



Asbestos management FOI requests to Multi Academy Trusts – Key Findings

Background

Nearly 90% of schools contain asbestos and this presents a serious risk to the children and staff that occupy these buildings. School staff are increasingly dying from mesothelioma, a cancer caused exclusively by exposure to asbestos. Teachers are now dying at an average of 17 per year, up from 3 per year in 1980. Furthermore, it has been estimated that around 200-300 adults die each year, because they were exposed to asbestos while a child at school.

All of the teaching and support staff unions are members of the Joint Union Asbestos Committee (JUAC) which campaigns for improved asbestos management in schools, and ultimately for all asbestos to be removed from schools.

In 2016, Freedom of Information requests were sent to all local authorities in England and Wales asking about the presence and management of asbestos within their schools. Many schools are now academies, and outside of local authority control. This means that the local authority is not the asbestos duty holder for these schools. Instead, the academy trust, as the employer, is the duty holder, and retains overall responsibility for asbestos management in these schools. Building on the FOI requests to local authorities, a similar project was carried out in conjunction to Multi Academy Trusts (MATs). MATs are groups of academies that are governed by the same group of directors. The MAT, as the employer, is the duty holder.

Freedom of Information requests to Multi Academy Trusts

Working in conjunction with Rachel Reeves MP, Chair of the Asbestos in Schools Group, and Lucie Stephens, asbestos in schools campaigner, JUAC submitted Freedom of Information (FOI) requests to 1280 Multi Academy Trusts (MATs) in 2017 asking about the presence and management of asbestos within their academies.

442 MATs responded. Within these MATs, 1863 academies were reported to have asbestos present. These MATs reported that 182 of their academies had been built wholly after 2000 and therefore would not contain asbestos.

Over half of the MATs did not respond to the FOI request. Some refused to provide the information, or requested payment in order to collate it. Some provided incomplete responses. For instance, many did not provide the outcome of the last independent audit of the asbestos management plan.

The findings of the FOI requests that were received reveal significant issues with the management of asbestos in academies, namely:

- **There were 54 reported incidents of asbestos exposure** within the academies, often because previously unknown asbestos was discovered. Examples include:
 - *previously unknown asbestos discovered during construction/repair work;*
 - *asbestos identified under the carpet in a classroom;*
 - *asbestos identified in the ceiling of the IT suite;*
 - *asbestos discovered when repairing a leaking pipe in the library;*
 - *removal of toilets in the children's' centre disturbed suspected asbestos;*
 - *part of a ceiling in a hall cupboard collapsed because of rain, it was found to contain brown asbestos; and*
 - *asbestos found when digging out new car park.*

The real number of exposures taking place is likely to be much higher as not all MATs responded to the FOI request. Amongst those that replied, not all provided a response to this question and some said they did not hold records of exposure incidents. The poor management practices highlighted in some of the MATs suggests that exposure incidents may have occurred without being recorded. **Despite the high number of exposure incidents reported, only 5 MATs reported being issued an improvement or prohibition notice by the HSE in relation to asbestos management.**

- **Despite being the duty holder, many MATs did not hold the information centrally** and instead had to request it from the individual academies. For instance:
 - One trust submitted a pro-forma to each of its academies to gather the information.
 - One trust said it did not hold the information for any its academies. It went on to say that if it did hold the information, it would have charged for it.
 - One trust said it did not hold information about exposure incidents, HSE improvement or prohibition notices and claims relating to asbestos exposure.
 - One trust said that the individual academies would need to be contacted to find out the outcome of the audit of the asbestos management plan as it did not hold this information centrally.

