

Asbestos Safety Policy

Name	Asbestos Safety Policy
Owner	Strategic Director
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Consultation ET	N/A
Consultation with Tenants	N/A
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1.0 Introduction and Objectives

- 1.1 As a landlord, Gateshead Council is responsible for maintenance and repairs to our homes, communal blocks, and other properties we own and manage, many of which will have been constructed using asbestos containing materials. As such, we have a legal 'duty to manage' asbestos in these buildings.
- 1.2 Homes or buildings built or refurbished before the year 2000 may contain asbestos. If an asbestos containing material is disturbed or damaged it can release asbestos fibres into the air which are a danger to health if inhaled. Workers who carry out repairs and maintenance work are at particular risk, however, building occupants could also be put at risk.
- 1.3 The key objective of this policy is to ensure our Cabinet, Senior Management Team, employees, partners, and tenants are clear on our legal and regulatory asbestos safety obligations. This policy provides the framework our staff and partners will operate within to meet these obligations.

2.0 Scope

- 2.1 This policy meets the requirements of The Control of Asbestos Regulations 2012 (CAR 2012). This policy provides assurance that measures are in place to identify, manage and/or mitigate risks associated with asbestos.
- 2.2 This policy is relevant to all our employees, tenants, contractors, stakeholders, and other persons who may work on, occupy, visit, or use our premises, or who may be affected by our activities or services.
- 2.3 The policy should be used by all to ensure they understand the obligations placed upon Gateshead Council to maintain a safe environment for tenants and employees within the home of each tenant, and within all communal areas of buildings and other properties we own and/or manage. Adherence to this policy is mandatory.

3.0 Roles and Responsibilities

- 3.1 The Cabinet has overall governance responsibility for ensuring this policy is fully implemented to ensure full compliance with legislation and regulatory standards. As such, the Cabinet will formally approve this policy and review it every two years (or sooner if there is a change in legislation or regulation).
- 3.2 For assurance that this policy is operating effectively in practice, the Cabinet will receive regular updates on its implementation, asbestos safety performance and non-compliance.
- 3.3 The Senior Management Team (SMT) will receive monthly performance reports in respect of asbestos safety and ensure compliance is being achieved. They will also be notified of any non-compliance issue identified and planned corrective action.
- 3.4 The Strategic Director has strategic responsibility for the management of asbestos safety, and ensuring compliance is achieved and maintained. They will oversee the implementation of this policy.

- 3.5 The Service Director and Service Manager have operational responsibility for the management of asbestos safety and will be responsible for overseeing the delivery of these programmes.
- 3.6 It is a condition of the tenancy agreement that tenants must allow access for us to carry out works in their home.
- 3.7 Housing teams will provide support where gaining access to properties is difficult.

4.0 Regulatory Standards, Legislation, and Approved Codes of Practice

4.1 **Regulatory Standards** - We must ensure we comply with the Regulator of Social Housing's regulatory framework and consumer standards for social housing in England. The new consumer standards were introduced as part of the Social Housing Regulation Act which came into effect from 1st April 2024. All social landlords are required to comply with the four consumer standards, which are:

- **The Safety and Quality Standard** - which requires landlords to provide safe and good quality homes and landlord services to tenants. This includes stock quality; decency; health and safety; repairs, maintenance, and planned improvements; and adaptations.
- **The Transparency, Influence and Accountability Standard** - which requires landlords to be open with tenants and treat them with fairness and respect so that tenants can access services, raise complaints when necessary, influence decision making and hold their landlord to account. This standard incorporates Tenant Satisfaction Measure (TSM) requirements.
- **The Neighbourhood and Community Standard** - which requires landlords to engage with other relevant parties so that tenants can live in safe and well-maintained neighbourhoods and feel safe in their homes.
- **The Tenancy Standard** - which sets requirements for the fair allocation and letting of homes and for how those tenancies are managed and ended by landlords.

The Social Housing Regulations Act 2023 will change the way social housing is regulated and may result in future changes to this policy.

