

Version: Final

Housing Revenue Account Asbestos Policy



City of
Stoke-on-Trent

Name

Asbestos Policy

Owner

City of Stoke-on-Trent Council (The Council)

Last Review

September 2023

Next Review

September 2025

Strategic Lead Assistant Director Housing & Community Safety

Sign

Date

18 October 2023

**Operational
Lead**

Director of Unitas

Sign

Date

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1.0 Introduction and Objectives

- 1.1 This policy is written and covers all assets that fall within Stoke-on-Trent City Council's (The Council) Housing Revenue Accounting (HRA) portfolio. Public Buildings are covered by their own separate policy.
- 1.2 As a landlord, The Council is responsible for maintenance and repairs to its homes, communal blocks, and other properties they own and manage, many of which will have been constructed using asbestos containing materials. As such, The Council have a legal 'duty to manage' asbestos in these buildings.
- 1.3 These obligations are delivered through Unitas Stoke-on-Trent Limited (Unitas), on behalf of the Council. Unitas will undertake any servicing, maintenance, and repairs as appropriate.
- 1.4 Homes or buildings built or refurbished before the year 2000 may contain asbestos. If an asbestos containing material is disturbed or damaged it can release asbestos fibres into the air which are a danger to health if inhaled. Workers who conduct repairs and maintenance work are at particular risk, however, building occupants could also be put at risk.
- 1.5 The key objective of this policy is to ensure The Council, Unitas Board, the Council's Senior Management Team (SMT), Unitas' Senior Leadership Team (SLT), employees, partners, and residents are clear on their legal and regulatory asbestos safety obligations. This policy provides the framework that staff and partners will operate within to meet these obligations.
- 1.6 This policy forms part of a wider organisational commitment to driving a health and safety culture amongst staff and contractors (as detailed within our Health and Safety Policy). It will be saved on the shared drive and distributed to all relevant members of staff.

2.0 Scope

- 2.1 This policy is relevant to all our employees, residents, contractors, stakeholders, and other persons who may work on, occupy, visit, or use premises within The Council HRA portfolio, or who may be affected by activities or services at these properties.
- 2.2 The policy should be used by all to ensure they understand the obligations placed upon The Council and Unitas to maintain a safe environment for residents and employees within the home of each resident, and within all communal areas of buildings and other properties owned or managed. Adherence to this policy is mandatory.

3.0 Roles and Responsibilities

- 3.1 The Council has overall governance responsibility for ensuring this policy is fully implemented to ensure full compliance with legislation and regulatory standards. As such, The Council will formally approve this policy and review it every two years (or sooner if there is a change in legislation or regulation).
- 3.2 For assurance that this policy is operating effectively in practice, The Council will receive regular updates on its implementation, asbestos safety performance and non-compliance.
- 3.3 The Unitas Board and SLT will receive monthly performance reports in respect of asbestos safety and ensure compliance is being achieved. They will also be notified of any non-compliance issue identified.
- 3.4 The Council has overall responsibility for the management of asbestos safety for all HRA buildings, and Unitas has management and operational delivery responsibility for asbestos safety.
- 3.5 The Assistant Director of Housing and Community Safety (The Council) has strategic responsibility for the management of asbestos safety, and ensuring compliance is achieved and maintained. They will oversee the implementation of this policy. The Director of Unitas has management and operational responsibility.
- 3.6 The Compliance Manager (Unitas) has operational responsibility for the management of asbestos safety and will be responsible for overseeing the delivery of these programmes. The Director of Unitas will fulfil the role of the Appointed Person.
- 3.7 Housing teams will provide support where gaining access to properties is difficult and will assist and facilitate any legal and controlled access processes, as necessary.

4.0 Legislation, Guidance and Regulatory Standards

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

- The Control of Asbestos Regulations 2012.

