

As Safe as Houses?

Dealing with Asbestos in Social Housing

A Report for UCATT

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EXECUTIVE SUMMARY

Asbestos causes pleural plaques, pleural thickening, asbestosis, lung cancer and mesothelioma. Asbestosis can be fatal, lung cancer and mesothelioma are fatal. These diseases, which are all untreatable, have long latency periods and symptoms appear only twenty to forty years after exposure. New research reveals that there is a mesothelioma epidemic in the UK, showing that

- **the UK has the highest rates of mesothelioma worldwide**
- **maintenance workers are particularly at risk**
- **non-occupational hazards include, amongst other things, living in council properties and doing DIY.**

A conservative estimate of work-related asbestos deaths is 100,000 people per year worldwide (International Ban Asbestos Secretariat (IBAS, 2004). In Western Europe, medical experts forecast that half a million men will die from asbestos-related causes between 1995 and 2029 (Kazan-Allen, 2003). Globally 10 million people will need to die before exposure is brought to an end by a truly global ban on asbestos (Ladou 2004: 285). The scale of asbestos-related diseases, the expected rise in sufferers and the enormity of the problem have led researchers to refer to a 'global asbestos epidemic' (Rantanen, 1997).

The importation, supply and use of blue and brown asbestos were made illegal in the UK only in 1985. Chrysotile was banned only 10 years ago (in 1999), with the exception of a few specialised uses. **However, asbestos materials have been used extensively for more than a century, leaving many thousands of tons of asbestos in buildings at the present time.² Asbestos 'is estimated to be present in 90% of all public sector housing' (CSE, 2005).³**

This report examines how UK social housing providers deal with asbestos lodged in domestic residences. It explores the intersection between formal regulatory procedures and informal DIY activities; focusing on the legal frameworks within which providers operate, the regulatory roles of the Health and Safety Executive, the ways in which housing providers deal with hazards and the significance of asbestos for residents. Social housing – characterised by decent, affordable and secure housing – has been overlain with market-related ideas of respectability and responsibility. In constructing residents as responsibilised citizens who participate in the management of social housing, new tensions and contradictions have emerged. This research demonstrates that the intersection between housing providers' legal responsibilities to manage asbestos and residents' rights to shape houses into homes creates potential for residents' asbestos exposure. Concurrently, the report shows that people involved in

² Health and Safety Commission, Proposals for revised Asbestos Regulations and an Approved Code of Practice <http://www.hse.gov.uk/consult/condocs/cd205.pdf> accessed 12 March 2009

³ http://www.cityenvironmentalservices.com/information_article_view.php?doc_id=20 accessed 3 February 2009

repairs, maintenance and cleaning are vulnerable when unauthorised work occurs, when asbestos is undetected or when they are not informed of its presence.

Legislation protects workers against asbestos exposure in the workplace, while the position of social housing providers' is less clear. Since May 2006, UK property managers are mandated to maintain an asbestos register. Their legal duties are not to remove asbestos, but to manage it. The Control of Asbestos Regulations 2006 requires employers and the self-employed to 'manage' asbestos, minimising or preventing exposure. The act distinguishes between 'high' and 'low' risk asbestos-containing products and stipulates treatment procedures. The relaxed approach to 'low' risk materials has produced disquiet among maintenance and construction trade unions, especially as asbestos-related diseases continue to increase.

This report argues, however, that this regulatory approach de-emphasises the potential hazards, thereby enhancing the potential for exposure. It does so by: not providing sufficient guidance to people encountering asbestos in their homes, disregarding the ever-present possibility of contamination, ignoring the unfeasibility of informing all people likely to encounter asbestos and overlooking the likelihood that such a regulatory approach encourages a relaxed 'asbestos is not dangerous' approach.

In addition, as the regulatory approach strives to manage public concerns by emphasising low risk and targeting information to those most at risk (tradesmen and maintenance workers), it fails to recognise the multiple, unpredictable ways in which human behaviour impacts on the built environment and, in so doing, exposes unexpected categories of workers to asbestos.

Exploring the principles and legislation underlying social housing, this research highlights contradictions and ambiguities between social housing providers' responsibilities and residents' rights. **The report illustrates the different ways in which social housing providers advertise, inform and deal with asbestos, demonstrating the limitations of policy and practice. It argues that the fundamental rights of secure tenants and the responsibilities of social landlords in relation to repairs, improvements and decorations, lead to confusion and contradictions which enhance the potential for asbestos exposure.**

Social landlords' differing management styles can increase or diminish this potential. Moreover, cost implications increasingly determine the type and standard of repairs and shape social landlords' approach to 'managing' asbestos.

The report explores how day-to-day residents' activities – often encouraged by social housing providers' ideas of responsible citizens controlling their own homes – are likely to increase asbestos exposures.

Contradictions in management styles, rights, and responsibilities encourage people to adopt a relaxed attitude towards DIY, other informal work on houses and to waste

disposal. This, in turn, means that ignorance, 'low' risk, and indifference are the predominant approaches to the asbestos embedded in residents' homes. In economic terms, many people stand to benefit from this approach (social landlords, residents, maintenance workers, contractors, etc). In terms of health, however, this relaxed approach may, in time, mean increased rates of asbestos-related disease with massive financial, social and personal costs to everyone involved.

This report demonstrates that residents' increased participation can lead to greater awareness of asbestos and its management, while facilitating improved relations between residents and their housing providers and, in so doing, ensuring residents' choice, responsibility and empowered decision-making.

Different styles of participation, in conjunction with different forms of information dissemination, lead however to differing degrees of asbestos awareness. Thus while residents on some council estates were deeply involved in developing asbestos awareness pamphlets, residents on other estates remained unaware of the asbestos register and had little understanding of its uses with regard to health and safety implications. The benefits of a pro-active approach to information dissemination, as opposed to repeated iterations to 'stay calm', illustrate that managing people and their activities, rather than managing asbestos, provides greater protection against exposure.

This report concludes that far more could be done to safely manage asbestos and that the exposure to risks remain high due to the failure to inform all those at risk in houses and work.

Scientific and decontextualised information, overlain by short-term cost implications, supports a legalistic targeting of individuals believed to be most at risk. A more pro-active approach that informs all people and assists them in making decisions about their safety would deliver savings both in terms of costs and lives.

Recommendations:

The following recommendations are elaborated throughout the report:

Legislation

- Current legislation needs to be **expanded to ensure that the duty to manage is extended to the internal part of domestic buildings**. Such an extension would massively increase the safety of workers conducting maintenance work within the domestic buildings, as well as the safety of residents.

- Legislation should be amended so that power tools display warning symbols advising users to check that they are not working on asbestos-containing materials.

Council housing

- **Council housing providers should be requested to maintain asbestos registers, detailing the following information for each and every property:** a) whether a particular property has been surveyed or not, b) where asbestos has been found in the property or in a similar-surveyed property, c) any records that asbestos may have been removed or damaged, d) whether or not the removal of asbestos was carried out professionally and e) whether there is official confirmation of this removal.
- **A mandatory asbestos survey should be carried out whenever social housing providers transfer residents. Regular safety reminders and the provision of advice and guidance should compliment this.**

Private housing

- **Mandatory asbestos surveying should be introduced (specifying a basic standard and cost) whenever private housing sales take place.** This could be included in the current surveys or in the Housing Information Packs.

Training

- **Increased asbestos awareness training and guidance should be provided to all local authority staff and to resident association representatives.** This should be complemented with specialised training for those identified as more likely to encounter asbestos in their routine work procedures. The actual work on or removal of asbestos should then be done by licensed contractors.
- The content of all current **training provision for maintenance workers and tradesmen** (such as national vocational qualifications) should be interrogated to ensure the prioritisation of asbestos hazards. Where necessary, specific modules dealing with asbestos risks and protection procedures should be added.

Information campaigns

- **Regular public information campaigns should alert DIY enthusiasts of the dangers of asbestos, and provide them with information and guidance.** This could be done through:

- campaigns asking for heightened caution in DIY practices, providing information for locating an approved contractor, providing a summary of the consequences of engaging inappropriate contractors, and a point of contact for further advice.
 - prominently displayed information in hardware and maintenance stores.
- A 24-hour hotline to deal with all private asbestos-related enquiries.

As Safe As Houses?

Dealing with Asbestos in Social Housing

'Why does the council not inform residents? The council says, it's not my kids and I'm not bothered. Well, I'm a grandfather and I'm bothered. I can't turn around and tell my grandchildren the asbestos is dormant. I've been putting screws in walls, lights in the loft. They tell me it's in the stairwell, well we all use the stairs. I don't know where it is. My grandchildren aren't wearing masks'

(Barking Council Resident, 18 May 2005, Barking and Dagenham Asbestos Victim Support Group).

1. INTRODUCTION

Recent newspaper articles report a tenant in Corby who upgraded his home without formal permission from the housing association, and in the process inadvertently released asbestos fibres into the atmosphere. He was advised to evacuate his home. The council suggested that the contents of the home may be destroyed in the rehabilitation process and the tenant was not eligible for compensation because it had not been informed of his improvements. Another tenant was informed that his home was safe, even though the asbestos containing walls were cracked. Despite these occasional newspaper articles, the wide-ranging literature on social housing in the UK is silent on how council tenants shape their houses into homes and does not reflect on the intersection between regulatory procedures and informal DIY activity.

Social or council housing was established in the early 19th century. Underlying the provision of housing for Britain's 'most needy' were a number of assumptions about morality and the types of people who needed accommodation. Although the definition of who is most 'needy' (returning war heroes, single mothers or immigrants), the underlying principle has been the government's provision of 'decent housing' for people who could not otherwise afford a roof over their heads. Social housing was also a response to the slums and linked to a government policy of slum clearance. Middle class values – of a private home, indoor facilities, spacious rooms, perhaps a garden – were initially built into the physical structures of council housing. The idea of 'decent, affordable and secure' housing came to underlie the provision of council housing. Nonetheless tenants have experienced a number of processes which constrain their behaviour and which, in effect, makes it hard to turn social housing into homes. **This report aims to explore the ways in which tenants do, often informally, shape their homes and how these DIY experiences may expose them to asbestos fibres. It simultaneously seeks to examine how councils advise and protect tenants**

against such hazards. In addition, it investigates the regulatory environment within which social housing providers operate and it explores how, within this context, workers might be exposed to asbestos.

Asbestos, most famous for its fireproofing and insulating qualities, is a generic term for rocks which are fibrous. It is found in several different forms, of which the most common are white asbestos (or chrysotile), blue asbestos (crocidolite) and brown asbestos (amosite). Asbestos can be woven into a thread and developed into a fabric; is very durable and long-lasting; does not corrode easily and is unattractive to animals and vermin. Asbestos fibre has been used in a myriad of manufacturing processes including cigarette filters, mattresses, beer filters, brake linings, buildings and ships (Competition Commission 1973; McCulloch 2002).

Asbestos causes a range of diseases which are widely associated with cancer and recognised for their insidious, fearsome and tainted nature (Douglas and Wildavsky 1982; Bourke 2005). Asbestos-related diseases or ARDs can affect anyone exposed to microscopic asbestos fibres. Pleural effusion (or fluid on the lungs), pleural plaques, pleural thickening (or fibrosis) and rounded atelectasis, asbestosis, lung cancer and mesothelioma are asbestos-related diseases. Asbestosis and lung cancer are linked to rates of increased exposure to asbestos whereas mesothelioma (a malignant cancer) is unrelated to dosage and trivial exposure can lead to cancer of the abdominal cavity of lung lining. Mesothelioma is always fatal and people afflicted with this disease face a painful and imminent death. All asbestos-related diseases have extended latency periods which mean that people only begin to experience physical symptoms twenty to forty years after their exposure to asbestos. All forms of disease are ultimately untreatable.

Estimates of how many people have been exposed to asbestos and of how many people are likely to become ill are incredibly difficult, not only because of the microscopic nature of exposure, the extended latency period and the lack of historical records detailing employment, the contracting and subcontracting arrangements or workers, the undocumented presence of asbestos in houses and the difficulty of diagnosis, but also because these are politically charged issues. One estimate, by Kaspersen and Pijawka (2005), is that up to 11 million people have been exposed to asbestos in the past 70 years. Ladou argues that 10 million people will need to die before exposure is brought to an end by a truly global ban on asbestos (2004: 285). The scale of asbestos-related diseases, the expected rise in sufferers and the enormity of the problem have led researchers to refer to a 'global asbestos epidemic' (Rantanen, 1997). To date, a conservative estimate of work-related asbestos deaths is 100,000 people per year worldwide (International Ban Asbestos Secretariat (IBAS)).⁴ In Western Europe, medical experts forecast that half a million men will die from asbestos-related causes between 1995 and 2029 (Kazan-Allen, 2003).

The UK has the world's highest mesothelioma rate, maintenance workers, especially carpenters, are at highest risk of exposure (Rake, et al. 2009).

⁴ See also interview with Jukka Takala, Director of ILO's *SafeWork* programme, <http://www.hazards.org/asbestos/ilo.htm> accessed 12 March 2009

- ❖ **This report recommends that regular public information campaigns should alert DIY enthusiasts of the dangers of asbestos, and provide them with information and guidance.** This could be done through:
 - campaigns asking for heightened caution in DIY practices, providing information for locating an approved contractor, providing a summary of the consequences of engaging inappropriate contractors, and a point of contact for further advice.
 - prominently displayed information in hardware and maintenance stores.

- ❖ A 24-hour hotline should be set up to deal with all private asbestos-related enquiries.

2. LEGAL PARAMETERS

Health and safety regulations have historically been primarily concerned with industrial uses of asbestos,⁸ although the Asbestos (Licensing) Regulations 1983 (as amended 1998) had a wider remit, specifying that asbestos work could not be undertaken without a licence; that the enforcing authority – the Health and Safety Executive (HSE) – be notified in advance of any work carried out and that other people potentially affected by asbestos work be provided with ‘adequate information, instruction and training’ (Gravelsons, et.al. 2004). Encountering asbestos during demolition or large-scale refurbishment is dealt with under the Construction (Design & Management) Regulations 2007, which focuses on the health and safety of industries, the provision of appropriately qualified people to manage risks on site and on effective planning and practical management of risk (HSE, n.d.). The HSE’s overall approach to asbestos, as illustrated in the CAR 2006 regulations, is to assess and manage the risks presented by asbestos. These regulations specify legal fibre concentrations, exposure levels, exposure time periods, as well as detailing appropriate equipment and techniques for controlling fibre concentrations. As a result, the HSE’s repeated advice on asbestos, confirmed in interviews for this report, is as follows: if the asbestos is in good condition it is ‘best kept sealed’ until the life of the building is over. If the degree of exposure is significant or the asbestos badly damaged, then these areas should have the asbestos removed. In determining whether asbestos-containing materials are ‘high’ or ‘low’ risk, and whether the degree of damage/decay creates a risk of exposure, the HSE relies on scientific evidence. It emphasises the values of different types of surveys, the need to monitor fibre levels and – in the event of asbestos removal – to confirm these levels through a certificate of re-occupation.