4.2 **Legislation** - The principal legislation applicable to this policy is:

- The Control of Asbestos Regulations 2012 (CAR 2012).
- The Health and Safety at Work, etc. Act 1974.
- The Construction (Design and Management) Regulations 2015 (CDM).
- The Management of Health and Safety Regulations 1999.

This policy also operates within the context of additional legislation (see Appendix 1).

4.3 **Approved Code of Practice (ACoP)** - The principal ACoP applicable to this policy is:

- ACoP L143 - Managing and working with Asbestos (Second edition, 2013).

4.4 **Guidance** - The principal guidance documents applicable to this policy are:

- HSG227 - A comprehensive guide to managing asbestos in premises (First edition, 2002).

- HSG247 - Asbestos: The licensed contractors' guide (First edition, 2006).
 - HSG264 - Asbestos: The survey guide (Second edition, 2012).
 - INDG223 - Managing asbestos in buildings: a brief guide (Revision 5, April 2012).
 - HSG210 - Asbestos Essentials: A task manual for building, maintenance and allied trades and non-licensed asbestos work (Fourth edition, 2018).
 - HSG248 - Asbestos: The Analysts' Guide (Second edition, 2021).
- 4.5 **Sanctions** - the Council acknowledges and accepts its responsibilities in accordance with the regulatory standards, legislation and approved codes of practice, and that failure to discharge our responsibilities and obligations properly could lead to sanctions, including prosecution by the Health and Safety Executive (the HSE) under the Health and Safety at Work Act 1974; prosecution under the Corporate Manslaughter and Corporate Homicide Act 2007; prosecution under the Control of Asbestos Regulations 2012; and via a regulatory notice from the Regulator of Social Housing.
- 4.6 **Tenants and Leaseholders** - the Council 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 work.

5.0 Obligations

- 5.1 Under The Control of Asbestos Regulations 2012 (CAR 2012) Gateshead Council has a legal obligation under Part 2, Section 4 'Duty to manage asbestos in non-domestic properties' and is the 'Duty Holder' for the purposes of the legislation. The duty requires the Council to manage the risk from asbestos by:
- Finding out if asbestos containing materials (ACMs) are present, where we have an obligation to do so, presuming that materials contain asbestos unless we have strong evidence that they do not.
 - Identify the location and condition of any ACMs.
 - Assume asbestos is present if the property was built prior to the year 2000.
 - Keep an up-to-date record (an asbestos register) of the location and condition of ACMs or presumed ACMs.
 - Assess the risk from any ACMs found.
 - Prepare an Asbestos Management Plan that sets out how we will manage the risk from ACMs, and review and monitor its implementation.
 - Set up a system to provide information on the location and condition of ACMs to anyone who is liable to work on or disturb them.
 - Assess the reliability of information we receive relating to asbestos within the properties we own and manage. Anyone who has information on the whereabouts of asbestos within these properties is required to make this available to us.