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

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

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

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

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

- HSG247 - Asbestos: The licensed contractors' guide (First edition, 2006).
- HSG264 - Asbestos: The survey guide (Second edition, 2012).
- INDG223 - Managing asbestos in buildings: a brief guide (Revision 5, April 2012).
- HSG210 - Asbestos Essentials: A task manual for building, maintenance and allied trades and non-licensed asbestos work (Fourth edition, 2018).
- HSG248 – Asbestos: The Analysts' Guide (Second edition, 2021).

4.4 **Regulatory Standards** – The Council must ensure it complies with the Regulator of Social Housing's regulatory framework and consumer standards for social housing in England; the Safety & Quality Standard is the primary one applicable to this policy. The Social Housing (Regulation) Act will change the way social housing is regulated and may result in future changes to this policy.

4.5 **Sanctions** – Failure to discharge responsibilities and obligations properly could lead to sanctions, including prosecution by the Health and Safety Executive (the HSE) under the Health and Safety at Work Act 1974; prosecution under the Corporate Manslaughter and Corporate Homicide Act 2007; prosecution under the Control of Asbestos Regulations; and via a regulatory notice from the Regulator of Social Housing.

5.0 Obligations

5.1 Under The Control of Asbestos Regulations 2012 (CAR 2012) there is a legal obligation under Part 2, Section 4 'Duty to manage asbestos in non-domestic properties. Non-domestic premises also include those 'common' areas of certain domestic premises, such as purpose-built flats or houses converted into flats. The common areas of these premises include foyers, corridors, lifts and lift-shafts, staircases, roof spaces, gardens, yards, outhouses and garages - but would not include the individual flats themselves. Common areas do not include rooms within a private residence that are shared by more than one household, such as bathrooms, kitchens etc. in shared houses and communal dining rooms and lounges in sheltered accommodation.

5.2 The Council is the 'Duty Holder' for the purposes of the legislation and is required to:

- Take reasonable steps in the circumstances to assess if asbestos containing materials (ACMs) are present or are liable to be present in the premises, where there is an obligation to do so, presuming that materials likely to contain asbestos do contain asbestos unless there is strong evidence that they do not.
- Identify the location and condition of any ACMs.

- Assume asbestos is present if the property was built prior to the year 2000.
- Keep an up-to-date record (an asbestos register) of the location and condition of ACMs or presumed ACMs.
- Assess the risk from any ACMs found.
- Ensure that anyone who may be able to provide more information (and in any case have a duty of co-operation) is consulted and that this information is obtained.
- Prepare an Asbestos Management Plan that sets out how The Council will manage the risk from ACMs, how the asbestos register will be accessed and review and monitor its implementation.
- Set up a system to provide information on the location and condition of ACMs to anyone who is liable to work on or disturb them.
- Assess the reliability of information received relating to asbestos within the properties The Council own and manage. Anyone who has information on the whereabouts of asbestos within these properties is required to make this available to us.

6.0 Statement of Intent

- 6.1 The Council acknowledges and accepts its responsibilities under CAR 2012 as outlined in Section 5 and recognises that the main hazard in relation to asbestos is the non-identification of ACMs. As such, The Council will protect those persons potentially exposed to asbestos as far as is reasonably practical, using appropriate control measures and working methods.
- 6.2 To fully comply with CAR 2012, The Council will have an approved Asbestos Policy, an Asbestos Management Plan and will maintain an asbestos register.
- 6.3 The Council will conduct an intrusive refurbishment/demolition survey to domestic and non-domestic properties as and when required, as per HSG264.
- 6.4 The Council will ensure that information about ACMs (known or presumed) is provided to every person liable to disturb it, accidentally or during the course of their work. This includes employees, contractors, and residents.
- 6.5 The Council will generally not use asbestos labelling in domestic premises, however, in non-domestic premises and common areas of domestic blocks, labelling will be used where practicable.
- 6.6 The Council will provide appropriate personal protective equipment to the in-house delivery team where required.
- 6.7 The Council will ensure that there is a robust process in place to manage immediately dangerous situations identified during asbestos related works.