⁸ The Factory and Workshop Act 1901, the Asbestos Industry Regulations 1931, and The Shipbuilding and Ship Repairing Regulations 1960, The Asbestos Regulations 1969; Health and Safety at Work Act 1974; The Asbestos (Prohibitions) Regulations 1987 and The Workplace (Health, Safety and Welfare) Regulations, 1992 are also pertinent, stressing the need to maintain safe premises and protect workers. The Control of Asbestos at Work (“CAW”) Regulations 1987 (as amended 1998) and the Control of Asbestos Regulations, 2006, seek to protect workers in the asbestos industry and those formally involved in asbestos removal or abatement.

The Control of Asbestos at Work Regulations were first introduced in 1987. Revised Control of Asbestos at Work Regulations (CAWR 2002), which came into force in 2004, established the concepts of ‘the dutyholder’ and ‘the duty to manage asbestos’ in order that ‘every person or organisation which may be (or become) involved in the maintenance or repair of a property is required to comply with these regulations’ (Gravelsons, et.al. 2004: no page number; O’Regan et.al. 2007). These regulations were primarily for non-domestic purposes and were not extended to rented accommodation. However, common areas – such as stairwells, hallways, entrances and so forth – are considered non-domestic and covered by CAWR 2002. The regulations were accompanied by strong criticism from trade unions which were alarmed when the regulations failed to include domestic properties. UCATT stated publicly that: ‘Given that there is more maintenance work carried out in domestic properties as opposed to non-domestic, it is unbelievable that these have been omitted from the regulations, potentially putting more construction workers at risk of being exposed to asbestos’ (2004: 377).

Thus, councils have been contractually obligated to determine where, within the non-domestic parts of buildings, asbestos is lodged, how much asbestos is present and what condition it is in, and to inform maintenance workers (**but not residents**) of this information. In addition, when maintenance work has been conducted on domestic premises ‘workers are within their rights to expect some form of assessment to have been carried out of the risks they face’ (O’Regan et.al., 2007: 3). The Control of Asbestos Regulations (CAR) 2006 (which replaced The Control of Asbestos at Work Regulations 2002, The Asbestos (Licensing) Regulations 1983 and The Asbestos (Prohibitions) Regulations 1992) requires all employers and the self-employed to minimise or prevent asbestos exposure. The regulations identify who has a specific duty to manage asbestos. In order to facilitate this management, the Act distinguishes between high and low risk asbestos containing materials (ACMs) but considers all asbestos-containing materials to be subject to its regulations. **Much of this work on ACMs continues to be notifiable and may not begin without the HSE being informed.** In addition, the Act specifies that only licensed contractors may work with high risk products (Burdett, 2007).

Referring specifically to domestic premises, landlords’ responsibilities and obligations are detailed in the Defective Premises Act 1972. This Act specifies that tenants should be protected from identified hazards and problems. In addition, since May 2006 the HSE has mandated that all UK business property managers record the presence of asbestos in an asbestos register for non-domestic premises. Failing to maintain such a register risks fines in the region of £20,000 for each offence and, in extreme cases, imprisonment. Landlords’ legal duties are not to remove all asbestos, but to manage it. This requires a continuously-updated asbestos register, an assessment of the condition of the asbestos and of the likelihood of fibres being released and a management plan (which specifies whether asbestos is to be sealed, encapsulated or removed) followed by regular inspections and updating of the management plan (HSE, 2003). **There is, however, no ‘duty to manage’, or to maintain an asbestos register for domestic**

properties and no legal obligation to inform residents of where the asbestos is in their homes.

- ❖ This report therefore recommends that current legislation needs to be **expanded to ensure that the duty to manage is extended to the internal part of domestic buildings**. Such an extension would massively increase the safety of workers conducting maintenance work within the domestic buildings, as well as the safety of residents.

- ❖ Furthermore, legislation should be amended so that **power tools display warning symbols** advising users to check that the materials they are working on do not contain asbestos.

In accordance with the Asbestos Regulations 2006, employers and self-employed workers need to assess whether asbestos is present in buildings. If in any doubt, they should assume that asbestos is present and follow the provisions in the Asbestos Regulations. Before doing any work, employers thus need to assess the risk of exposure and record any significant findings. However, the identification of low risk products – which should still be processed according to the Asbestos Regulations' procedures, but which don't require specialised licensed removals – allows employers and workers to downplay the dangers of working with asbestos (see for example the discussion on floor tiles below).

The HSE confirmed in interviews that it seeks to manage a combination of three factors: '*concern, possibility and probability*'. The *probability* that someone is likely to fall ill through exposure to asbestos in buildings is calculated according to scientific formula or risk and exposure. In general, as demonstrated earlier in this report, these calculations are not high and, from a regulator's point of view, may be seen as negligible and perhaps not worth the economic cost. However, as long as asbestos is present, there is a chance that someone will fall ill. The scientific notion of 'low' risk changes radically when considered from the perspective of people who may be affected. With asbestos exposure, there is always the *possibility* that *someone* might fall ill and if the emphasis is on specific people, on school children, or schoolteachers, or someone we know, then scientific estimations of one per 100,000 are meaningless. These scientific figures are equally hollow from the perspective of family, relatives, friends and communities. Here the economic cost of removal cannot simply be considered against a scientific calculation of risk. Linked to the notion of possibility is the idea of *concern*. Public *concern* appears to take one of two extremes: either asbestos is considered not dangerous or there is heightened concern and anxiety. The HSE's approach aims to deal with these diverse factors through emphasising scientific notions such as low fibre levels, the quantity of airborne fibres, and safe management to downplay public concerns. It therefore focuses its attention on those sections of the population most likely to have sustained exposure to asbestos.

For the remainder – all those people who live in houses that contain asbestos – the HSE appears to work on an assumption it is best not to fan public fears and concerns and to overlook widespread indifference. As a result, HSE is willing to provide advice to anyone who comes looking for it. Detailed information is available on its website, it offers telephonic advice, provides many free pamphlets, sells detailed publications on asbestos. In addition, in its campaigns, the HSE has advertised on national and local radio, provided hardware stores with information material to be displayed at checkouts. The HSE does not, however, specify that the presence of asbestos should be included in all surveyors' reports or that regular monitoring should take place in all schools. The desire to ensure that public panics do not occur leads to a passive approach which is, this report contends, at odds with HSE's broader ambit to protect people at work and with most people's desire to know and to try and protect themselves. This is particularly evident in the manner in which housing authorities interpret HSE guidelines for dealing with asbestos and in the legal conflicts which subsequently arise (discussed in section 8).

A thorough investigation of legal conflicts around housing authorities' management of asbestos revealed that only three cases have progressed to the Local Government Ombudsmen (who have legal power to investigate and collect evidence in relation to complaints about councils and their management of properties). The following three asbestos cases registered with the local ombudsman are prior to the introduction of the asbestos registers and the Asbestos Regulations of 2006. Nonetheless, the cases demonstrate the importance of providing all people – not just those expected to have significant exposure to asbestos – with information. In addition, as discussed after the summary of the cases, they have significant implications for the in-situ 'management of asbestos'.

In 1997 the London Borough of Tower Hamlets failed to inform a complainant – Mr Williams – about the asbestos used in the construction of his home. Mr Williams disturbed the asbestos panels in his bedroom when he sanded them down prior to redecorating the room. He had evidence that the council had known about the asbestos 'for some time', but had not been informed about it. Upon querying this with the Council, he was informed that the panels 'do not represent a health hazard' unless sanded or rubbed and that residents had been informed of this. Nonetheless, as Mr Williams had purchased his flat, it was his responsibility to have a survey carried out prior to purchase and to find out about the presence of asbestos. The ombudsman found the Borough guilty of maladministration, of not taking reasonable steps to warn residents in the block and of causing Mr Williams an injustice. It was ordered to compensate Mr Williams for his worry and inconvenience as well as to identify the location of the asbestos in all the flats and inform all residents of its presence (Ombudsman: Complaint No. 95/A/2081, 1997).

In 2001, the North Yorkshire County Council was found guilty of maladministration causing injustice when it failed to respond to notification that its ditches were clogged with asbestos and open land riddled with ragwort (an injurious weed) and rubbish. This

case centred, not on the asbestos and its dangers, but on the failure of the council to respond to complaints and to follow due procedure as the complainant was seeking to lease the land in question. While some asbestos cement had been stored by the Council, it seems other asbestos had simply been dumped on this empty land. The council was ordered to clear the land, complete the leasing arrangements and pay compensation for the complainant's additional costs, time and trouble (Ombudsman: Complaint No. 00/C/17723, 2001).

In 2003, the London Borough of Southwark was investigated for failing to inform twelve leaseholders and eight council residents about the presence of asbestos in their homes (discovered during a survey in 1997). The council also failed to notify contractors installing television cabling, which disturbed the asbestos and led to their potential exposure and concern. In addition, the leaseholders complained that they had not been informed of the presence of asbestos when they had purchased their properties under the 'Right to Buy' option.⁹ This lack of information meant the council had misrepresented the costs of improvements and maintenance to their homes. Finally, the Council was accused of poor asbestos-removal procedures, which meant that residents experienced increased inconvenience, heightened fuel costs and security risks for several months. The Council's own 'Code of Practice for the Management of Asbestos' stipulated that it would inform all residents (both tenants and leaseholders) of the likely locations and that it would take precautions to ensure that this information is passed on to contractors. The council had already removed all high risk asbestos from the buildings in question, but left those areas considered to be low risk. In December 1999, while planning the replacement of windows, the Council realised that these window panels contained amosite, but failed to inform residents of this until June 2000. During the first half of 2000, the Council also arranged for contractors to install television cabling, but failed to inform these contractors about the presence of asbestos. As a result, the contractor drilled through asbestos panels, directly exposing themselves and the residents of seven flats to amosite asbestos. One resident had also had a cat flap installed, cutting through an asbestos panel. Although the Council claims she should have requested permission in writing and would then have been informed about the presence of asbestos, the resident claims the Council knew of these alterations. Another resident had a shelving unit installed against asbestos panels. The council was found guilty of maladministration on many – though not all – accounts¹⁰ and had to compensate complainants according to the respective grievances (Ombudsman: Complaint No. 902/B/02356, 03588, 06217, 08157, 08159-60, 08162-64, 08166, 08168-69, 08177-79, 08182, 08184-85, 08187 and 12461, 2001).

What is significant about these cases, particularly case one and case three, is the manner in which asbestos containing materials are considered low-risk. This classification of certain asbestos containing products as 'low risk' promotes a perception

⁹ According to the Ombudsman, the Council should provide a verification form to all residents who take advantage of the Right to Buy. Included in the verification form is information about the structural defects of the property (which could include asbestos). When a council property, initially bought under the Right to Buy, is sold to a third party, the council is under no obligation to provide any information as the purchaser should instruct a surveyor to check the property.

¹⁰ In some cases residents could not demonstrate how the asbestos might have been disturbed, other leaseholders bought their flats prior to the asbestos survey in 1997 and still other leaseholders were third-party buyers who were not purchasing their properties from the Council.

– even amongst people who should know better – that it is okay to not worry. As a result, even when it is deemed necessary to contact people and inform them of the presence of asbestos (as detailed in the Code of Practice for the London Borough of Southwark), insufficient attention is given to this and the council’s policy was not followed through. **This is reinforced by the fact that there is no legal requirement for landlords to inform residents of the presence of asbestos. It is also evident that residents and leaseholders are not passive occupants – they will stamp their own identity on their council houses through installing cat flaps, sanding and painting walls, fitting shelving units and so forth.** As discussed in more detail below, and as is evident in these cases, it is not sufficient to state that the asbestos is low risk, that residents should request permission in writing for minor alterations to their homes, or to wait until the life of the building has come to an end, before dealing with the asbestos contained within it.

There are currently no legal requirements to disclose the presence of asbestos upon the sale of property. Many purchasers have no option but to undertake a survey and valuation of the property in order to secure a loan. The valuation and survey provides a check on the location, the general condition of the property and to ensure that there are no obvious disasters looming. Purchasers are given a choice of three surveys: a mortgage valuation, a homebuyer’s report or a full structural survey. More than 50% of all purchasers rely on the mortgage valuation (which costs between £150 and £300) which provides basic information on the age, location and condition of the property. While a homebuyers’ report will provide more information, only a full structural survey is guaranteed to highlight all defects and give estimated costs for any work deemed necessary.¹¹

The majority of council residents taking advantage of the ‘Right to Buy’¹² legislation are low income families. When they purchase their homes, the councils are obliged to provide them with any relevant information about asbestos that the council has. But, when they sell their homes – to other low income families – they are not obliged to reveal these details. These buyers have to pay for a survey and – given the positioning of council houses at the bottom end of the housing market and their reputation for having been well-built – they are not likely to purchase full structural surveys. Thus, not being completely informed of the hazardous materials embedded in the fabric of the property, they are in a vulnerable position with regard to their health and safety.

The new Home Information Packs (HIPs), introduced as legal requirements during house purchase in June 2007, are designed to report on energy efficiency and

¹¹ A more sophisticated survey is available through the Homebuyer’s report (£250 – £450). This requires a survey to visit the property and carry out an inspection – but only of areas that are accessible and visible. Such a report provides more guidance on the condition of the property and likely pitfalls. The accompanying report highlights any problems that may require costly interventions or areas which warrant further investigation. A full structural survey (costing between £400 and £1000) is the most comprehensive and expensive of the three. The inspection of the property will be extensive however there is also more flexibility to concentrate on specific areas of the property that may be of concern given the age or style of construction. All visible and accessible areas are scrutinised closely and specialist reports may detail specific issues such as damp, roofing or anything else requested. Surveyors are legally bound to provide detailed reports and can be sued for not predicting problems.

¹² Introduced under the Thatcher government, the Right to Buy came into force with the 1980 Housing Act, empowering individuals who would otherwise not have the funds to get a foot on the property ladder by purchasing their council homes at a discount.

insulation. They are not, however, obliged to detail the presence of asbestos. The National Home Improvement Council (NHIC) has argued that this information should be included in HIPs because of the dangers that asbestos poses.¹³ Although some surveyors and purchasers include information about asbestos in HIPs, this is not a legal requirement at present. In addition, this is not an area where the HSE is able to advise as its remit, and legislation, covers the workplace.