6.0 Statement of Intent

- 6.1 We acknowledge and accept our responsibilities under CAR 2012 as outlined in Section 5, and we recognise that the main hazard in relation to asbestos is the non-identification of ACMs. As such, we will protect those persons potentially exposed to asbestos as far as is reasonably practicable, using appropriate control measures and working methods.
- 6.2 To fully comply with CAR 2012, we have a Cabinet approved Asbestos Safety Policy, an Asbestos Management Plan and we will maintain an asbestos register.
- 6.3 We will carry out an intrusive refurbishment/demolition survey to domestic and non-domestic properties as and when required, as per HSG264.
- 6.4 We will ensure that information about ACMs (known or presumed) is provided to every person liable to disturb it, accidentally or during their work. This includes employees, contractors, and tenants. Our employees and contractors can access this through our Keystone asbestos register.
- 6.5 We 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.
- 6.6 We will provide appropriate Personal Protective Equipment (PPE) to our in-house delivery team where required.
- 6.7 We will ensure that there is a robust process in place to manage immediately dangerous situations identified during asbestos related works.
- 6.8 We will operate effective contract management arrangements with the contractors responsible for delivering the service, including ensuring contracts/service level agreements are in place, conducting client-led performance meetings, and ensuring that contractors' employee and public liability insurances are up to date on an annual basis.
- 6.9 We 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. Where tenant vulnerability issues are known or identified we will ensure we safeguard the wellbeing of the tenant.
- 6.10 We will establish and maintain a risk assessment for asbestos management and operations, setting out our key risks from asbestos and appropriate mitigations.
- 6.11 To comply with the requirements of the Construction (Design and Management) Regulations 2015 (CDM) a Construction Phase Plan (CPP) will be in place for all repairs to void and tenanted properties (at the start of the contract and reviewed annually thereafter), component replacement works and refurbishment projects.
- 6.12 We will ensure there is a robust process in place to minimise any potential non-compliance by ensuring processes are effective and have appropriate control measures in place to mitigate any risks. We will analyse any non-compliance that do occur, and take action to prevent recurrence. For example, we will investigate and manage all RIDDOR notifications made to the HSE in relation to asbestos safety and take action to address any issues identified and lessons learned, to prevent a similar incident occurring again. This includes amending our processes to reflect best practice and ensure that service improvements are implemented.
- 6.13 The document will be strictly controlled in accordance with ISO 9001 (Quality Management) and maintained by the Service Manager Building Safety, in conjunction with the Quality Manager.

7.0 Programmes

- 7.1 **Non-domestic properties** - All non-domestic properties (communal blocks/supported schemes/offices/depots) that we own or manage, built prior to the year 2000, will have an asbestos management survey that is compliant with CAR 2012 (dated after 6 April 2012 when this legislation came into effect).
- 7.2 Thereafter, we will maintain a programme of asbestos re-inspections for all non-domestic properties that contain ACMs (known or presumed). Re-inspections will either be annual or in accordance with the risk level as identified by the previous survey. We will not re-inspect any properties where the initial asbestos management survey confirms that there are no ACMs.
- 7.3 **Domestic properties** - We currently hold asbestos survey data on many of our domestic properties. Within the lifecycle of this policy, we will implement a risk-based approach to pro-actively carrying out surveys within domestic properties.
- 7.4 **Garages** - We own or manage approximately 3,500 garages, many of which may contain ACMs. We will carry out a risk-based programme of sample inspections to assess the location and condition of ACMs within these garages and implement a programme of remedial works as necessary.
- 7.5 **Voids, day-to-day repairs, planned maintenance and refurbishment works** - we will review existing asbestos survey information, since 2019, prior to carrying out any intrusive void work, day-to-day repairs, planned maintenance or refurbishment work. Where there is no asbestos information, prior to the work taking place, we will commission a refurbishment/demolition survey to the areas of the property that are likely to be disturbed as part of the proposed works. We will also undertake a management survey to the remainder of the property as part of the same refurbishment/demolition survey. Once completed, survey details will be provided to the relevant operatives or contractors.

8.0 Follow-up Work

- 8.1 Where asbestos is positively identified and removal, sealing or encapsulation is recommended by the competent person, this will be carried out as follows:
- **Non-licensed works** (as defined in Regulation 2 of CAR 2012) - will be undertaken by a Licensed Asbestos Removal Contractor (LARC) licensed by the Health and Safety Executive in compliance with CAR 2012.
 - **Notifiable non-licensed works** (as defined in regulation 2 of the CAR 2012) - will be undertaken by a LARC.
 - **Licensed works** (as defined in regulation 2 of CAR 2012) - will be undertaken by a LARC.