- 6.8 The Council will operate effective contract management arrangements with the contractors responsible for delivering the service, including; ensuring contracts/service level agreements are in place, conducting client-led performance meetings, and ensuring that contractors' employee and public liability insurances are up to date on an annual basis.
- 6.9 The Council will use the legal remedies available within the terms of the tenancy and lease agreement should any resident, leaseholder, or shared owner refuse access to conduct essential asbestos related inspection and remediation works. Where resident vulnerability issues are known or identified The Council will ensure to safeguard the wellbeing of the resident.
- 6.10 The Council will establish and maintain a risk assessment for asbestos management and operations, setting out our key risks from asbestos and appropriate mitigations.
- 6.11 To comply with the requirements of the Construction (Design and Management) Regulations 2015 (CDM) a Construction Phase Plan will be in place for all repairs to void and tenanted properties (at the start of the contract and reviewed annually thereafter), component replacement works and refurbishment projects.
- 6.12 The Council will ensure there is a robust process in place to investigate and manage all RIDDOR notifications made to the HSE in relation to asbestos safety and will take action to address any issues identified and lessons we have learned, to prevent a similar incident occurring again.

7.0 Programmes

- 7.1 **Non-domestic properties** – All non-domestic properties (communal blocks/supported schemes/offices) that The Council own or manage within its HRA portfolio, built prior to the year 2000, will have an asbestos management survey that is compliant with Car 2012 (dated after 6 April 2012 when this legislation came into effect).
- 7.2 Thereafter, The Council will maintain a programme of asbestos re-inspections for all properties that contain ACMs (known or presumed). Re-inspections will either be annual or in accordance with the risk level as identified by the previous survey. We will not re-inspect any properties where the initial asbestos management survey confirms that there are no ACMs.
- 7.3 **Domestic properties** – The Council will develop a process to capture full asbestos information for domestic properties at void stage, which will be implemented during the lifetime of this policy.
- 7.4 **Garages** – The Council own or manage garages, many of which may contain ACMs. The Council will develop a risk-based programme of sample inspections to

assess the location and condition of ACMs within these garages and implement a programme of remedial works, as necessary.

- 7.5 **Repairs / planned maintenance** - The Council will review existing asbestos survey information prior to conducting any intrusive void work, day-to-day repairs, planned maintenance or refurbishment work. Where there is no asbestos information, prior to the work taking place, The Council will commission a refurbishment & demolition survey to the areas of the property that are likely to be disturbed as part of the proposed works. The Council will also undertake a management survey to the remainder of the property as part of the same refurbishment & demolition survey. Once completed, survey details will be provided to the relevant operatives or contractors.

8.0 Follow-up Work

- 8.1 Where asbestos is positively identified and removal, sealing or encapsulation is recommended by the competent person, this will be conducted as follows:

- **Non-licensed works** (as defined in regulation 2 of CAR 2012) – will be undertaken by our quick response (non-licensed) removal contractors.
- **Notifiable non-licensed works** (as defined in regulation 2 of the CAR 2012) – will be undertaken by a Licensed Asbestos Removal Contractor (LARC) licensed by the Health and Safety Executive in compliance with CAR 2012
- **Licensed works** (as defined in regulation 2 of CAR 2012) – will be undertaken by a LARC.

9.0 Data and Records

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

- 9.5 The Council will keep air monitoring and health surveillance records for at least 40 years.

10.0 Resident Engagement

- 10.1 The Council consider good communication essential in the effective delivery of asbestos safety, and therefore will establish a resident engagement strategy and communication programme. This will support residents in their understanding of asbestos, advise them of how they can manage any risk if there is asbestos within their property, and encourage them to report any asbestos safety concerns.
- 10.2 The Council also aim to successfully engage with vulnerable and hard to reach residents. The Council will share information clearly and transparently and will ensure that information is available to residents via regular publications and information on its website.
- 10.3 The Council will provide residents with resident friendly safety information of the asbestos survey information for their property on request, where this has been conducted.