- ❖ **Mandatory asbestos surveying should be introduced (specifying a basic standard and cost) whenever private housing sales take place. This could be included in the current surveys or in the Housing Information Packs.**

3. ASBESTOS KNOWLEDGE AND CONCERNS

The UK has a long history of industrial use of asbestos and exposure which has had occupational, environmental and legal consequences (for example, see Tweedale, 2000; Steele and Wikeley, 1997; Bartrip, 2001). As a result, three distinct 'waves' of asbestos-related disease have been identified: the first concerning the mining and textile industry, the next affecting other occupational groups such as shipyard, construction and railway workers, and a third being comprised of exposure to asbestos 'in place' (Landrigan and Kazemi, 1991; Steele and Wikeley, 1997). This last wave of asbestos-related diseases affects two primary categories. In the first place, there are those people who come into contact through their work. Their occupational exposure to asbestos has long been recognised in the medical literature. In 1995, the Lancet reported that building workers (carpenters, plumbers, electricians and gas fitters) formed the most significant high-risk group for mesothelioma (Peto, Hodgson, Matthews and Jones, 1995; Gibbs and Pooley, 2008). Although there are few studies that assess the extent of this exposure, approximately 1.3 million USA construction and demolition workers are believed to have experienced elevated asbestos levels (Wachowski and Domka, 2000). In the UK, recent research conducted for the HSE showed that many maintenance workers knew of the dangers of asbestos, but were very quick to dismiss these concerns (including the 'one fibre can kill' notion). A variety of generally incorrect beliefs enabled this dismissal: that the asbestos was no longer in situ, that only extreme exposures were dangerous, that low levels of asbestos were safe or that new materials, developed to replace asbestos, posed greater health risks, that there were many other, more immediate risks in their work and so forth. Some workers used their senses (colour, texture, taste or smell), others scratched or drilled the product in search of fibres, but many were simply unable to identify asbestos and either did not bother to try or relied on their co-workers to warn them.¹⁴ This is clearly of great concern as even

¹³ 'Hips to highlight asbestos problems', Posted: 28 Feb 2008:

http://www.houseladder.co.uk/Property_News/2008/02/Hips_to_highlight_asbestos_problems_943.aspx accessed 27 February 2009

¹⁴ O'Reagan et.al. found that considerable confusion existed about which kinds of material (artex, Marley tiles and corrugated cement sheeting) might contain asbestos and whether these were dangerous or not. In addition, asbestos cannot generally be identified by any of these criteria and requires sophisticated testing.

skilled, knowledgeable maintenance employees identified as amongst the most likely to succumb to asbestos-related diseases, are unable to identify asbestos. Equally concerning is the realisation that, 69% of those plumbers who reported no exposure to asbestos had in fact been exposed to it during the course of a sample week when they were wearing passive asbestos samplers (O'Regan et.al. 2007; Bard and Burdett, 2007).

In the second place, asbestos in-situ affects people who come across it informally – in the process of living in their homes, working on asbestos containing materials (ACMs) and through the removal of asbestos. Within the UK, domestic or environmental exposure of this sort was subject to extensive research during the 1980s. This research concluded that, in terms of extreme asbestos diseases, such as mesothelioma, the general population's risk is extremely low (Gibbs and Berry, 2008).¹⁶ However, these figures assume that the buildings remain static and undisturbed throughout their lifespan. Indeed, a conference in 1964 had 'presented evidence that **low-level exposures were a potential source of ARDs; that asbestos in buildings could be a constant source of uncontrolled exposures; and that chrysotile, although less dangerous than amphiboles, was a significant factor in ARDs, including mesothelioma**' (McCulloch and Tweedale, 2008: 207). These conclusions and assessments from the 1980s do not consider people (such as carpenters and maintenance workers, teachers, cleaners) who encounter asbestos in the course of their daily work and who have subsequently contracted a range of asbestos-related diseases. Nor do these estimations take activities such as DIY into consideration (discussed in greater detail below).

4. THE DANGERS OF ASBESTOS

There is widespread international consensus over the vast dangers of asbestos (Commins, 1991; Braun, Greene, Manseau, Singhal, Kisting and Jacobs, 2003; Landrigan and Soffritti, 2005; McCulloch, 2002; Welch, 2005). Chrysotile (or white asbestos) is however sometimes singled out because it has 'white, soft, curly fibres and its fibre bundles have splayed ends and kinks', making it different to amosite and crocidolite asbestos which have 'needle-like' fibres (Gravelsons; 2004).¹⁹ Some industrial scientists argue that 'soft' chrysotile fibres are reported to clear from people's lungs within a few months, whereas amphibole asbestos fibres can remain for a year or more (Bernstein, Rogers and Smith 2003; 2005). The inhalation bio-persistence of chrysotile is thus said to be low as it breaks up and decomposes quicker than other asbestos fibres. This leads some scientists, who are not affiliated to reputable academic institutions, such as Bernstein and Hoskins (2005) , to conclude – despite evidence that heavy and prolonged exposure to chrysotile can produce lung cancer – that low

¹⁶ Mesothelioma is not however an inconsequential disease and Hodgson et.al. (2005) have predicted that 90 000 people will have died from it between 1969 and 2050, with the vast majority of deaths being after 2001.

¹⁹ Chrysotile is composed predominantly of magnesium while crocidolite and amosite have high concentrations of sodium and iron.

chrysotile exposures do not pose a risk to health (Ruff, 2008).²⁰ The view that low levels of exposure to chrysotile is not overly dangerous has been widely refuted by internationally recognised experts who argue that all asbestos is carcinogenic and that fibre consistency is irrelevant because chrysotile can still trigger mesothelioma and other asbestos diseases (Egilman, 2003; Landrigan and Soffritti, 2005).²¹ Egilman argues, for instance, that even if chrysotile fibres are broken down in the lung, they are not expelled from the body and thus still pose a long-term risk (2003). The suggestion that these fibres are also hazardous is supported by the fact that Canadian chrysotile has been, and continues to be, associated with mesothelioma (Landrigan and Soffritti, 2005). LaDou argues that ‘actually, on a per-fiber basis, the highest risks have been shown for chrysotile’ (2004: 288).

Although these are significant debates which have consumed a lot of scientists’ and government officials’ time, there is a danger of getting too enmeshed in arguing about scientific details such as threshold levels, fibre sizes, different forms of measurement, quantitative risk assessments and so forth. Bennet’s work on radiological protection and occupational health demonstrates a relationship between science, which is supposedly neutral, and value judgements. However, instead of neutrality, he argues that **often scientific strategies are used to ‘legitimize the status quo’ (2008: 295) or to offer a compromise between protecting workers and allowing business to continue.** Strong comparisons can be drawn between radiological protection and asbestos which, in turn, lead to questions about whether the scientific strategies adopted by government and the HSE are the most effective means of dealing with asbestos while maintaining a healthy workforce and population. Ultimately, McCulloch and Tweedale remind us that:

‘In reviewing the science it is important to remember that asbestos is such a toxic material that even relatively trivial exposure can result in serious or fatal injury. For that reason, one might have expected physicians and allied scientists to have led the campaigns against the mineral and against the companies that produced it.

Yet, ... not only was the medical profession’s reaction to the asbestos hazard often feeble, but scientists have been among the industry’s most strident defenders. There are two reasons why that was so: corporate suppression and intimidation meant that criticism of the industry came at a price.

Another factor was the convergence of the economic, political, and social interests of the scientific establishment and commerce. Careers could be made from industry-sponsored research. No-one commissioned research on behalf of asbestos workers’ (McCulloch and Tweedale, 2008: 119).

²⁰ This research is based on the understanding that previous studies exposed animals to very high concentrations of chrysotile resulting in lung overload.

²¹ Less prominent in the global debates are attempts to assess the significance of fibre mass versus the number of fibres.

5. HEIGHTENED PUBLIC FEAR VS INDIFFERENCE

In the 1980s, the removal of asbestos from public buildings developed into a specialized industry and simultaneously heightened public fears about the dangers of asbestos. Some believed that the removal of asbestos was based on 'fear rather than evidence'. However, many scientists argued that leaving asbestos in-situ would result in a third wave of asbestos-related diseases which would affect maintenance staff and construction workers, hospital staff, schoolchildren and teachers (McCulloch and Tweedale, 2008: 207). As Peto, Hodgson, Matthews and Jones have noted, the largest quantity of asbestos exposures took place in unmonitored occupational settings.

The public has tended to respond to asbestos in one of two ways: either localised fears have occurred or there has been widespread indifference. Over different historical times, the same area and the same people can exhibit both these responses. This report argues that both these responses are appropriate reflections of the manner in which asbestos is regulated and need to be taken seriously if asbestos-related diseases are to be minimised in the future. **To date, however, local authorities have been inclined to dismiss public concerns as scaremongering (McCulloch and Tweedale, 2008) and have pursued an approach which seeks to minimise public concern while informing only those most at risk of exposure.** This approach, this report argues, makes some people (those most at risk) responsible for identifying asbestos and for preventing their own exposure while simultaneously making it possible for other people (not identified as being at risk) to ignore their exposure.

Asbestos fears have flared up in the 1970s, the 1980s and 1990s. In the 1970s, hospitals, 'where blue asbestos lagging on pipes was crumbling', and housing estates were a prime focus (McCulloch and Tweedale, 2008: 199, Dalton, 1979). It flared up again in the mid-1980s when, alongside a growing environmental movement, studies reported environmental exposures and asbestos fibres were found in urban residents' bodies (McCulloch and Tweedale, 2008). In the 1990s, for example, the City of Westminster was criticised for re-housing 100 homeless people in tower blocks 'riddled with potentially lethal asbestos' ten years previously²² (The (London) Independent, 1996: no page number). These flats, and the tenants, were part of larger political machinations including advantaging the Conservative Party, securing votes and obstructing left wing community groups. The council had been informed that the health risks were negligible, but tenants would not accept this and ultimately it became necessary to inform tenants, to establish a helpline and to provide compensation. Similarly, in 1997 Southampton Council was rewiring a tower block. Although the council was aware that the airing cupboards contained asbestos, it did not inform the contractors as the wiring routes avoided these spaces. However, when tenants requested that the cabling routes be altered, contractors unwittingly drilled through the airing cupboards. It resulted in the council having to upgrade its premises at a cost of

²² Amosite had been sprayed on the steel beams which were then encased in asbestos chipboard panels, as were the service ducts; internal walls were constructed from asbestos-faced chipboard; heaters were covered in asbestos cement and the floor tiles had asbestos content (Blackhurst, 1996).

more than £1million. The dominant scientific approach has been to downplay these public concerns. The idea that asbestos is lethal and that exposure to a single asbestos fibre can result in death (McCulloch and Tweedale, 2007)²³ has thus sparked widespread public concern. Newspaper articles frequently highlight fears over the discovery of asbestos – with public officials anxiously trying to dampen down fears and inject what they see as a degree of realism.

This downplaying of the public reaction by scientists and government officials is based on scientific notions of risk and on economic costings which, as we shall argue later in this report, provides a legal framework that may exacerbate exposure in people’s homes. It also fails to provide people with the kinds of information they need to respond in appropriate ways.

While scientists and government authorities argue that reactions of concern and fear are unreasonable, this report suggests that fears and indifference are perfectly appropriate responses – indeed perhaps the only possible reactions – to a regulatory situation in which people are left to identify asbestos, monitor their behaviour and decide for themselves what is ‘safe’ and reasonable (discussed in more detail below).

For example, in the past year or so there has been increased media attention to asbestos issues and some suggestion that the public concerns over asbestos experienced in the 1980s might be repeated. There have been several reports of asbestos in schools in the Manchester region (Keegan, 13 February 2009), in the Barking area and in East Sussex (The Argus, 29 January 2009). There have also been several instances of schoolteachers contracting asbestos-related diseases (Borsett, 15 July 2005; BBC News, 27 January 2009, also see McCulloch and Tweedale, 2008 and Lilienfield, 1991 for USA cases). In all these instances, one sees a similar trend: scientific experts have hastened to reassure people that the asbestos is encapsulated and safe, while public concern remains high. According to the HSE, ‘it would be dangerous to remove asbestos sealed inside buildings’ (BBC News, 27 January 2009). It would also be the more costly option, although this aspect is not raised by the HSE and the science is presented as conclusive and neutral. Meanwhile the National Union of Teachers has declared asbestos in schools to be a ‘ticking time bomb’ (Keegan, 13 February 2009, no page number) and has requested that the asbestos be removed (BBC News, 27 January 2009). The Rochdale Lib Dem MP has argued that ‘councils are not doing enough’ and activists have stressed the need for regular air testing in every school’. The result is that people’s fears and concerns are juxtaposed against scientific evidence. Clearly, from a public point of view, it is not enough to be told that the risks of developing asbestos-related diseases from attending UK schools in general are minimal – people want to know that *their children* are safe *in this particular school*.

²³ In fact, according to McCulloch and Tweedale, Selikoff had posed the following rhetorical question in 1987: “Can a single fibre of asbestos cause disease?” Although he had answered in the affirmative, he also stated that this was highly unlikely and that such possibilities were not of practical concern (2007: 625).

6. ASBESTOS IN HOUSES

6.1 Prevalence

Asbestos was a common component of building materials from the 1930s until the 1980s, with use peaking in the 1960s and remaining high for the following 20 years. Asbestos 'is estimated to be present in 90% of all public sector housing' (CSE, 2005) and asbestos-cement materials said to exist in more than 10 million UK buildings (Gravelsons et.al., 2004). **The HSE estimates 1.5 million workplaces contain asbestos.**

Asbestos-containing materials include 'shingles, roofing felts, concrete pipe and sheet material, architectural panels and plenums, joint and taping compounds, heating system insulation, floor tile, electrical wire and cable, paints and plumbing fixtures' (Craighead, 2008: 52). It is also found in artex paint, vinyl floor tiles, ceilings, bath panels, soffits, sink pads, window putty, window surrounds and more. Municipal housing built in the 1960s and 1970s commonly have asbestos in 'water tanks, artex coatings on the ceiling, asbestos insulation board in electricity cupboards, under staircases, service ducts, heating ducts' (CSE, 2005).

Asbestos-containing materials

(listed by the HSE according to magnitude of fibre release and hence risk)

Sprayed asbestos and asbestos loose packaging – generally used as fire breaks in ceiling voids

Moulded or performed lagging – generally used in thermal insulation of pipes

Sprayed asbestos – generally used as fire protection in ducts, firebreaks, panels, partitions, soffit boards, ceiling panels and around structural steel work

Insulating boards used for fire protection, thermal insulation, partitioning and ducts

Some ceiling tiles

Millboard, paper and paper products used for insulation of electrical equipment; asbestos paper has also been used as a fire-proof facing on wood fibreboard

Asbestos cement products, which can be fully or semi-compressed into flat or corrugated sheets, largely used as roofing for wall cladding, also gutters rainwater pipes and water tanks

Certain textured coatings

Bitumen roofing materials

Vinyl or thermoplastic floor tiles

(O'Regan et.al., 2007: 2)

6.2 Disturbing Asbestos

Domestic exposures to asbestos are, despite the ubiquitous presence of asbestos-containing material in buildings, much lower than occupational exposures (Price and Ware, 2008). Burdett and Jaffrey (cited in Nicholson, 1989) examined air concentrations in 24 buildings and found low asbestos concentrations (1 fibre $>5\mu\text{m}$). In a UK sample²⁵ of different types of public buildings, including two housing estates (one council and one private), le Guen and Burdett found levels of airborne asbestos within occupational hygiene standards (1981). Burdett, Jaffrey and Rood (1989) examined non-domestic buildings with sprayed asbestos, domestic buildings with sprayed asbestos, buildings with warm air heaters containing asbestos and buildings without asbestos. They found that asbestos was not dislodged by air currents. In keeping with these conclusions, Pelto argued that '(a)verage fibre counts in contaminated buildings, at least in the UK, are usually less than 0.001fibre/ml, and the corresponding predicted lifelong risk is of the order of 1 in 100 000 for 10 years' occupancy' (1989: 466). This led, in turn, to the suggestion the removal of asbestos from buildings was unnecessary and may have fuelled future outbreaks of disease (Peto, Hodgson, Matthews and Jones, 1995: 539; Pelto, 1989; Pearson and Sims, 1992; Abelson, 1990; Chesson, Hatfield, Schultz, Dutrow and Blake, 1990; Craighead, 2008).