9.0 Data and Records

- 9.1 We will maintain a core asset register of all properties we own or manage, setting out which properties are and are not required to be included on the asbestos re-inspection programme.
- 9.2 We will operate a robust process to manage all changes to stock, including property acquisitions and disposals, to ensure that properties are not omitted from asbestos programmes and the programme remains up to date.
- 9.3 We will keep an asbestos register in Keystone or similar system. The asbestos register will include details of ACMs in the properties we own or manage, with information on the type, address, location, and condition. We will hold inspection dates in the NEC/C365/Keystone system, and asbestos surveys, details of remediation works and evidence of completion of these works in our document management system and Keystone.
- 9.4 We will keep all these records for the duration that we own and manage the property/in line with our document retention policy and have robust processes and controls in place to maintain appropriate levels of security for all asbestos related data.
- 9.5 We will keep air monitoring and health surveillance records for at least 40 years.

10.0 Tenant Engagement

- 10.1 We consider good communication essential in the effective delivery of asbestos safety, therefore we will establish a tenant engagement strategy and communication programme. This will support tenants in their understanding of asbestos, advise them of how they can manage any risk if there is asbestos within their property, and encourage them to report any asbestos safety concerns.
- 10.2 We also aim to successfully engage with vulnerable and hard to reach tenants. We will share information clearly and transparently and will ensure that information is available to tenants via regular publications and information on our website.
- 10.3 We will provide tenants with a copy of the asbestos survey upon request.

11.0 Competent Persons

- 11.1 The Section Manager will hold a Level 4 VRQ Diploma in Asset and Building Management Compliance.
- 11.2 The Technical Lead will be suitably qualified and hold the industry standard qualification (or equivalent) in the management of asbestos in buildings, such as:
- Certificate of Competence - Asbestos.
 - P402 Surveying and Sampling Strategies for Asbestos in Buildings (or equivalent).
 - P403 Asbestos Fibre Counting (or equivalent).
 - P404 Clearance Testing and the Requirements of a Certificate for Reoccupation (or equivalent).
 - P405 Management of Asbestos in Buildings or willing to work towards.
 - W504 Asbestos and Other Fibres.
 - Member of British Occupational Hygiene Society or ability to become a member.
- Please note:** if employees do not have one of the above qualifications they are required to obtain this within 12 months of the approval of this policy.
- 11.3 Only competent contractors accredited by the United Kingdom Accreditation Service (UKAS) will be permitted carry out asbestos management surveys (as per HSG264).
- 11.4 Only competent Licensed Asbestos Removal Contractors (LARCs) will carry out work on asbestos, including non-notifiable non-licensed work, notifiable non-licensed work, or licensed works. Any internal staff carrying out non-licensed work will be required to complete suitable Cat B training.
- 11.5 Suitably competent persons will undertake asbestos re-inspections.
- 11.6 Only suitably competent asbestos consultants and contractors will provide third party technical quality assurance checks.
- 11.7 We will check that our contractors hold the relevant qualifications and accreditations when we procure them and subsequent checks will be completed on an annual basis. We will evidence these checks and each contractor's certification appropriately.

12.0 Implementation and Training

- 12.1 We will deliver training on this policy and the procedures that support it, through appropriate methods including toolbox talks; basic asbestos awareness training; and on the job training for those delivering the asbestos programme, planned maintenance and repair works as part of their daily job. All training undertaken by staff will be formally recorded.
- 12.2 We will ensure that all operatives working for, or on behalf of the Council have the relevant qualifications required for their role.
- 12.3 We will undertake periodic assessments of training needs and resulting programmes of internal and external training supported by Workforce Development.
- 12.4 All employees will have an understanding of asbestos management and their roles and responsibilities in ensuring that we maintain compliance.

13.0 Performance Reporting

13.1 We will report robust key performance indicator (KPI) measures for asbestos safety that follow the requirements set out in the Tenant Satisfaction Measures (TSMs) which came into force 1st April 2023. Performance must be reported to the Regulator on an annual basis from 1st April 2024, however we will report internally monthly to SMT and Cabinet. The relevant TSM for Asbestos Safety is defined as follows:

BS03 - Asbestos Safety Checks - Proportion of homes for which all required asbestos management surveys or re-inspections have been carried out.

