

It is a legal requirement (Control of Asbestos Regulations 2006) that the Managing Trustees have a “duty to manage” any risk from asbestos in church buildings and any other non-domestic premises. The first stage is to prepare a risk assessment to determine whether asbestos is present in your buildings. If it is, there are only two options: either the asbestos must be removed, or if it is considered to be of low risk, it can be sealed and left in position, together with warning notices (it may be possible to undertake minor repair).

There has been some misunderstanding about the requirement for the initial survey and subsequent inspections of asbestos. The **initial** survey should be undertaken by a **specialist** who will prepare a formal report which should be kept in the church log book. It is then the Church Council as **Managing Trustees** who have the responsibility as ‘duty holders’ (Control of Asbestos Regulations 2006) to ‘manage’ the **ongoing risk**.

The HSE guidance on the matter states:

The duty to manage asbestos is contained in Regulation 4 of the Control of Asbestos Regulations 2006. It requires the person who has the duty (ie the ‘duty holder’) to:

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

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

In the case of Methodist churches, the duty holder is the Church Council as Managing Trustees, having clear responsibility for the maintenance or repair of the premises.

What premises are affected?

The duty to manage covers all non-domestic premises. Such premises include all industrial, commercial or public buildings such as factories, warehouses, offices, shops, hospitals and schools.

Manses are also included by reason that the responsibility for maintenance and repair rests with the Circuit Meeting, with the incumbent treated as a 'tenant' under the act.

Under the ***Control of Asbestos Regulations 2012*** we do not have a duty to manage asbestos risks in private houses, manses, individual flats, private rooms above churches, rooms let to lodgers or domestic garages let to a specific tenant.

However, the situation is not quite that simple for two reasons - responsibility for common areas and the existence of other relevant health and safety legislation.

The duty to manage asbestos applies to the common areas of purpose-built flats and houses converted into flats, such as foyers, corridors, staircases, roof spaces, gardens, lifts and lift-shafts. Similarly, it applies to the stairs and access areas of flats above or attached to churches and other similar premises. It would also apply to an area used for temporary accommodation of visitors, such as a Christmas centre for rough sleepers (but not to private visitors of the occupier) and to any 'Houses in Multiple Occupancies', that is any properties which are let or tenanted to two or more people who do not form a single family unit.

We can be responsible for the repair of premises or equipment in these areas, and will be regarded as the duty holder. As such, we will be responsible for carrying out a survey to identify any asbestos containing materials in the property, drawing up a management plan and informing contractors / tradesmen about the presence of asbestos before they undertake any work.

Asbestos can be found in a wide range of items in domestic properties, including ceiling tiles, insulating board, pipe insulation, sprayed and textured coatings, cement, fire doors and wall cladding. It is often difficult to identify, so to ensure we comply with the regulations, we should assume asbestos is present in any property that was built or underwent major refurbishment work between 1950 and 1999.**

Not all the asbestos containing materials identified will need to be removed, but it is sensible to seek advice from an asbestos specialist about whether or not they are safe and what steps need to be taken before any type of work is done to the property.

Other relevant health and safety legislation

One thing all residential landlords need to be aware of is the ***Defective Premises Act 1972***, which requires reasonable care to ensure that tenants and visitors are safe from personal injury and illness caused by the condition of the premises.

Although asbestos is not specifically mentioned it is covered by the Act, which applies to all domestic properties, including those even where there is no specific duty to manage under the Control of Asbestos Regulations.

The ***Landlord and Tenant Act 1985*** requires all rented property to be fit for human habitation at the beginning of the tenancy and further requires the landlord to maintain that basic standard. Any property that features asbestos containing materials that are in an unsafe condition may not comply with the Act. Under this act, section 8 'property' includes 'a part of a house, and any yard, garden, outhouses and appurtenances belonging to the house or usually enjoyed with it'

Further, when we employ staff (including volunteers) to look after the properties, we also need to ensure compliance with the ***Health and Safety at Work Act 1974***. This includes a general obligation for employers to conduct their activities in such a way that workers are not exposed to health and safety risks, such as asbestos.

Application

While trying to identify which pieces of legislation apply to any particular rented property may be a little confusing, ensuring compliance with all the regulations is more straightforward.

If we ensure we follow expert advice and best practice for asbestos management we ensure a safe environment for tenants and workers, as well as making certain we minimise any legal problems.

*** Asbestos is, perhaps surprisingly, not a new material; archaeologists have uncovered asbestos fibres in debris dating back to the Stone Age, some 750,000 years ago. It is believed that as early as 4000 BC, asbestos' long hair-like fibres were used for wicks in lamps and candles. Embalmed bodies of Egyptian pharaohs were wrapped in asbestos cloth to protect the bodies from deterioration. In Europe clay pots dating back to 2500 BC contained asbestos fibres, which are believed to strengthen the pots and make them resistant to fire.*

The Health & Safety Executive produces comprehensive information about asbestos, and much of this is available on their website www.hse.gov.uk

Here are some basic principles to remember:

- Asbestos is only dangerous when disturbed. If it is safely managed and contained, it doesn't present a health hazard.
- Don't remove asbestos unnecessarily; removing it can be more dangerous than leaving it in place and managing it.
- Not all asbestos materials present the same risk. The measures that need to be taken for controlling the risks from materials such as pipe insulation are different from those needed in relation to asbestos cement.
- Don't assume you need to bring in a specialist in every case (for example, you can inspect your own building rather than employ a surveyor), **but are you competent to be able to identify the various types of asbestos that might be present, either as a pipe insulation or hidden as a constituent material within a product (such as floor tiling, paint, etc) and know what level of hazard is associated with each type?**
- If you are unsure about whether certain materials contain asbestos, you should presume they do and treat them as such.
- Remember that the duty to manage is all about putting in place the practical steps necessary to protect maintenance workers and others from the risk of exposure to asbestos fibres. It is **not** about removing all asbestos.

If any ACMs need to be sealed, encapsulated or removed, remember you will need to employ a licensed contractor if the materials are high risk (eg pipe insulation and asbestos insulating panels). If the materials are lower

risk (eg asbestos cement) then an unlicensed but competent contractor may carry out this work.

How do duty holders comply?

Find you must check if materials containing asbestos are present or are liable to be present;

Condition you must check what condition the material is in;

Presume you must assume the material contains asbestos unless you have strong evidence that it does not;

Identify if you are planning to have maintenance or refurbishment of the building carried out or the material is in poor condition, you may wish to arrange for the material to be sampled and identified by a specialist;

Record record the location and condition of the material on a plan or drawing;

Assess you must decide if the condition or the location means the material is likely to be disturbed; and

Plan prepare and implement a plan to manage these risks.

Minor damage	Good condition
<ul style="list-style-type: none">• The material should be repaired and/or encapsulated.• The condition of the material should be monitored at regular intervals.• Where practical the material should be labelled.• Inform the contractor and any other worker likely to work on or disturb the material.	<ul style="list-style-type: none">• The condition of the material should be monitored at regular intervals.• Where practical the material should be labelled.• Inform the contractor and any other worker likely to work on or disturb the material.

Poor condition

- Asbestos in poor condition should be removed.

Asbestos disturbed

- Asbestos likely to be disturbed should be removed.

Further details of these steps can be found in the downloadable file, *A Short Guide to Managing Asbestos*: www.hse.gov.uk/pubns/indg223.pdf

Managing Trustees should also bear in mind that a risk assessment is needed in order to satisfy the conditions of your insurance policy.

We realise that these regulations may be imposing a considerable additional burden on local churches, but the government now believes that asbestos poses such a danger to health that it considers a risk assessment to be essential.