²⁵ It is incredibly difficult, and expensive, to sample airborne asbestos with different sampling techniques, different times of day and sampling at different heights often producing different results (Chesson, Hatfield, Schultz, Dutrow and Blake, 1990).

As pointed out above, however, these measurements are all based on the principle of non-disturbance of asbestos and on the assumption that the buildings remain static. This principle and the corresponding assumption is, quite simply, unrealistic as long as people live in houses and as long as buildings have to be maintained. **As this report demonstrates below, daily cleaning, DIY, maintenance work and structural changes all shape buildings. As long as asbestos is embedded in the structure of the buildings, human activity is likely to disturb it.** Citing estimations of risk that are based on the non-disturbance of asbestos is, therefore, meaningless if the aim is to protect the people who live and work on these houses. In contrast to much of the literature, **new research published in early 2009 identifies council residential properties and high rise flats as significant sources of asbestos contamination, and warns of the dangers of DIY activities** (Rake, et.al. 2009).

6.3 Asbestos Management and Removal

The HSE advocates non-removal wherever asbestos or asbestos containing material is in a stable condition (Gravelsons, et.al. 2004).²⁶ The idea that asbestos is best managed 'in-situ' is based on the scientific calculation of risk. This estimates that the actual risk for people exposed to asbestos in buildings is very small.²⁷ Nicholson's evaluation of a number of studies concludes that: 'Overall, the studies present a reasonably consistent picture. In buildings with evidence of severe damage or deterioration, the probability of detecting contamination was high. On the other hand, if the surfacing material or thermal insulation was undamaged, had suffered only minor damage or the surface had been sealed to prevent dusting, excess air concentrations were rarely detected' (1989: 248).

The problem with both these calculations and conclusions presented is that they are, yet again, based on the assumption that the asbestos is not tampered with. **Scientific notions of risk, threshold levels and danger are not based upon accidentally drilling through an asbestos wall, or on children picking threads out of asbestos-containing panel or dedicated housewives scrubbing their asbestos floor tiles.** For these reasons, this report does not support Nicholson's conclusion as a standard means of dealing with asbestos. Instead it argues that the scientific debate provides

²⁶ In 2007 the World Social Security Forum recognised that special measures are required to deal with in-situ asbestos. It argued that the management of this risk presented many financial and technical difficulties. Overall, it 'it may be better to maintain the asbestos in place for as long as possible'. If removal is necessary, the Forum emphasised the need for wet removal which retains the 'integrity of the substance' rather than destruction and the need for careful and safe disposal which avoids possible re-use (Leprince, et.al. 2007; also see Commins, 1991). Leprince, A. et.al. world Social Security Forum, 29th International Social Security Association General Assembly, Special Commission on Prevention: Asbestos: Protecting the Future and Coping with the Past. <http://hesa.etui-rehs.org/uk/dossiers/files/leprince-asbestos.pdf> - accessed 09/01/2009

²⁷ Health risks are influenced by a wide range of factors, including length of exposure; type of asbestos fibre; length, diameter and distribution of fibres; age; sex; smoking habits or exposure to passive smoking; other occupational or domestic exposures to toxins; health status; conditions of exposure and so forth (Bignon, 1989). In addition, different mechanisms for assessing airborne fibre concentrations will produce different results and affect estimates of health risks. Hugh and Weill produced the following estimates for annual risk of death from asbestos exposure per million people (as contrasted to other death risks from daily activities): 'studying in a school sprayed with asbestos, 0.25; cycling to school from 10 to 14 years of age, 15; inhalation or ingestion of foreign bodies, 15; playing football at school, 10; chronic smoking, 1200; passive smoking for two months, 1 (cited in Bignon, 1989: 22).

insufficient guidance for evaluating how asbestos should be dealt with. Rather, it is the more pragmatic factors such as the ever-present possibility of contamination in non-identified sites (discussed above), the impossibility of informing people likely to encounter asbestos and the ease with which such an approach can encourage a relaxed 'asbestos is not dangerous' approach, which should be considered (discussed in more detail below).

Such considerations are also detailed in the literature, for example in the 1990s, Selikoff and others argued that children attending school, educators, maintenance staff and construction workers experienced an 'all too real' risk of exposure which could result in a 'third wave' of asbestos diseases (McCulloch and Tweedale, 2008). More recently this trend of exposure has been confirmed and there is evidence that maintenance activities increase asbestos exposures. For instance when electricians pull wires through the infrastructure of a building, they can inadvertently release asbestos fibres into the atmosphere (Craighead, 2008).

Thus, the main source of asbestos pollution in buildings is the purposeful or accidental displacement of fibres during maintenance or during everyday use of the building.

The removal of asbestos should be encouraged whenever possible, and specialist removal contractors should be used to do this. Economic barriers to the removal of asbestos should be removed (for instance, recognising that removing asbestos from void properties requires longer turn-around times).

7. HOUSING POLICIES AND MAINTENANCE

The academic literature does not deal with the more practical aspects of how people deal with asbestos in their homes, or in the case of maintenance workers, in other people's homes. The formal principles documented in the 2006 Asbestos Regulations are: don't dismantle anything if you suspect asbestos, get it tested. If the tests are positive but low risk, then use specialised equipment and techniques or, if high risk, employ specialised teams to remove it. It is clear from the work done by the Institute of Employment Studies that some maintenance workers do express concern when they find asbestos and try to ensure that these are dealt with appropriately. But many workers respond with indifference as they are unable to identify asbestos-containing materials, they believe that only certain types of asbestos (long since banned) are dangerous and they cannot afford to delay the job (O'Regan, et.al., 2007). The following two examples, both prior to the introduction of the 2006 legislation, are cases of maintenance workers dealing with council housing and demonstrate workers' concern for their own, and residents' health.

'Well I was trying to decide whether I needed to take the old panel off and put the new thing on, and I was just sort of tapping around and I was wondering whether to drill into it or not, and I was wondering about it, and I said to the woman 'I think it might be asbestos', and so at that moment you think 'well, careful', and I do remember at this time that I wasn't so much ... I wasn't particularly ... I mean I knew you shouldn't drill in it, but I didn't know that you shouldn't break it, and I didn't break it in fact, and so then I phoned the council. There's a number you can phone and I was aware of this, and they said don't on any account break it or drill into it.

They wanted to know whether this was domestic or commercial, because if it was commercial I would have had to have paid to get it removed. I was saying that the point is I am actually ... I was completely honest with them. I said I'm a self-employed carpenter. I'm doing a job in somebody's house, I said, but I could walk away from the job and she could phone you up and say can you remove this, and so they agreed that I would just wrap it up and tape it up and leave it outside' (Carpenter/joiner, 49 yrs, sole trader, domestic work, cited in O'Regan et.al., 2007: 54).

'I dismantled it and the council came and took it away, I dismantled it per their instructions. Hosed it down with water, carefully removed the screws and nails and wrapped it up in thick builders polythene, taped it up very carefully, we didn't want to breath any. So it was damped down all the time and it was on a, we worked on a sheet and the people were happy that I was doing it and this was per the council instructions. It was laid on the front garden for the council to dispose of carefully. The lady of the house says they just picked it up, chucked it in the rubbish, in the wagon, ripped all the polythene and it come out and - that was [Name] Council disposal team. I didn't see it – the lady told me. So after all the careful handling of it' (General maintenance worker/builder, 68 yrs, sole trader, domestic work, cited in O'Regan et.al., 2007: 53).

Although both examples demonstrate workers' concern with asbestos exposure, they both also demonstrate inadequate council responses. In the first example, it may not have been adequate for a carpenter to simply remove it without testing for asbestos, without sealing the area and without bringing in specialist services. In the second example, despite careful extraction methods, the disposal of the material occurred as if it was not asbestos-bearing. It is clear – given the extreme requirements necessary when the presence of asbestos is proven accompanied by additional costs and time delays – that there are considerable incentives for councils to downplay the dangers and risks of asbestos. The following account comes from a blog released in August 2008. As with the previous two examples, it demonstrates the difficulty of determining an appropriate set of actions, as the tension between panic and controlled

measures, may lead councils to underestimate the potential dangers and to provide inappropriate advice.

'I was recently forced to move due to the Housing Association who are freeholders of my building deciding to employ unqualified (cheap) contractors to rip up (physically tearing them up without any protection to themselves or those around them) the asbestos containing flooring tiles found throughout the building and replace them with new flooring, all this without informing the residents (or even their contractors) of the potential risks. Trying to get someone to do something about this, I keep being told by those who should know better (Local council's environmental health officer, Building industry people, Health and Safety Executive) that I should not worry too much, as it is "the safest type of asbestos" and "pretty low risk". Indeed one Environmental Health Inspector even helpfully suggested hovering up any potentially hazardous dust left by the builders (as the fibres are too small to be caught in any ordinary vacuum cleaner filters, this is not the best advice to give). Interestingly, when asking friends in Germany (from medical and building backgrounds) about this low risk argument, the answer is always: there should be no such thing as "low" risk with asbestos. Any risk is too high" (Felix, 29 August 2008).²⁸

Councils currently find themselves faced with extensive legislation to monitor and advise residents and maintenance workers about asbestos, coupled with the prohibitive costs of removing asbestos when it is found, the additional cost of replacing the asbestos with new and adequate fire prevention products (Cooper, 2005) and the obligation to provide decent homes (discussed in more detail below). These legal parameters, as demonstrated in the following section, emphasise the importance of 'managing asbestos' through scientific principles of risk.

8. DEALING WITH ASBESTOS IN COUNCIL HOUSING

Within the UK, the pragmatics of social housing – in terms of buildings, repairs, decorations and converting houses into homes – are differently dealt with by different councils. There are various procedural and legal processes which housing authorities have to comply with. Within these broad categories, different authorities have chosen different ways of dealing with asbestos. Using the examples of the Corporation of London, Milton Keynes and Homes in Havering, these are dealt with in five main sections:

8.1 Structural Maintenance and Large Scale Asbestos Removal

8.2 Repairs, Maintenance and Home Improvements

8.3 Creating a Home

8.4 Residents' Participation and

²⁸ <http://www.newstatesman.com/health/2008/08/asbestos-victims-company> - accessed 9 January 2009

8.5 Monitoring.

The detailed exploration of these domains and the comparison of different styles of management reveal the manner in which decisions about asbestos management are – although generally defined by legal requirements – shaped by pragmatics, personalities, finances, residents’ participation and politics.

8.1 Structural Maintenance and Large-Scale Asbestos Removal

There is some evidence that, when asbestos concerns are initially raised, councils’ desire and intention is to remove it all. In 2004, for example, Milton Keynes allocated £1 million to the removal of asbestos from 20 percent of its stock. This approach was, however, immediately criticised as being a waste of money (BBC News, 24 March 2004). The safe management of asbestos was considered a cheaper and more effective solution – although it must be added that this criticism came from someone who had been deeply immersed in the asbestos industry work. However, the practicalities of removing all asbestos from all council buildings are immense. There are immediate financial considerations (the money used in asbestos removals usually means that other improvements to council property are delayed) as well as the need to relocate residents and manage the programme of removal. As a result, large-scale asbestos removal now only happens when major structural maintenance projects are likely to disturb asbestos and expose residents. This year, for example, a £300 million ‘Decent Homes’ project in Doncaster was stopped because of the presence of asbestos and the need to evacuate residents before continuing (Doncaster Today, 28 July 2008). The following example from Windsor House shows the difficulties of removing all the asbestos from council properties as well as the accompanying social upheaval.

In the early 1990s, the Corporation of London decided to renew the roof of Windsor House, a 1920s tenement block comprising 104 flats and maisonettes spread across 3 adjoined blocks and 4 floors, because the top floor maisonettes had experienced water-penetration problems. A programme of work was put in place via the capital works budget to replace the roof surface and mansard elevations. The removal of the flat roof at chimney level required heavy surface stripping drills that would cause considerable vibration throughout the building. As an initial survey of the dwellings had identified asbestos in the ceilings, it was decided that the roof renewal work could not go ahead until the ceilings of all dwellings had been removed on the grounds of health and safety. Each family would need to be relocated into ‘void’ (empty) properties whilst the asbestos removal work took place under controlled conditions and then returned to their homes. Given that the properties would be vacant, the Corporation decided to offer residents the City Package Deal Programme. This Programme allowed residents to choose from a range of possible new kitchens and bathrooms and to pay for this through incremental rent increases based on their choice of fixtures and fittings. Despite the fact that the roof repairs and the internal upgrades were designed to improve the houses and included a range of choices for residents, they responded with mixed feelings primarily because of the extent of the disturbance. Residents were informed

however that the work was essential and that they would be charged a reduced rent for the period that they were away from their homes. The Corporation also guaranteed that rooms would be redecorated prior to their return.

The removal of the asbestos was conducted by a specialist company and went according to plan. The social and economic project associated with the asbestos removal was, however, a 'management headache'. Several flats were held as 'void' for the 15 month duration of the project, in order to ensure that each family could be moved in and back out on a rolling programme. There were asbestos removal specialists and tradesmen on site constantly, which upset the usual day-to-day lifestyles of many residents as scaffolding, heavy machinery, dirt, dust, water, strangers and noise invaded their private spaces. There were additional complications as some families refused to move, or refused to move if it meant living next to certain people, while others claimed extensive damage to personal effects during removals and still others refused to move back home. Upon returning home, residents claimed damages to carpets and dissatisfaction with standards of redecoration.²⁹ Problems were exacerbated by the presence of leaseholders (who had purchased their properties from the Corporation) who were also required to decant, be temporarily re-housed but who had to continue their full mortgage repayments.

Windsor House's experiences were not, however, unique and moving residents out of existing homes and into temporary accommodation has been 'criticised by many as damaging to health because it disrupts social networks and isolates the remaining tenants. Residents and community workers paint a graphic picture of life in such circumstances, with inadequately secured empty flats subject to frequent break-ins, with windows smashed, fires started, and parties held' (Kearney, 2004: 223).

This case also demonstrates, as noted by the Convention of Scottish Local Authorities' working group, that local housing authorities have no accurate method of assessing the costs of asbestos removal. In addition to the fact that there are no reliable statistics on the percentage of residential dwellings containing asbestos; asbestos removal has social, replacement and removal costs, it involves decanting of residents and building users and loss of revenue (COLSA 2002:11). These reasons all work to reinforce a tendency to try – whenever possible and for as long as possible – to manage asbestos in-situ and to encourage the downplaying of asbestos dangers. It is precisely because of these costs that the HSE's approach, namely 'if in doubt assume asbestos is present', is in practice often reinterpreted to be 'assume no asbestos is present unless specifically alerted to it'. It is also, precisely for these reasons that it is necessary to create conditions that better protect people from asbestos. **The social, managerial and economic costs potentially arising from asbestos do not provide sufficient reason for not removing asbestos. As long as asbestos remains in-situ and is 'managed' remotely by landlords, there is a danger that people will inadvertently be exposed to it.**

²⁹ Complications around negotiating and moving residents and meeting leaseholders' demanding standards also put pressure on the budget and on officers' time, which was being spent reconciling disputes between contractors and residents. As the project was delayed by these problems, so the financial cost to the Corporation escalated.