11.0 Competent Persons

- 11.1 The operational lead will hold a P405, P402, P407 or W504 qualification (or equivalent). If they do not have one of these, they will obtain this within 12 months of the approval of this policy.
- 11.2 Only competent contractors (as per HSG264) will conduct asbestos management surveys.
- 11.3 Only competent Licensed Asbestos Removal Contractors will conduct work on notifiable non-licensed work and licensed works. Only suitably trained Unitas employees can work on non-notifiable, non-licensed work.
- 11.4 Suitably competent persons will undertake asbestos re-inspections and the removal of non-licensed asbestos, under the supervision of persons who are suitably trained and competent to manage this work.
- 11.5 Only suitably competent asbestos consultants and contractors will provide third party technical quality assurance checks.
- 11.6 The Council will check that our contractors hold the relevant qualifications and accreditations when procured, and thereafter on an annual basis; The Council will evidence these checks and each contractor's certification appropriately.

12.0 Training

- 12.1 The Council will deliver training on this policy and the procedures that support it, through appropriate methods including team briefings; basic asbestos awareness

training; and on the job training for those delivering the asbestos programme, planned maintenance and repair works as part of their daily job. All training undertaken by staff will be formally recorded.

13.0 Performance Reporting

13.1 The Council will report robust key performance indicator (KPI) measures for asbestos safety that follow the requirements set out in the Tenant Satisfaction Measures (TSMs) which came in to force 01 April 2023. Performance must be reported to the Regulator on an annual basis; however, regular internal reporting within The Council, to Unitas Board and SLT will be undertaken on a regular basis. The Council will engage with customers and develop our approach / systems to report to them on a regular basis. The relevant TSM for Asbestos Safety is defined as follows:

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

13.2 The Council will also report the following:

Data – the total number of:

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

Narrative - an explanation of the:

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

In addition:

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

13.3 The full detail of the performance measures for Asbestos Safety will be outlined in a KPI Definition Document which includes the relevant data sources used for each

calculation, the calculation methodology, any exclusions, and the accountable roles for producing and managing the KPIs.

14.0 Quality Assurance

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

15.0 Significant Non-Compliance and Escalation

- 15.1 The Council's definition of significant non-compliance is any incident which has the potential to result in a potential breach of legislation or regulatory standard, or which causes a risk to health or safety. All non-compliance issues will be reported and escalated as soon as possible, and no later than 24 hours after the incident was identified, or of a Council or Unitas employee or agent becoming aware of it.
- 15.2 Any non-compliance issue identified at an operational level will be formally reported to the Compliance Manager (Unitas) in the first instance, who will agree an appropriate course of corrective action with the Head of Asset Management and Investment (Unitas) and report details of the same to the SLT.
- 15.3 In cases of serious non-compliance, The Council, will consider whether it is necessary to disclose the issue to the Regulator of Social Housing as required by the regulatory framework, or any other relevant organisation such as the Health and Safety Executive.

16.0 Glossary

- 16.1 This glossary defines key terms used throughout this policy:
 - **Duty Holder:** The owner of the non-domestic premises or the person or organisation that has clear responsibility for the maintenance or repair of non-domestic premises, for example through an explicit agreement such as a tenancy agreement or contract.
 - **Management survey:** A survey to enable the management of asbestos-containing materials during the normal occupation and use of premises.
 - **Refurbishment/demolition survey:** A refurbishment/demolition survey is a survey which is necessary prior to any works which may affect the fabric of a building, and which is used to locate (as far as reasonably practicable)

asbestos-containing materials. The survey may be within a localised area or cover the whole building.

UKAS: The appointed national accreditation body for asbestos surveyors. Accreditation is a means of assessing, in the public interest, the technical competence and integrity of organisations offering evaluation services.

Appendix 1 - Additional Legislation

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

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