey was carried out because part of the building was occupied, the contractor should advise the client to commission additional surveys, or make other reasonable enquiries. This should be done well before construction work starts, or it should be presumed that asbestos is present.
- 6.2. Clients should expect to hold a pre-contract meeting with contractors, allowing sufficient time for any issues arising to be addressed.

7. LIAISE WITH CONTRACTORS TO ENSURE PROPER PLANNING AND SITE CONTROL

- 7.1. Asbestos contractors will need appropriate pre-construction information in order to prepare a suitable work plan. Contractors need time (and access) to assess the premises properly and discuss key site information with the client, such as:
- Access: transit routes, waste routes, location of decontamination unit and asbestos waste skip, including any segregation of these areas, which may be necessary.
 - Services: location of water supply, well earthed electrical supplies and drains for decontamination unit wastewater discharge.

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- Site hazards: known non-asbestos hazards particular to the site. The client needs to provide the contractor with details of relevant hazards on site.
- Occupancy: other contractor and staff activity on the site that may need to be considered as part of the plan of work.
- Site restrictions and security: any security or access restrictions which may be applicable.
- Isolations: the relevant electrical, gas and water isolations that have been carried out to ensure the work can be completed safely. 'Hot Work' will only be permitted in exceptional and fully justifiable circumstances, and, as it must be identified on the notification to the enforcing authority, it is likely to be challenged. HSE guidance states that hot working and asbestos removal are almost incompatible activities and therefore all avenues should be explored to remove the heat source. Wherever possible hot plant should be turned off and allowed to cool before asbestos removal work begins. Turning plant off may not always be possible, and therefore asbestos removal should be programmed for times when the plant will be cool i.e. summer months or other planned downtime.
- Existing emergency arrangements: the emergency arrangements particular to the site such as fire and evacuation procedures. Clients shall liaise with the contractor to establish the client's point for contact in case of an emergency particularly with regards to weekend working and out of hours working.

7.2 Ensure adequate welfare is in place

This requires cooperation, coordination and communication between all parties. Clients must confirm that adequate facilities (toilets and washing areas, rest areas, access to drinking water, changing rooms and lockers) are in place.

7.3 Allowing adequate time and space

Clients must allow sufficient time for asbestos surveys to be carried out. An effective Refurbishment and Demolition Survey cannot be carried out in an occupied building.

7.4 Ensure an adequate plan is in place for the work

For any kind of work with asbestos clients must ensure there is a written Plan of Work in place. For very simple, un-licensed jobs the kinds of work methods described in Asbestos Essentials may suffice.

For licensed work a 'suitable and sufficient' Plan of Work is always required and is a standard condition placed on all licence holders. It must be prepared prior to work being notified to the enforcing agency, at least 14 days prior to work starting.

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The written Plan of Work should very clearly describe the scope of work and explain: what is being removed, where is it located and how is it fixed, how will it be accessed and what removal methods will be used to prevent/control exposure. A good plan should be self-explanatory and able to provide the client with confidence that the project has been thoroughly assessed and resourced. Where generic assessments and method statements are presented in a plan of work, this may raise legitimate questions about the adequacy of the contractors' planning process.

7.5 Ensure good communication and coordination is maintained throughout the project

The client must confirm that effective arrangements have been made to coordinate the work. For example, asbestos contractors' transit and waste routes must not be obstructed.

8 ON COMPLETION: RETAIN 'HEALTH AND SAFETY FILE'

8.1 HSE Guidance Note HSG 248 "The Analysts Guide" provides the framework for final clearance and reoccupation of any area from which asbestos has been removed.

Agreements and procedures for completion should be agreed when the programme is scoped. The documentation should be handed to the client at the end of the project and formal site sign-off. The client should update asbestos management plans and registers, as necessary.

9 FURTHER INFORMATION

9.1 Construction

- HSE's *Managing Health and Safety in Construction (L153)* provides guidance on the Construction (Design and Management) Regulations 2015 (CDM 2015). General guidance can also be found on HSE's website.
- HSE guidance note *Using Contractors, a brief guide (INDG 368)*
- HSE guidance for Commercial Clients
- HSE guidance for smaller/domestic clients – *Need building work done (INDG411)*
- CITB's Industry Guidance for Clients

9.2 Asbestos management, licensing and removal

- *Managing asbestos in buildings - a brief guide (INDG223)* □ *Asbestos: The Survey Guide (HSG264)*.
- *Managing and working with asbestos: The Control of Asbestos at Work Regulations 2012 Approved Code of Practice (L143)*
- HSE web pages on licensed work with asbestos (including examples of licensable, notifiable non-licensed work and non-licensed work)
- HSE's Asbestos Essentials: task manual for non-licensed work with asbestos

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