- **The report recommends that a mandatory asbestos survey should be carried out whenever social housing providers transfer residents. Regular safety reminders, and the provision of advice and guidance should compliment this.**

8.2 Repairs, Maintenance and Home Improvements

Local authority and housing association accommodation is known as ‘secure tenancies’ because these organisations provide greater assurances and protection to residences than is available from the private sector. Secure tenancies were introduced under the Housing Act 1980 and the provisions were consolidated into the 1985 Act (which gave the same security of tenure to housing associations’ and local authorities’ residents under the umbrella name of Registered Social Landlords). Embedded in this legislation are fundamental rights to security of tenure which include the right to: live in your home for the rest of your life subject to appropriate behaviour, buy the house at lower than market rates, pass your tenancy on to a relative, have your home repaired (some of which are the responsibility of the resident whilst others remain the landlord’s duty, see below), carry out improvements (subject to the written consent of your council), be compensated for certain improvements you have made to your home, help manage your estate and be consulted on housing management issues (Directgov, n.d.). The residents’ responsibilities are to comply with the tenancy agreement, pay rent on time, establish good neighbourly relations, and not cause disturbances or be a nuisance. The City of London Corporation, described next, provides a good illustration of the general responsibilities of registered social landlords and their relationships – in terms of repairs and maintenance – with residents.

The City of London Corporation (formerly known as the Corporation of London) is the municipal body governing the City of London and, having existed for over 900 years, is the oldest Corporation in the UK. The Corporation takes pride in its ability to maintain the dual roles of protecting and celebrating historical traditions whilst governing as a modern local authority with the responsibility of supporting the financial district. It is responsible not only for the business sector of the City, but for maintaining local services; housing, refuse collection, education, social services and environmental health and town planning. The Corporation acknowledges the existence of deprived communities and tries to help these communities to benefit from the wealth generated by the ‘Square Mile’ (cityoflondon.gov.uk, n.d.).³⁰

The Corporation provides affordable housing for key workers in the City of London and has more than 2,000 properties with around 700 leaseholders. Just over 70 per cent of the properties are dispersed across the London boroughs of Hackney, Islington, Lambeth, Lewisham, Southwark and Tower Hamlets. The remainder of the properties can be found in the city based estates of Golden Lane and Middlesex Street. The

³⁰ http://www.cityoflondon.gov.uk/Corporation/LGNL_Services/Housing/Council_housing/repairs.htm accessed 11 February 2009.

Housing and Sports Development arm of the Department of Community Services is responsible for the management and maintenance of the housing stock. Day-to-day responsive repairs are provided by an external contractor, Inspace, whilst major capital works projects are undertaken by external contractors appointed and managed by the Housing Development Team which also promotes compliance with the Decent Homes Standard.

The rights of the secure tenant³¹ that are of particular interest to this study are those of repairs and improvements, including decoration. As is demonstrated below, improvements and decoration are areas in which responsibility is not always clearly delineated. It is confused and complicated by diverse styles of management and by the increased responsibilities imposed upon residents under the 'Decent Homes' legislation. Repairs are more straightforward as registered social landlords are required by law to undertake repairs to tenanted properties. The following list, compiled by the City of London Corporation, can be taken as emblematic for all the authorities examined in this research.

The structure and exterior of the building - this includes
the roof, chimneys and chimney stacks
foundations and external walls
the drains, gutters and all external pipes
external doors, window sills, frames and glass
boundary walls, fences, pathways, steps and other entrances to the building
playgrounds and play equipment

Inside your home (tenanted properties only) - this includes
the plumbing system, including pipe work, tanks, stopcocks, taps, baths, sinks, basins, cisterns and toilet fittings
internal doors and their frames, skirting boards and kitchen cupboards
central-heating systems, immersion heaters and gas or electric water heaters
electrical wiring,³² plug sockets, light fittings and switches and entry phones

Shared parts of blocks of flats or houses
These include corridors, stairways and entrances, and shared facilities like television aerial systems, entry phones, rubbish chutes, lifts and stairway lighting.³³

³¹ Council residents also have a 'right to repair', introduced as part of the Citizen's Charter scheme in 1994. According to this, councils are legally obliged to carry out urgent repairs – which might affect their health, safety or security – within a certain time period. If delays are experienced, residents can employ their own contractors. If repairs continue to be delayed, the council is liable for compensation. This has meant, in practice, that councils list the types of events that fall under this scheme and the appropriate length of time to carry out repairs: a toilet which does not flush should be repaired within a day, whereas three working days are deemed appropriate for a loose banister and a week for a broken extractor fan. The right to repair is thus a complicated procedure which applies only to certain repairs in the home and is dependent on reasonable time frames and levels of access.

³² Electrical wiring is inspected every five years to ensure conformity and safety.

³³ http://www.cityoflondon.gov.uk/Corporation/LG_NL_Services/Housing/Council_housing/repairs.htm accessed 11 February 2009.

Frequently major repairs are undertaken when residential properties are vacated and are designated as 'void'. Void management is a difficult area for registered social landlords and it is one where priorities and budgets strongly influence the decisions made. In all of the interviews with housing professionals (and sometimes with residents), they raised the issue of 'void turnaround'. 'Void turnaround' relates to how quickly a vacated property can be prepared for a new tenancy. The longer a property remains empty, the more it costs, both in terms of local authorities addressing housing needs and in financial terms. For this reason, properties should not remain void for more than 21 days. All local housing authorities are thus under pressure to work to tight deadlines. Successfully re-occupying a property within 21 days allows them to achieve high performance indicators upon which they are assessed. Decisions about the repairs and maintenance are thus over-shadowed by the 21 days deadline. As illustrated in the following quote from a Milton Keynes informant, the presence of asbestos – and the legal requirements about notification – made it very difficult to do anything substantial within the time pressures.

I don't think we remove it from void flats, I used to be on the Void Review Group. It used to cause delays on re-letting voids when we removed it because of the 14-day notice so we are less likely to remove it. There is never enough money for the council to do everything and there is a designated amount relating to asbestos. Money will be found if a problem comes up.

This suggests that local housing authorities have neither the time nor the inclination to use the periods when properties are empty to carefully monitor or remove asbestos. In addition, as pointed out by the HSE during this research, it is impossible to assess how much asbestos is present in domestic properties – or in voids – because although similar properties may have been sampled and this provides an indication of where asbestos was used in the original construction of the building, residents may also have introduced or removed asbestos during renovation. Financial costs and time delays thus militate against deliberate attempts to locate – and remove – asbestos, even when provided with the opportunity to do so. This is because the authorities' performance indicators do not, in this regard, stress health and safety. Rather they are a measure of efficiency in the Housing Revenue Account calculations. Similar concerns are echoed by the Disability Rights Commission which notes that the swift turn-around times limit the availability of appropriate housing for people with disabilities. The Commission has therefore called on the Housing Inspectorate to revise its performance indicators, introducing greater flexibility into the targets. This would allow some properties to be more appropriately prepared for the residents (DRC, 2007).

As, however, the following example of Homes in Havering demonstrates, not all social housing authorities prioritise void turnaround. Like many other housing authorities in the UK, this is a non-profit, Arms Length Management Organisation owned by the London Borough of Havering. Established in July 2006, it manages more than 10,000 tenanted homes and 2,000 leasehold properties, with responsibility for all housing services and

for attaining the decent homes target. The London Borough of Havering has a population of 225,000 which embraces both upwardly mobile economically affluent residents and some of the most deprived areas in the UK. Homes in Havering stresses the relationship between decent, healthy homes and sustainable communities and, in contrast to many other local authorities, pays particular attention to the presence of asbestos. For Homes in Havering, void properties represent an opportunity to generate added value to the housing portfolio. It does this by undertaking a full asbestos survey or, if surveyed in the past five years, a condition survey. In addition, a condition survey is now undertaken at the post inspection stage (if not surveyed in the last five years) as part of the rolling annual programme of 20 per cent of dwelling inspections.

In social housing, issues of health and safety are juxtaposed against short-term performance indicators, with few authorities taking the more long-term view demonstrated by Homes in Havering. The responsibilities of registered social providers are also juxtaposed against residents' rights. This creates considerable scope for tension, contradiction and ambiguity, especially in relation to asbestos. Residents' rights, detailed in the secure tenancy agreement, include the right to carry out improvements to a home, such as fitting a new bathroom suite, replacing kitchen units or building a new fireplace. Many authorities recognise this right, specifying that residents must apply for, and receive, permission in writing. This tension relates firstly to determining when social landlords should assume responsibility and when residents' rights take priority and secondly to the legal recognition that residents' investments of time, expertise and money into improving their homes should be recognised.

Firstly, the tension between social landlords' responsibility for major repairs (described above) and residents' rights to shape their houses into homes creates space for diverse interpretations of residents' actions. In accordance with the fundamental rights to security of tenure described above, residents are entitled to improve their homes as long as they obtain written permission. If the proposed work does not affect the structure, the work is carried out to a proper standard and if the resident agrees to comply with any conditions made; the City of London usually gives permission for this work to take place. Residents are advised to discuss their proposed alternations with their Area Housing Manager, who informs them of the procedure (the provision of full details, drawings, specifications) and, once satisfied, refers them to the Technical Division. The Technical Division provides guidance on the technical requirements (required planning, listed building and building regulation consents) and puts the very tight time limit of 28 days on this approval. Failure to comply within 28 days automatically results in an application being declined. Once technical approval is granted, the Area Housing Manager provides 'Landlord's Consent'. Despite the fact that these resident-inspired improvements are also paid for by residents, the Corporation retains the right to inspect the work and should be advised of completion. It is also possible for residents to pursue 'Landlord's Consent' retrospectively upon the payment of an application fee and proof of compliance with the necessary consents. While landlords are responsible for repairs, they will not – as the following excerpt from the City of London Corporation website demonstrates – repair deliberate damage or negligence. This creates, in effect, a 'black box' area which is not clearly legislated:

We [City of London Corporation] are not responsible for repairing or replacing any item that has been damaged on purpose or neglected. If we do carry out these repairs, you may have to pay for them. Neither are we responsible for repairing or maintaining any fitting or improvement that you have made to your home.

Implicit in this extract from the City of London Corporation website is the recognition that people may want to introduce fittings and make improvements to their homes. However, determining when something is an improvement or when it is damage may, in many instances, involve value judgements and may change over time. Similarly, deciding whether deterioration results from residents', rather than landlords', neglect may not always be straightforward. In the same way, damage may be done to properties, but what and whose criteria are used to ascertain whether this is deliberate damage? These issues are all raised by the following example from Homes in Havering:

Mrs Morrison first became concerned about the asbestos in her home in the 1990s. She had lived in the house all her life and her father had, in 1974, installed an artex ceiling. At the time of installation, chrysotile (white) asbestos was legal and he had mixed it into the artex himself. In 1994 Mrs Morrison wrote to the council requesting that something be done about the ceiling which was showing signs of wear and tear and was flaking. Homes in Havering's testing of the ceiling revealed, however, that no asbestos was present and its response was to skim over the artex. Still concerned, Mrs Morrison paid for her own samples to be done on the 16th April 2008. Both this test and a second test done by Homes in Havering on the 7th April 2008, produced positive results and confirmed the presence of chrysotile asbestos. The council then decided to remove the ceiling. Mrs Morrison and her family were advised that this would take place on the 20th May 2008 and that they could safely remain in the house. According to the HSE's new criteria, Artex removal is considered low risk: it does not require full asbestos protective clothing and is not a notifiable product. It was therefore not necessary to use sophisticated asbestos removal techniques. Despite reassurances that they could stay in the house throughout the process, Mrs Morrison then became concerned about the dust that spread through the house.

This example demonstrates how important notions of 'risk', 'safety', 'certainty' and 'improvements' can vary under different circumstances. It shows that ideas about what might be considered an 'improvement' are shaped by legal parameters and by ideas of 'safety'. When Mrs Morrison's father introduced the artex ceiling, asbestos was a 'safe' and legal product. Indeed his work on the ceiling would have been seen as an improvement to his home. It was, in other words, something he was entirely within his rights to do at that point in time and was, more than likely, an act that his landlord would have approved of. Twenty years later, however, and the ideas around asbestos have changed considerably. Now he is seen as having brought dangerous and hazardous materials into the property.

Secondly, the example demonstrates the difficulty of identifying asbestos-containing materials. Despite Mrs Morrison's certain knowledge that the ceiling contained chrysotile; this was not found in tests. This is because artex, generally mixed by hand, does not have a uniform distribution of asbestos fibres. Several interviews from skilled asbestos removal companies confirmed that this is not unusual for artex. **This reinforces the need for consistent, rigorous testing and reminds us of the dangers of using representative samples for determining the presence of asbestos.** Unless Mrs Morrison's house was surveyed, the official asbestos register held by Homes in Havering would have no knowledge of the introduction of asbestos. There is no way of knowing how frequently this occurred in the 1970s or how many residents introduced asbestos into their homes when it was still legal.

Thirdly, the asbestos removal contractors, working in accordance with the HSE requirements, did not rate artex highly in terms of risk. While they worked with masks and dealt with it in legally appropriate ways – seeking to minimise the release of microscopic fibres through a range of removal techniques – they did not consider it necessary for the Morrisons to leave their home. The Morrisons' however interpreted the presence of dust as a sign of contamination. Mrs Morrison's criteria of risk and her concern with visible dust is not based on scientific assessments of probabilities and risk. It is also, however, not unusual and this type of concern has been documented among other communities exposed to asbestos (Waldman, 2007).

While this first tension is slanted in favour of social landlords, their responsibilities and their determination of what is deliberate damage or neglect, the second tension ultimately reinforces residents' right to do improvements. The ability to shape one's home is not based only on social landlords' recognition that residents might do some DIY. Rather residents who opt to leave social housing can claim for any improvements through the legal 'Right to Compensation for Improvements' (Communities and Local Government Publications, 2007).³⁴ The right to compensation covers a wide range of activities, including the installation of central heating, bathroom furniture, double glazing or the rewiring of the property. All of these activities are, however, also activities which are likely to disturb asbestos. In theory, and according to the government publication 'The Right to Compensation for Tenants', residents should only receive compensation if they received written permission to do the alterations prior to beginning work: 'You should get written permission from your council before you make improvements' (Communities and Local Government Publications, 2007: 3). However, it is clearly widely recognised that this condition is seldom met and is not a prerequisite to compensation for works completed. The same document goes on to state that 'If you don't get permission first, you can apply for it when you claim for compensation. If the council refuses permission, you have a right to appeal to the county court' (2007: 3). Clearly, if permission is granted retrospectively, there is little point in warning residents

³⁴ Introduced as part of the Citizen's Charter scheme in 1994, the new Right to Compensation covers home improvements dating from April 1994. Residents choosing to leave social housing can claim up to £3000 for any one improvement. Improvements for which one can claim include: baths, showers, wash-hand basins, toilets, kitchen sinks and work surfaces for preparing food; storage cupboards in bathrooms and kitchens; central heating; hot water boilers and other types of heating; thermostatic radiator valves; pipe, water tank or cylinder insulation; loft and cavity wall insulation; draught-proofing of external doors or windows; double-glazing or other window replacement or secondary glazing; rewiring, lighting and other electrical fittings; and installing security measures.

about the presence of asbestos or in making sure that they work in legally specified ways.