13.2 This measure ensures that all individual homes that may be at risk because of any non-compliance are identified.

13.3 We will also report the following:

Data - the total number of:

- Properties - communal blocks, commercial, and other properties.
- Properties on the asbestos management/re-inspection programme.
- Properties not on the asbestos management/re-inspection programme.
- Properties with a valid and in date survey/re-inspection.
- Properties without a valid and in date survey/re-inspection.
- Properties due to be surveyed/re-inspected within the next 30 days; and
- Completed, in-time and overdue follow-up works/actions arising from the surveys.

Narrative - an explanation of the:

- Current position.
- Corrective action required.
- Anticipated impact of corrective action; and
- Progress with completion of follow-up works.

In addition:

- The percentage of domestic properties with full asbestos data.
- The number of RIDDOR notifications to the HSE with regards to asbestos safety.

13.4 The full detail of our performance measures for Asbestos Safety will be outlined in a KPI Definition Document which includes the relevant data sources used for each calculation, the calculation methodology, any exclusions, and the accountable roles for producing and managing the KPIs.

14.0 Quality Assurance

- 14.1 We will require external contractors to provide the results of their own five per cent quality assurance audit checks, as required by UKAS, upon request.
- 14.2 We will undertake sample third party audits of asbestos removals and air monitoring.
- 14.3 We will commission an independent audit of asbestos management at least once every two years, to specifically test for compliance with legal and regulatory obligations and to identify any non-compliance issues for correction.

15.0 Significant Non-Compliance and Escalation

- 15.1 Our definition of significant non-compliance is any incident which has the potential to result in a potential breach of legislation or regulatory standard, or which causes a risk to health or safety. All non-compliance issues will be reported and escalated as soon as possible, and no later than 24 hours after the incident occurred, or of a Gateshead Council employee becoming aware of it.
- 15.2 Any incidents identified at an operational level will be formally reported via the Assyst Health and Safety Incident Reporting System and the process followed which will include investigating the incident and prevent recurrence.
- 15.3 Non-compliance notices will be issued for all breaches of health and safety for employees and contractors, as detailed within the Health and Safety Compliance Procedure (OP-15).
- 15.4 In cases of serious non-compliance, SMT and Cabinet will consider whether it is necessary to disclose the issue to the Regulator of Social Housing as required by the regulatory framework, or any other relevant organisation such as the Health and Safety Executive (HSE).

16.0 Approval

Strategic Lead: Service Director Repairs and Buildings Maintenance

Name: Ian McLackland

Signed: _____

Date Approved: _____

Strategic Lead: Service Manager Building Safety

Name: Darren Burton

Signed: _____

Date Approved: _____

17.0 Glossary

17.1 This glossary defines key terms used throughout this policy:

- **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.
- **Management survey:** A survey to enable the management of asbestos-containing materials during the normal occupation and use of premises.
- **Refurbishment/demolition survey:** A refurbishment/demolition survey is a survey which is necessary prior to any works which may affect the fabric of a building, and which is used to locate (as far as reasonably practicable) asbestos-containing materials. The survey may be within a localised area or cover the whole building.
- **United Kingdom Accreditation Service (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.

18.0 Supporting Information

- Appendix 1 - Additional Legislation.

Appendix 1 - Additional Legislation

This policy also operates within the context of the following legislation:

- Defective Premises Act 1972.
- Health and Safety at Work Act 1974.
- Landlord and Tenant Act 1985.
- Homes (Fitness for Human Habitation) Act 2018.
- The Occupiers' Liability Act 1984.
- The Workplace (Health Safety and Welfare) Regulations 1992.
- Personal Protective Equipment at Work Regulations 1992.
- The Asbestos (Licensing) (Amendment) Regulations 1998.
- The Management of Health and Safety at Work Regulations 1999.
- Control of Substances Hazardous to Health Regulations (as amended) 2002 (COSHH).
- Hazardous Waste (England and Wales) Regulations 2005 (Amendment 2009).
- Reporting of Injuries, Diseases and Dangerous Occurrences Regulations 2013 (RIDDOR).
- Construction (Design and Management) Regulations 2015.
- Data Protection Act 2018.