- **Some trusts did not hold information about academies that were part of a PFI contract.** For instance:
 - One trust said it *'had been unable to procure the information for question 2 [date and outcome of the last independent audit of the Asbestos Management Plan] from the PFI contractor Amey'*. When we queried this, the response was that they *'had now been furnished with a contact at Amey who may consent to provide the information'*. However, it was never supplied to us by the trust. This school was not built wholly after 2000, so it is possible that asbestos is present. If the PFI contractor is not willing to provide this information to the academy trust, it is unlikely that staff working in the school will have been told about the presence of any asbestos and could be at risk of exposure.
 - One trust did not provide information on the asbestos management plan for its school that was in a PFI contract.
 - One trust listed three academies that had asbestos. In response to the question about the asbestos management plan, the response was *'unaware of any independent audit outside of the PFI contract'*.
 - One trust listed several PFI builds that *'may or may not have been built wholly built during 2000 or after'* but it did not hold the data as it was a PFI contract. It is of concern that the duty holder did not know when its schools were built, as any school built before 2000 could contain asbestos.

- **Some trusts did not have an asbestos management plan (AMP) in place, despite this being a legal requirement.** For instance:
 - One trust reported that an independent audit at one of its academies revealed that there had not been an AMP in place, and therefore it could not be determined if asbestos condition was being visually monitored.
 - For each of its academies, Wakefield City Academies Trust reported that the outcome of the independent audit was that the AMP was absent or inadequate, or the outcome was unknown. This chain has since collapsed and been accused of *'asset stripping'*.

- **Many trusts are not independently auditing their asbestos management plans (AMP) on an annual basis.** The dates provided by some trusts for the independent audits, also suggested that our FOI requests prompted to get this carried out. For instance:
 - Many academies had not had their AMPs audited for a number of years, and some had not been audited since as long ago as 2005 and 2006. It is highly likely that asbestos condition will have deteriorated in the ensuing years, and may now be in a poorer condition, and more likely to release fibres.
 - One trust said it did not undertake any independent audits of its asbestos management plans, unless the HSE inspects. The HSE does not routinely inspect

schools, and the only time the HSE inspected one of this trust's academies was in 2013 to issue an improvement notice.

- **Some trusts had been issued improvement or prohibition notices by the HSE in relation to asbestos management.** For instance:
 - One trust was issued an improvement notice in 2013 because as the duty holder, it had failed to: a) draw up a plan to manage the asbestos or any asbestos containing substances in the premises and b) record how the plan will be implemented.
 - Another trust was also issued a HSE improvement notice because of failure to draw up an asbestos management plan and record how this would be implemented.

Conclusions

- **There was no uniformity across the trusts with regards to asbestos management.** Some trusts provided examples of good practice, but many did not. It was clear that there are no standardised procedures followed when schools transfer to academy trusts. This highlights a serious problem with the increasing fragmentation of the education system and the implications of having thousands of duty holders throughout the school estate. MATs and academies often change names, academies get re-brokered to new trusts and MATs get dissolved. In these situations it would be easy for academies to fall through the net, and for the lines of responsibility for asbestos management to become blurred.
- **This exercise firmly reinforces the need for the DfE to maintain a central database of the location and condition of all asbestos in schools.** There should be standardised processes to be followed when schools transfer from the maintained sector to academy trusts, or from one academy trust to another, including: undertaking a full, comprehensive survey prior to conversion/re-brokering; preparing an asbestos management plan; setting out how the plan will be implemented; communicating this information to staff and parents, including through training. Trusts should not rely on historical information, particularly because circumstances are likely to have changed, for instance, asbestos condition deteriorates and there may be inaccessible asbestos that was not included in a survey. One trust reported that one of its academies had been under the impression that an area in the building was asbestos free because of earlier removal works. However, when the trust commissioned a survey, it was found that asbestos was still present, and premises staff had been exposed to asbestos. **This information should then be used to inform a phased removal of all asbestos in schools and academies, starting with the most dangerous first.**
- This exercise highlighted significant issues within the trusts that replied to the FOI request. Those that did not reply (despite being issued reminders) could potentially have poorer management practices; hence they did not feel confident providing the information. The number of reported exposure incidents is also likely to be significantly higher than reported, given the issues detailed in this report.