None of the housing authorities reviewed for this research have publicised this information in their respective Tenant Guides and Handbooks. The City of London Corporation states, for example, that: 'You can carry out most repairs and improvements to your home as long as you get our written permission first. We usually give our permission. But if we refuse we will write to you with an explanation' (City of London Tenants' handbook, n.d.: 20).³⁵ Insisting that residents must not start work without written permission undermines, on one hand, residents' rights but, on the other hand, it helps social landlords meet their legal obligations in making sure that – from their perspective – they have ensured that asbestos is managed and kept safe. Other authorities, such as the Dartford Borough Council (2007), are more open about residents' ability to apply for permission retrospectively. In contrast to the social housing providers surveyed for this research, Dartford's approach on the one hand empowers residents. They can legally hold their landlord accountable for the improvements they have financed. On the other hand, however, such an approach greatly increases the potential that residents will do DIY work without first establishing written permission. This, in turn, means that there is no opportunity for the housing authority to inform – or remind – residents about the presence of asbestos and the need to exercise caution prior to beginning work.

Ultimately, these contradictory requirements of local housing authorities mean that the housing inspectorate, is unable to bring together information on hazardous materials within the home with residents' safety and their right to shape houses into homes through DIY. It goes without saying that if residents do not identify asbestos during these improvements, the whole process will be cheaper and quicker. Not only they, but also the council, will ultimately benefit economically from this failure to deal appropriately with asbestos. Unfortunately, this benefit may be short-lived for residents who may, in subsequent years, contract asbestos-related diseases due to their own lack of knowledge alongside the council's lack of legal imperative to inform them about asbestos and appropriate ways of dealing with it.

Everyone interviewed for this report acknowledged that unauthorised DIY work happens in social housing. Housing authorities frequently commented on the extent to which they were often shocked as entire rooms and load-bearing walls were removed. As one council employee commented, *'the first time you become aware of the fact that a resident has carried out unauthorised work is when you come across rubble and waste in a lift or corridor or dumped outside'*. Residents stressed that social landlords were rarely willing to help them (beyond the legal parameters), believing that their requests will automatically be rejected. They also sometimes wished to bypass tedious and time-consuming bureaucracies and paperwork and, if unaware of the presence of asbestos, might see no reason for informing the authorities about their activities in their personal homes.

³⁵ http://217.154.230.218/NR/rdonlyres/4B497ADA-D189-40E4-BDFA-8805E04B01F3/0/RH_tenantshandbookPages119.pdf accessed 11 February 2009

As housing authorities are not able to monitor all properties all the time, when they do manage to do so they are often taken aback by the changes. Housing professionals interviewed for the research confirmed that there were incidences of unauthorised improvements across the small percentage of properties that they manage to gain access to in any one year. If the message is clear that residents have a right to carry out alterations, it is vital that they are informed about the hazardous materials situated in their homes, but contradictory policies by the housing associations – which both allows them to do these alterations and allows them to claim retrospectively – undermines the possibility of a targeted approach to health and safety.

8.3 Creating a Home

In July 2000, following its Spending Review, the UK Government announced significant resource increases for housing, and especially social housing in order to achieve sustainable communities. In particular, poor housing was identified as a causal factor in the development of anti-social neighbourhoods, or ‘neighbourhoods with a bad reputation’ (Communities and Local Government Publications, 2007).

The Government aims ‘*to ensure that all social housing meets set standards of decency by 2010*’. It seeks to do this by ‘*reducing the number of households living in poor quality social housing and by focusing on deprived local authority areas*’ (*Decent Homes, n.d.: 31*).³⁶ The four criteria necessary for a home to be considered decent are: a) it meets the current statutory minimum standard for housing, b) is in a reasonable state of repair, c) has reasonably modern facilities and d) provides a reasonable degree of thermal comfort.

Landlords are tasked with the responsibility for providing ‘decent standard’ homes. There are several ways in which local authorities can achieve these standards. Firstly, they can retain their housing stock and use existing levels of finance to reach the prescribed standards. Secondly, they can opt for a Housing Transfer which involves transferring both the management and ownership of the stock to a Registered Social Landlord. Thirdly, authorities can, after consulting residents and with their support, set up an Arms Length Management Organisation (ALMO) whilst the properties remain in local authority ownership. Lastly, they can take advantage of a Government-funded public/private partnership in which the Private Finance Initiative allows a local authority to continue to own the stock and to enter into individual agreements for refurbishment of selected stock (Communities and Local Government Publications, 2007).

The third option – the Arms Length Management Organisation programme which commenced in 2001 – has proved particularly attractive to local authorities and has simultaneously attracted much criticism. There are currently 70 ALMOs in existence managing more than one million council homes across sixty-six local authorities with the

³⁶ <http://www.asylumsupport.info/publications/dltr/adecenthome.htm> accessed 11 February 2009.

National Federation of ALMOs asserting that they deliver a superior service and level of tenant empowerment than both council-managed properties and those managed by registered social landlords (NFA July 2008). The ALMO removes the landlords' responsibility for day-to-day management and puts this into the hands of a company owned by the local authority. Within ALMOs, tenants and local authority nominees can participate in decision-making as representatives on a management board along with directors and independent members.

Underlying the Decent Homes programme is an assumption that residents can and will act as responsible citizens once provided with appropriate homes. Rose argues that the legislation aims to form an identity of the 'citizen' with obligations toward the 'community' (cited in Flint 2003). These aspirations were clearly prescribed in the legislation which emphasised the commercial, private-sector nature of housing seeking to responsabilise the tenant;

'We want to establish a sector in which tenants have real choice over their housing, where they can take responsibility for their homes in the same way that owner occupiers can; where tenants are empowered in the decision-making processes that affect their homes rather than being pushed into them; and where there is a wider range of housing providers competing for tenants' custom and offering high quality, good value services' (DETR 2000a: 56).

The social engineering element of contemporary housing policies thus seeks to impose the rationality of the consumerist citizen upon residents who are often the most vulnerable and, in so doing, increasing their likelihood of exclusion. Flint identifies that such groups lack the skills to become 'entrepreneurial consumers' and they lack the ability to relate responsibly within the community (2003: 625). A study of three diverse neighbourhoods in Stirling, Scotland suggests that improving homes through choice and individualism does not result in improved neighbourhoods. In all three cases the residents felt that – rather ironically – their community had declined due to increased individualism (Robertson, Smyth and McIntosh, 2008). Ultimately the notion of a free market for social housing and of choice is deeply flawed because, although residents can choose their housing provider, or whether to go to another landlord, all residents living within a certain area have to make the same choice.

The current ethos is one of detached, business-like management designed to reach designated standards of housing provision, as opposed to the previous model in which social housing was a safety net for the vulnerable. The idea of the citizen with a responsibility to the community has evolved alongside a withdrawal of state responsibilities toward the internal upkeep of the home. This has been accompanied by 'handing over' responsibility for decoration and by providing 'choices' for residents. Although not all authorities subscribe to this in practice and the authorities reviewed for this report had differing approaches on repairs and decoration.

Thus, for example, Homes in Havering takes a detached approach which specifies that they are responsible for 'some repairs' relating to the exterior of the building, window frames, sashes and communal areas. Residents, in turn, are informed that they are responsible for the following areas within their home; floors, glazing, partitions and plastering, plumbing, carpentry, central heating, decorations, entrance doors and electrics.³⁷ As new residents are informed exactly where asbestos is lodged upon taking up residence, they are expected to take necessary precautions when carrying out repairs and DIY. In this arms-length management approach, residents are being responsabilised to govern their own homes internally; even though these residents might be ill-prepared for such a task (as discussed above in the section on decent homes).

Vulnerable families and individuals may, through such a process, be exposed to greater risk within their homes through their inability to understand – and negotiate their way around – an asbestos management policy imposed upon them by their landlord. The approach taken by the City of London Corporation is quite different. Dealt with in the Tenants Handbook, the Corporation does far less than Homes in Havering in terms of handing over responsibility to residents. Instead its management style is far more paternalistic. The Corporation maintains the structure and exterior, the installations for supplying water, gas and electricity, bathroom and toilet fittings, room heaters radiators and boilers, all of the Corporation's fixtures and fittings along with entry phones and lifts. It does not present residents with a list of their responsibilities other than to state that: 'if you, your family or visitors damage or fail to look after our property, you will be responsible for the cost of the repairs' (City of London Corporation Tenants Handbook, n.d.: p5). As part of this responsibility, the Corporation's 'Safety at Home' booklet encourages residents to 'replace frayed, damaged or cracked wires as soon as they are noticed'. In contrast to Homes in Havering, it does not, however, warn residents that asbestos may be found around electrical wires and cabling, nor does it make any mention of the asbestos register or contacts in its 'useful contacts information'. The Corporation thus maintains responsibility for ongoing maintenance in the interior (unless damaged by residents or their visitors) in a paternalistic style which denies residents the opportunity to govern their homes. It also denies residents a chance to assess risks for themselves.

This discrepancy between who is responsible for houses and homes – especially for minor repairs and day-to-day maintenance – creates considerable ambiguity around the issue of asbestos. Local housing authorities are responsible for keeping the homes safe and for providing residents with a 'decent' living. Residents are responsible for their homes, encouraged to improve them and to manage the day to day maintenance.

The lack of clarity – and the fact that the Asbestos Register leaves the onus on employers – creates scope for abuse. During the course of this research, we visited one council house in East Sussex where the contractors were replacing the kitchen on behalf of the council. The worker said there was no asbestos that he need be concerned about because the house had been surveyed before his arrival. He was confident that had there been asbestos, he would have been warned. He himself had

³⁷ See <http://www.homesinhavering.org/CHttpHandler.ashx?id=16023&p=0> accessed 26 February 2009

not been informed of the council's asbestos register and had not consulted it. He then pointed to the floor tiles (which were probably the original ones from the early 1950s when the house was built) which, he said, did contain asbestos. According to him, however, this was safe and he need not worry about these floor tiles.

After the completion of the kitchen, the floor tiles were piled up on the pavement. Neighbours who telephoned the HSE to enquire about the possibility of asbestos in the floor tiles were informed that a) the regulations only apply to working with asbestos and not to the tiles now left outside and b) that the neighbour would have to pay for a test to confirm that there was no asbestos in the tiles or to talk to the council.

In accordance with the Asbestos Regulations and working on the assumption that there may be asbestos in the tiles, the HSE's own guidelines for the removal of asbestos-containing floor tiles stipulate the need to restrict access, to minimise the number of people present, the need to wear respiratory equipment and the need to place the debris in sealed asbestos waste containers.

8.4 Residents' Participation

There is a fair amount of literature detailing the need for resident participation in social housing. Within the UK, resident's participation has been seen as critical for facilitating an improved relationship between housing and health (Kearney, 2004; Molyneux, Kemp and Courts, 2005), as vital in relation to the planning and undertaking of asbestos surveys (Cooper, 2005) as well as in the removal of asbestos (Poultney, 1986). Managing the relationship between fears and indifference is critically related to how councils deal with their residents and with asbestos. The Corporation of London's approach to asbestos is detailed above. The Corporation is deeply concerned about the technical requirements of managing asbestos and its policy demonstrates its legal compliance. Nonetheless, the Corporation of London has not sought to engage with residents and residents' associations around the issue of asbestos and it has no legal obligation to do so. The asbestos register is not available in the residential complexes, the residents' association has not been informed of its presence and indeed has never consulted the register, at least one of the Corporation's caretakers has no idea that such a register exists or where to find it. Not informing residents about asbestos means that this remains off the agenda. Instead resident concerns focus on issues of general maintenance – how long it takes to get repairs done, the poor quality of repairs, the failure of the management consultants to answer their phone or speak to residents with any respect as well as more general concerns such as the safety of the residential complex, its external appearance and so forth. This is not, however, the case for all social housing providers and, as the following case shows, greater participation can lead to greater awareness of asbestos and its management. It can also facilitate better relations with the Council and improve residents' involvement in the management of their properties and, in so doing, help achieve the decent homes standards required by 2010 which ensure that residents have choice, exercise responsibility and are empowered in decision-making.

Milton Keynes manages about 15,000 houses through a mixture of homes for rent, leasehold properties and shared ownership. The Council's landlord services were assessed in March 2005 as providing 'a fair service that has uncertain prospects for improvement' (MKC, 2005: 4). The council's current policy is – in keeping with the HSE and the scientific evidence described above – 'that asbestos is left in place and encapsulated where it is in good condition and when this is possible' (Milton Keynes, Neighbourhood services).

In 2004 however, Milton Keynes council initiated a large-scale asbestos removal scheme which, critics said, was unnecessary as there were cheaper ways of dealing with the problem (Gravelsons, et.al. 2004). The proposed large scale removal of asbestos also provoked considerable concern among residents and was rapidly revised to be more in keeping with the HSE's recommendation of safe management. However, in contrast to the conventional tendencies of dismissing residents' concerns as unwarranted panic, a more participatory process was developed. In 2004, the Milton Keynes' Housing Forum developed an asbestos management plan, which stated the location of asbestos, ensured that all tenants would be informed of its presence and instructed them on how to deal with this during DIY work (including providing instructions on "low risk" items such as asbestos floor tiles and artex).³⁸ Additional efforts were made to contact previous tenants who had purchased their homes (Green, 2004). By 2005, Milton Keynes reported that 'remedial action had been taken regarding high risk properties' (Siddels, 2005: 3). That year, half a million pounds was allocated to 'asbestos management'.

The Council's residents were closely involved in these asbestos management procedures. The Housing Forum provided a formal avenue for residents' participation through its regular meetings, its ability to influence formal decision-making and its newsletter which communicates information back to residents. Residents also have access to additional training and a tenants' resource centre. Representatives from the Residents' Associations attend Council Housing Forum Meetings at which asbestos issues are discussed. The Building Services Tenants' Group worked to produce a leaflet which fed into the Council's own Asbestos Management Leaflet. Nonetheless, concerns about generating fear and panic meant that this was not distributed to all residents. Instead it was publicised in the residents' newsletter and is available on request (Milton Keynes Minutes, 17 November 2005).

Milton Keynes' Resident Association Representatives are aware of the dangers around asbestos. At one point, probably around 2004, all residents were sent a pamphlet warning them about the presence of asbestos in their homes. They know that the Council has removed the more dangerous and degraded asbestos. They know about the asbestos register and where it is kept. If residents carry out unauthorised DIY, the Residents Association warns them of the need to wear a mask if in any doubt about the presence of asbestos. Ironically, because of the high levels of knowledge, problems

³⁸ Although considered to be best left in-situ, specific procedures were provided for removal of these items, including that they be moistened during removal and disposed of in accordance with other ACM products.

with asbestos are more likely to occur: in March 2005, an Audit Commission Inspection Report pointed out that the Council 'provides minimal advice and no clear indications to tenants of the presence of asbestos in their homes' (MKC, 2005: 4).

A Residents' Association Representative stressed that many tenants were not sufficiently informed and that the newsletter had failed to identify estates that were most at risk. In addition, the Council Housing Forum Meetings reported problems with the asbestos helpline which failed to respond to their queries. The Audit Commission reported that 'the approach to the asbestos that is contained within many of its properties is unsatisfactory' (MKC, 2005: 17) and associated risk management inadequate and weak. For instance, one resident was 'exposed to asbestos and permitted to vacuum up the dust after a contractor had cut through her ceiling' (MCK, 2005: 19). While the Council identified this as a problem of 'weak contract management and poor systems to indicate the presence of asbestos' (MCK, 2005: 19), it is also important to recognise that without a process of resident participation in asbestos planning, such an incident might never have been considered dangerous. These problems appear to have been resolved and, by 2008, the Council was commended for having a 'robust approach' to asbestos servicing and for the efficient manner in which repairs were dealt with (MKC, 2008).

The example of Milton Keynes demonstrates the possibility of involving residents in asbestos-related issues. It also shows, ironically, how greater awareness of asbestos leads to increased incidences where asbestos is exposed or where people require further information. The Audit Commission, and the forms of monitoring applied to councils means, however, that these raised concerns are seen as evidence of shortcomings. This is because of concerns about generating asbestos fears, the notion that a 'managed approach' (which assumes that buildings are static and people don't disturb asbestos) is possible and the failure of mechanisms which evaluate social housing providers' performance to recognise that increased concerns about the possible release of asbestos fibres might be a sign of better management. The result is that councils which fail to inform their residents about the presence of asbestos and thus have fewer health and safety breaches are, ironically, rewarded by good assessments by the Audit Commission.

Overall, this report found that the approaches taken by different authorities varied considerably. Different authorities involved their residents to different degrees and provided varying amounts of information. Homes in Havering has a comprehensive section entitled 'asbestos information' in its Repair Guide. This is available on the website and is supplied to residents in their welcome pack along with the Asbestos Register's specific inventory of where asbestos is lodged in their particular residence. The section leaves the reader and therefore the resident – assuming, that is, that they read all the supplied literature – in absolutely no doubt as to what asbestos is, what the effects of exposure might be, where it might be found in the resident's own home and how it should be dealt with (Homes in Havering, n.d.: 17).

In contrast to many other authorities – the bulk of which begin all their asbestos literature with some reference to the need to stay calm – and the HSE, Homes in Havering does not appear to have any qualms about public panic. The message in Havering’s literature to tenants is robust: ‘Our policy is to ultimately remove all asbestos materials from our buildings and equipment. First we will be dealing with the most hazardous cases and those that are to be disturbed for maintenance or other works’. (Homes in Havering, n.d.: 17). Rather than attempting to pre-empt panics, there is a clear strategy of informing residents where the asbestos is and how it is being managed. Homes in Havering displays good practice which goes well beyond the letter of the law. It explicitly recognises that residents will modify their houses as they slowly shape them into homes. In order to facilitate this, Homes in Havering has a system of labelling in communal areas. This policy is also applied to the interior of homes, but here Homes in Havering waits until the residence is void and then labels discretely (for example at the back on an airing cupboard). Rather than overlooking the possibility of asbestos exposure through unauthorised DIY, it accompanies relevant information on asbestos with the text: ‘This information is supplied to assist you in the event that you decide to carry out any work which would entail damaging or removing any of these items at which time you would need to seek advice from a licensed Asbestos contractor or the Housing Department’.

At present, and in the cases reviewed for this research, asbestos does not appear to be being high on residents’ agendas. In several cases, residents were unaware that the council had an asbestos register or where this could be found. This is not surprising given that, when enquiries were made for this report, **some council officers had never heard of the asbestos register and were unsure of where to locate their own registers**. In addition, much of the research found that **councils have not done very much in terms of informing residents where asbestos might be**. It appears that, on a day-to-day basis, residents have other concerns: road conditions, housing for their children, parking and so forth. At Windsor House, discussed above, residents of nine flats refused to give the Corporation access to their homes and therefore did not have the asbestos removed from their ceilings. This apparent lack of concern may, in fact, be seen as part of the success of the ‘asbestos is not dangerous’, ‘don’t panic’ campaign, but it remains a failure in that – in not panicking – people are also not taking the necessary precautions.

8.5 Monitoring

To date, there are no legal requirements for social housing providers to monitor the presence or condition of asbestos in domestic homes. Nonetheless, there are some processes that have begun to focus on these issues. In particular, the requirement to keep an asbestos register and to inform maintenance workers of their potential exposure to asbestos has initiated a process where some housing authorities highlight their work with asbestos in Audit Commissions. Nonetheless, audit commissions do not automatically ask questions about asbestos. Rather, they begin

their investigations into local authority housing with an authority-completed self assessment. This forms the focus of the inspection and details all the documents that the Audit Commission is likely to ask for. It is through the self-assessment that the Audit Commission's Inspection Team determines whether a service is weak or strong and whether it requires further exploration from them. This self-assessment approach is now being used for all housing inspections and is linked to the introduction of Key Lines of Enquiry (KLOE). While KLOE questions do raise asbestos as an issue (in Environment: Waste Management and in Stock Investment and Asset Management),³⁹ there remains considerable scope for housing authorities to emphasise or downplay their asbestos portfolios in their self-assessments. The result is that, when housing authorities identify asbestos as an issue in their self assessments, they open themselves up for criticism. Other housing authorities which avoid the issue in their self-assessments – and which may also avoid dealing with asbestos beyond the minimum legal requirements – are thus less likely to have this identified as a potential problem or source of discontent. This lack of regulation around reporting on the presence, condition and management of asbestos allows authorities to downplay the presence of asbestos in their housing stock not only for their own audit purposes, but also in relation to the residents.

While all local authorities examined for this report appear to maintain asbestos registers, it is clear that these tend to be based on surveying a sample of the council properties. There are, however, many examples which demonstrate that **this is not an appropriate way of determining whether asbestos is present and what condition it is in.** Asbestos removal companies and private surveyors point out that the ubiquitous presence of asbestos means that it cannot be done on a generic sample base; rather every house should be examined (CSE, 2005). As discussed above, **residents' tendencies to shape their homes and their legal right to introduce asbestos into council houses over the past 30 years, reinforces this need to provide detailed, house-specific information.** It is especially difficult to generalise about the presence of asbestos in artex, not only because residents may have introduced it, but also because its heterogeneous nature means that it requires extensive and careful sampling for a proper assessment.

In addition, Cooper (2005) points out that ex-local authority housing may include non-standardised features with asbestos in uncommon locations. This makes it difficult to take sample data about the presence of asbestos and generalise it to all buildings in a particular area. Even if a row of council houses were all built at the same time, the fact that builders have individual preferences and that people might have introduced asbestos in the past – means that some might contain asbestos while others might not, or that they have asbestos in widely diverging places in the buildings. This also applies to the removal of asbestos and, as the following example, shows, it is all too easy to be exposed to asbestos even when an asbestos register informs workers and legal procedures are followed:

³⁹ The Stock Investment and Asset Management KLOE identify as excellent service a housing authority which 'maintains an up-to-date record of the location and condition of asbestos or presumed asbestos in its properties and provides information on its location and condition to anyone who is liable to work on or disturb any asbestos'. A fair service would be one which keeps an accurate and timely record of where asbestos is to be found and its condition, but does not seek to regularly and systematically inform people who are likely to come across it, disturb or work on it.

When South Tyneside Homes was doing refurbishment work, contractors and sub-contractors relied on the housing authority's asbestos register. This register was based on a type 2 visual survey. South Tyneside's contractors had electronic access to the asbestos register. When working on the residences, they carried a hand-held set which accessed the register and sounded an alert if asbestos was present. This also allowed them to update information, recording alterations and encapsulation. The asbestos register did not document any asbestos boarding in the old boiler chambers (located in the chimney breasts). This fitted with South Tyneside records which stated that the boarding had been removed years previously when the boilers were taken out. Work progressed with two young and inexperienced men breaking into several chimney breasts, until an on-site general information talk alerted them to the possibility of asbestos. It was then realised that they had been breaking through chimney breasts lined with asbestos boarding. After the HSE had been notified and investigations conducted, it was found that the houses on one side of the street had no asbestos in the chimney breasts. On the opposite side, however, the asbestos was present in some, but not all, the houses.

This case demonstrates how easy it is for asbestos exposure to happen even when highly sophisticated asbestos registers are used. Ultimately asbestos registers are based on sample surveys which assume standardised building and removal procedures and which fail to recognise that human behaviour creates massive variation in how asbestos might have been used in, later introduced to or removed from houses. Given the presence of human beings it is extremely likely that, in terms of asbestos, no one house is the same as the next. Because asbestos is incredibly hard to identify by sight, smell or texture, this kind of situation 'could have happened to anyone'; workers can 'only be as good as the information you're given'. **In addition, if a building surveyed for the asbestos register has intact, well-preserved asbestos, it provides no information on the condition of asbestos in other buildings alongside it** (Nicholson, 1989: 253). Yet surveys (which examine a sample of the residential properties) are being used by local housing authorities to determine how to respond to asbestos in the housing stock. Given this, Cooper has argued, that it 'is difficult to imagine how SHPs [social housing providers] can confirm conformance with the standards without carrying out asbestos surveys of all their housing stock' (2005: 137).

The Housing Health and Safety Rating System (HHSRS) provides another measure which should assist in the monitoring of asbestos. This rating system is

'...built on the principle that a dwelling, including the structure, the means of access, any associated outbuildings and garden, yard and / or other amenity space, should provide a safe and healthy environment for the occupants and any visitors. To satisfy this principle a dwelling should be free from unnecessary and avoidable hazards and where hazards are necessary or unavoidable, they should be made as safe as reasonably possible' (Molyneux, Kemp and Coutts, 2005: 10).

The HHSRS was introduced in 2006 (as part of the Housing Act of 2004) and is intended to assess risk in residential properties in England and Wales. This risk assessment tool aims to focus on housing hazards and to make houses safer places of residence. The rating system notes the presence of asbestos, its related diseases and warns that specialist advice is required before removal. Overall, and in keeping with the HSE approach, it advises a managed approach to in-situ asbestos. It does not, however, tell landlords where to look for asbestos, provide information on how to find asbestos or inform them that they require a specialist survey. Rather it provides a general warning about asbestos as one of 29 hazards and leaves landlords to identify asbestos and decide how hazardous this is.

All these mechanisms designed to monitor health and safety, asbestos, the performance of social housing providers or local authorities downplay the problems of asbestos and, in conjunction with this, see raised concerns about asbestos as a form of failure. This report argues that the reverse is more apposite. **Raised public concerns about asbestos should be welcomed as they demonstrate a desire to know about asbestos and to deal with it in ways that are context specific and suit the residents concerned.**

- ❖ **The report therefore strongly suggests that Council housing providers should be requested to maintain asbestos registers, detailing the following information for each and every property:** a) whether a particular property has been surveyed or not, b) where asbestos has been found in the property or in a similar-surveyed property, c) any records that asbestos may have been removed or damaged, d) whether or not the removal of asbestos was carried out professionally and e) whether there is official confirmation of this removal.
- ❖ **Increased asbestos awareness training and guidance should be provided to all local authority staff and to resident association representatives.** This should be complemented with specialised training for those identified as more likely to encounter asbestos in their routine work procedures. The actual work on or removal of asbestos should then be done by licensed contractors.
- ❖ The content of all current **training provision for maintenance workers and tradesmen** (such as national vocational qualifications) should be interrogated to ensure the prioritisation of asbestos hazards. Where necessary, specific modules dealing with asbestos risks and protection procedures should be added.

9. EXPOSURE TO ASBESTOS

The Health and Safety Executive (HSE) has been running a campaign since 2002 aiming to protect maintenance workers from exposure to asbestos (CSE, 2005). The Campaign was initiated because of 'massive ignorance' that still existed alongside a perception that asbestos was 'yesterday's problem', yet large numbers of tradesmen are dying of asbestos-related diseases each year. The Campaign dovetailed with the Control of Asbestos at Work 2002 regulations and the introduction of the Asbestos Register as a legally binding requirement of landlords. More recently, and correlating with the Asbestos Regulations 2006, the HSE ran a major Asbestos Awareness campaign which has detailed the experiences of people exposed to asbestos in the line of work. Using the slogan 'Asbestos: The Hidden Killer', this campaign has a 'hard-hitting' message that aims to bring home to maintenance workers the dangers of working with, and exposure to, asbestos. The HSE website explores 12 people's life stories and shows how asbestos has affected them; detailing, in shockingly stark terms, exactly how many tradesmen have died of asbestos-related disease at every opportunity. This campaign is clearly important and evaluations have shown that it has had significant impacts in terms of alerting people to the presence of asbestos and the need to exercise caution when working with or around it. Levels of asbestos awareness amongst tradesmen were found to have increased by 20 per cent during the campaign. Unfortunately, however, these heightened awareness levels subsided shortly after the campaign. The HSE intends to build on these activities by targeting surveyors in the near future.

Although successful in terms of the Campaign's initial aims, the focus of this campaign is on workers, but it does not mention the people resident in the houses that contain asbestos. This focus on workers is entirely within the HSE's remit as it is not responsible for residents' or home owners' arrangements. Nonetheless, this approach does not – as the following case demonstrates – deal with workers who are not maintenance workers, but who may be intimately involved with the management of asbestos-ridden properties:

Paul Landsby,⁴⁰ currently aged 61, has been employed by a UK council for the past 25 years, initially as a cleaner and subsequently as a caretaker. For the past 40 years, he has lived in a council flat identical to those he manages as a caretaker. These flats have asbestos panels in the bathrooms, asbestos ceiling panels in the public corridors and, until 1991, a boiler lagged in asbestos. Paul has regularly had to remove the bath panels (by removing the screws and lifting out the panels) in order to examine or repair the plumbing behind the panels. He has also had to clean up broken ceiling panels (often deliberately damaged by children) and to maintain the boiler. In October 2006, Paul began to experience shortness of breath, a persistent cough and he felt as though there was fluid in the left hand side of his chest. In the same month he was asked by the Consultant Chest Physician examining him if he had ever been exposed to asbestos. Paul initially did not recall any direct exposure to asbestos, but after his appointment

⁴⁰ This is a pseudonym in order to protect this informant whose claim has not yet been settled and who is currently still employed by the council.

started to think about the broken ceiling tiles and the bath panels. That same month he was diagnosed with pleural plaques and pleural effusion (which has since been drained from his lungs). Later medical examinations also identified diffuse pleural thickening and some impairment of his lung function. Not unsurprisingly, Paul has suffered considerable anxiety in relation to this diagnosis, especially as he initially suspected that he was suffering from malignant cancer and then, more recently, in terms of how his disease impacts on his ability to do his work and how it will affect his future health. Medical specialists predict that the pleural thickening may worsen, increasing his breathlessness and disablement, and that he has a 1% chance of getting mesothelioma.

Paul Landsby has never been informed of the presence of asbestos or of the dangers of asbestos exposure, he has not been supplied with any special equipment to deal with asbestos, nor has he ever been provided with any training on how it should be handled. This failure to protect him from asbestos appears to directly contravene the Control of Asbestos at Work Regulations, which specify that training is required, that employers must bring into effect all possible measures to reduce employees' risk of exposure, to provide control measures (such as protective clothing) and to monitor their exposed employees' health.

This example demonstrates the limitations of the HSE's current campaign. Paul Landsby is a category of worker that few have considered in relation to asbestos exposure. Cleaners and caretakers have not generally been identified as at risk from exposure to asbestos, with the exception of the work of Brown et.al. who – twenty years ago – argued that while ‘the risks to normal occupants of asbestos containing buildings is very low, maintenance staff and cleaners may be exposed far more and the risks to these operatives may require remedial attention even at the cost of increasing the exposure to other occupants’ (1992: 94). The failure to identify all workers potentially exposed to asbestos can lead to non-compliance in terms of the legislation. Although Paul has been exposed to asbestos for the past 25 years, the legislation only requires the council to inform him of potential asbestos exposure in the past two years. However, the ceiling panels have long since been removed, the remaining asbestos locations are – in theory at least – ‘safe’ as long as left undisturbed and – in theory once again – no-one should disturb them. This could be read to mean that a caretaker will no longer come across asbestos in the course of his or her work. However, the fact of the matter is that people do not always behave according to assumptions made by councils, by regulators or by asbestos surveyors. Indeed, youths breaking ceiling tiles are never considered in relation to work hazards.

This failure to identify all the potential hazards is precisely because of the short-sighted approach that emphasises the safety of encapsulating asbestos and fails to recognise that human behaviour impacts on the built environment – and on encapsulated asbestos – in multiple, sometimes unpredictable, ways.

The HSE does, however, ensure compliance with the Asbestos Regulations 2006. As mentioned above, high risk asbestos products are deemed ‘notifiable’. This means that

even specialised contractors cannot remove – or work with – these asbestos products without first notifying the HSE. Contractors complete an ASB5 form which lists their details, licence number, where the asbestos is and what its nature is. They cannot begin work until 14 days after the HSE has received notification. This makes it possible for the HSE to decide whether to send out inspectors or not.

During the course of this research, councils explained how the HSE had occasionally turned up to examine their work. In addition, news items periodically report breaches of the law. For instance, in February 2009 a South Harrow construction firm – working on council property – was found to have dumped floor tiles and toilet cisterns in an ordinary skip. As low risk asbestos-containing items, these could be removed without specialist contractors, but still required specialised removal and disposal arrangements (Harrow Observer, 13 February 2009). In this same month, a Kensington Hotel was fined £52,000 when building work damaged and exposed asbestos which was connected to the hotel ventilation system. Refurbishments had begun in September 2006 without – and contrary to legal requirements – a risk assessment being carried out. Once workers had left the site, employees and guests had access to the areas where asbestos was exposed. The judge reflected on how workers were in a ‘state of ignorance’ because they had not conducted a survey as required by the Asbestos Regulations. Workers, hotel employees and guests were inadvertently exposed to damaged asbestos for an extended period of time (Environmental Health News, 20 February 2009).

The examples discussed here are significant because they provide greater insights into who is being exposed and who might be considered to be at risk. As shown in these examples, it is not only the people the HSE expects to be exposed. Of course, workers have been exposed, but cleaners, council caretakers, hotel guests and hotel employees have also been put at risk. As demonstrated in the case of Paul Landsby, these are people who are highly unlikely to consider the dangers of working with asbestos in their day-to-day work and yet are likely to be regularly exposed and may even end up contracting asbestos-related diseases. As already suggested in the discussions above, **another area where people may be put at risk – but who are not targeted in terms of safety campaigns, legal advice or appropriate information, is in their own homes.**

10. DISCUSSION

People’s desire to improve their homes is not related only to social housing providers’ ambitions to provide ‘decent homes’ and to create responsiblised citizens. It is also related to the massive social pressure to ‘get onto the housing ladder’, the ‘Right to Buy’ and to a burgeoning DIY industry in the UK.⁴¹ These processes suggest that there is a

⁴¹ The DIY & Hardware market grew by 1.2% in 2003 and was worth £13.7 billion. By 2008 the market was estimated to have a value of £16.1billion, which represented a 17.7% increase since 2003 (British Retail Consortium <http://www.brc.org.uk/details04.asp?id=575&iCat=277&kData=263&sCat=RETAIL%20STATS%20AND%20FACTS> accessed 27 February 2009). A 2006 survey by Halifax found that 25% of homeowners sought to improve their homes and to add value by doing their own DIY work.

far greater need to inform people about the risks of asbestos exposure and to put them in a position to assess their personal circumstances before deciding on appropriate behaviour.

Asbestos management is about 'predicting component disturbance and pre-emptively planning for it' (Cooper, 2005: 134). There are many difficulties that need to be overcome in relation to this and no one approach will cover all eventualities. Asbestos registers provide information to contractors and possibly to emergency services, but don't always inform residents and overlook other categories of people potentially exposed to asbestos (such as caretakers or cleaners). A labelling system may work in some contexts such as communal areas of social housing, but it is not desirable if visible in residents' homes and there is always the chance that someone will remove the labels. A permit system (which people apply for before doing work on their homes) has already been demonstrated to be problematic as many people fail to apply for permission. And a policing system is never going to work: as commented by one social provider: 'we can't police 10,000 properties with tenants allowed to decorate their own homes and [to] make improvements'. In addition, the legal situation is confused and residents are able to apply retrospectively for DIY work done on local authority housing. Surveying, monitoring and re-inspection are also difficult because of time constraints, costs and residents' reluctance to admit authorities into their homes.

The approach to asbestos put forward by the HSE, housing authorities and social housing providers stresses the need to manage asbestos in-situ. The mechanisms for doing so focus on information, risk assessment and individual responsibility. Dealing with asbestos is, as Cooper (2005) points out, also an emotive issue. People veer between being highly concerned about asbestos and ignoring it (or as some might say, displaying undue nonchalance or indifference). Neither of these responses are necessarily appropriate without a broader understanding of the context in which the asbestos is found, the people likely to be exposed, the plans they have for their home(s) and their own perceptions of risk and danger.

Asbestos is thus, as Weinstein, Klotz and Sandman argue, a hazard which is characterised by 'strong individual differences in risk factors or risk preferences'. **Precisely because there is no government policy of informing people what to do about their individual homes, decisions about 'determining to what extent the risk is present', 'deciding whether it poses a substantial risk' and 'choosing and carrying out an appropriate course of action' is left to private citizens** (1989: 361).

Rather than determining whether asbestos in-situ is inherently safe or not safe, is the recognition that – as long as the asbestos remains in-situ – there is a chance that people will come across it and disturb it. **Sooner or later asbestos that is in-situ will have to be removed in specialised ways.** As demonstrated in this report, the inherent difficulty of controlling people's behaviour and this ever-present risk of disturbance while waiting for ultimate demolition, suggests that a two-pronged approach is necessary: on

(Halifax reveals mortgage holders' DIY trends, Mon 10th Sep 2007 <http://www.moneynews.co.uk/3713/halifax-reveals-mortgage-holders-diy-trends/> accessed 27 February 2009) .

the one hand, whenever possible asbestos should be removed by specialist operators who are skilled at working with this substance.

On the other hand, people should be provided not only with information, but the means to help them in their dealing with asbestos. This can include statistical estimations of risk, possible options (encapsulate or remove) and some social comparisons⁴² which detail the 'experiences, feelings, and actions' of people who have similar encounters with asbestos. Indeed, if the HSE or social landlords or the government were to provide some guidance and social comparisons about what strategies have been successful for others in similar situations; these would be helpful measures for people to gauge their reactions against. **It is thus critical to have a multi-pronged approach, which seeks to inform people about risk, to take preventative action and remove asbestos wherever possible, monitor and regulate asbestos while also seeking to help people make decisions about the asbestos in their own homes.**

11. CONCLUSION

Social housing – characterised by the idea of decent, affordable and secure housing – has been overlain with market-related ideas of respectability and responsibility. Exploring the principles and legislation underlying social housing, this research highlights the contradictions and ambiguities between social housing providers' responsibilities and residents' rights, especially in relation to asbestos. Secure tenancies were introduced under the Housing Act 1980 and the provisions were consolidated into the 1985 Act. Included in this legislation are fundamental rights to security of tenure for residents. Coupled with the right to undertake repairs and improvements, these rights create confused and complicated styles of management. Tensions exist between social landlords' responsibility for major repairs and residents' rights to shape their houses into homes. Contradictions also arise in relation to the fact that, should residents undertake improvements, they have a legal 'Right to Compensation for Improvements', which can be claimed retrospectively on leaving social housing. **However, while social housing providers have no obligation to inform residents of asbestos in their homes, many of the activities for which residents can claim compensation are likely to directly expose workers or residents to asbestos.** Such an approach – which encourages a relaxed attitude towards written consent prior to beginning alterations – greatly increases the potential that residents will do DIY work without being informed of the presence of asbestos.

⁴² An example of a social comparison could be: John lived in a three bedroom house with his wife and young child. As he was planning to do considerable DIY work himself, they decided to have a full asbestos survey of his house. Three levels of survey are possible and John chose [X], this cost him [X] and took [X length of time]. After the completion of the survey, they decided to have all the asbestos removed because they did not want to put their child at risk. The full stripping cost [X] and took [X]. Although expensive and causing some upheaval, John's house has increased in value as the risk of asbestos exposure is now removed. Peter however decided that his 2 bedroom flat, into which he has retired, does not require such attention. He has no plans to do any DIY and he makes sure that his grandchildren do not tamper with the structure of the flat. He has, nonetheless, had an asbestos survey and knows where the asbestos is. Whenever maintenance workers come to his flat, he warns them of its presence.

Indeed, given the massive costs of dealing with asbestos, bringing in specialised stripping companies, delaying work schedules and replacing asbestos with newer forms of fire protection, it may actually be in social housing providers' interests to avoid finding asbestos wherever possible. In addition, as there are no means of raising additional costs for asbestos removal or of accurately calculating what the total asbestos-associated costs might be over a specific time period, economic calculations will always favour encapsulation and management of asbestos in-situ. In fact, as we were told during the course of this research, **'Asbestos is not beyond managing, [but] how you approach it depends on your budget'**. Budget calculations which emphasise low risk are, as this report has demonstrated, short-sighted – in that savings are made by continuing to expose people to asbestos – and a form of false economy – in that the real costs of encapsulation will only be evident when today's workers, DIY enthusiasts, school teachers, and so forth start to show the symptoms of asbestos-related diseases.

The Health and Safety Executive's scientific calculations of risk has thus sought to reassure people that an informed approach of 'encapsulated asbestos management' is appropriate and that removal is only required under exceptional circumstances. **This report argues – in contrast to the HSE approach of emphasising low risk and targeting information to those most at risk (tradesmen and maintenance workers) – that the scientific approach provides insufficient guidance for evaluating how people should deal with asbestos in their homes. This approach does not deal with pragmatic factors such as the ever-present possibility of contamination in non-identified sites or the impossibility of informing all people likely to encounter asbestos and fails to recognise the multiple, sometimes unpredictable, ways that human behaviour impacts on the built environment and, in so doing, exposes many 'unexpected' categories of people to asbestos.**

This report demonstrates that greater participation can lead to greater awareness of asbestos and its management, while also facilitating better relations between residents and their housing providers and, in so doing, helping residents to have choice, exercise responsibility and be empowered in decision-making.

Because of the minimalist legal requirements, different housing providers have used different styles of participation and information dissemination, leading to various levels of asbestos awareness and management. In practice, residents' involvement in creating and updating an asbestos register and in informing contractors was highly varied. Some residents knew nothing about the register and had never consulted it; in other areas residents who had been highly engaged in the development of the asbestos management plan and the production of the register and in still other residents were provided with specific written information on where asbestos was to be found in their individual homes. Ironically, however, increased awareness and social mobilisation around asbestos is often portrayed as negative and as something that should be avoided. In contrast, this report argues that raised public concerns about asbestos provide positive opportunities for information dissemination and for public discussions about the ways in which different individuals might deal with it, bearing in mind their present circumstances.

This report concludes that neither housing providers nor the HSE are doing enough to inform people likely to be exposed to asbestos. This is because the ‘asbestos is safe in situ’ and ‘do not panic’ approach lead to the production of scientific, decontextualised information which a) gives the impression that only certain categories of people need to worry, b) doesn’t provide appropriate assistance or guidance when people do worry and c) downplays the massive attraction of DIY and informal work on houses which potentially increases people’s exposure to asbestos.

The first UK warnings that asbestos was lethal occurred over a hundred years ago. ‘If [these] early warnings had been heeded, and better control measures adopted ... then much tragic loss would have been avoided’ (Gee and Greenberg, 2002: 59). But ever since these warnings were first voiced, experts have been seduced into thinking that control measures were working and that, because there was no obvious evidence of harm this meant that asbestos was not really damaging to people’s health. Time and time again officials, scientists and regulators have found their predictions to be underestimations. Gee and Greenberg argue that this ‘failure to appreciate the “worst case” asbestos exposure scenarios was part of the reason for the delayed and inadequate responses to asbestos’ (Gee and Greenberg, 2002: 56).

Time and time again, the world has been surprised by asbestos and its ability to continue to cause disease. In 1964 a study of Rochdale asbestos factory workers predicted: ‘it is possible that the specific occupational hazards to life have been completely eliminated’ (Gee and Greenberg: 2002: 56). Predictions that asbestos diseases are a thing of the past have reoccurred throughout history because of the failure of the precautionary principle, and because of the failures to prioritise people’s health and lives.

12. RECOMMENDATIONS

The following recommendations have been elaborated throughout the report:

Legislation

- Current legislation needs to be **expanded to ensure that the duty to manage is extended to the internal part of domestic buildings.** Such an extension would massively increase the safety of workers conducting maintenance work within the domestic buildings, as well as the safety of residents.
- Legislation should be amended so that power tools display warning symbols to advise users to check that the materials they are working on do not contain asbestos.

Council housing

- **Council housing providers should be requested to maintain asbestos registers, detailing the following information for each and every property:**
 - a) whether a particular property has been surveyed or not,
 - b) where asbestos has been found in the property or in a similar-surveyed property,
 - c) any records that asbestos may have been removed or damaged,
 - d) whether or not the removal of asbestos was carried out professionally and
 - e) whether there is official confirmation of this removal.
- **A mandatory asbestos survey should be carried out whenever social housing providers transfer residents. Regular safety reminders, and the provision of advice and guidance should complement this.**

Private housing

- **Mandatory asbestos surveying should be introduced (specifying a basic standard and cost) whenever private housing sales take place.** This could be included in the current surveys or in the Housing Information Packs.

Training

- **Increased asbestos awareness training and guidance should be provided to all local authority staff and to resident association representatives.** This should be complemented with specialised training for those identified as more likely to encounter asbestos in their routine work procedures. The actual work on or removal of asbestos should then be done by licensed contractors.
- The content of all current **training provision for maintenance workers and tradesmen** (such as national vocational qualifications) should be interrogated to ensure the prioritisation of asbestos hazards. Where necessary, specific modules dealing with asbestos risks and protection procedures should be added.

Information campaigns

- **Regular public information campaigns should alert DIY enthusiasts of the dangers of asbestos, and provide them with information and guidance.** This could be done through:
 - campaigns asking for heightened caution in DIY practices, providing information for locating an approved contractor, providing a summary of the consequences of engaging inappropriate contractors, and a point of contact for further advice.
 - prominently displayed information in hardware and maintenance stores.
- A 24-hour hotline to deal with all private asbestos-related enquiries.

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