

Asbestos Policy



Name	Asbestos Policy
Owner	Director of Housing and Property
Last Review	February 2023
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Resident Consultation	Week commencing 22 nd May 2023
Equality Impact Assessment	Not Applicable
Cabinet Approval	30 May 2023

Strategic Lead **Director for Housing and Property**

Sign

Date

Chair of Cabinet **CLr Chris Whitbread**

Sign

Date

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1.0 Introduction and Objectives

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

2.0 Scope

- 2.1 This policy applies to:
 - The housing assets which are owned by the Housing Revenue Account (the HRA) and any which are leased by the Council and rented and managed as social housing stock. This includes domestic properties (houses and flats), communal areas of any blocks containing such properties, and sheltered and supported housing schemes and associated offices/communal spaces.
 - Any commercial premises which are owned by the HRA.
 - Any depots, operational and commercial buildings owned and / or managed by EFDC.
- 2.2 The policy is relevant to all our employees, tenants, contractors, stakeholders, and other persons who may work on, occupy, visit, or use our premises, or who may be affected by our activities or services.
- 2.3 The policy should be used by all to ensure they understand the obligations placed upon EFDC to maintain a safe environment for tenants and employees within the home of each resident, and within all communal areas of buildings and other properties we own and/or manage. Adherence to this policy is mandatory.

3.0 Roles and Responsibilities

- 3.1 EFDC's Cabinet has overall governance responsibility for ensuring this policy is fully implemented to ensure full compliance with legislation and regulatory standards. As such, the Cabinet will formally approve this policy and review it every two years (or sooner if there is a change in legislation or regulation).
- 3.2 For assurance that this policy is operating effectively in practice, the Cabinet will receive regular updates on its implementation, asbestos safety performance and any non-compliance.
- 3.3 The Senior Leadership Team (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 Director of Housing has strategic responsibility for the management of asbestos safety, and ensuring compliance is achieved and maintained. They will oversee the implementation of this policy.
- 3.5 The lead officer for Asset Strategy has operational responsibility for the management of asbestos safety and will be responsible for overseeing the delivery of these programmes. The Chief Operating Officer will fulfil the role of the Responsible Person and will be the overall responsible person on behalf of EFDC. The Appointed Person role is required under HSG264 (see para 4.3), to assist in the management of asbestos containing materials in buildings and must have the necessary skills and training for the effective management of the asbestos.
- 3.6 Housing teams will provide support where gaining access to properties is difficult.

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** – We must ensure we comply with the Regulator of Social Housing’s regulatory framework and consumer standards for social housing in England; the Home Standard is the primary one applicable to this policy. The Social Housing (Regulation) Bill will change the way social housing is regulated and may result in future changes to this policy.

4.5 **Sanctions** – Failure to discharge our responsibilities and obligations properly could lead to sanctions, including prosecution by the Health and Safety Executive (the HSE) under the Health and Safety at Work Act 1974; prosecution under the Corporate Manslaughter and Corporate Homicide Act 2007; prosecution under the Control of Asbestos Regulations; 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) EFDC has a legal obligation under Part 2, Section 4 ‘Duty to manage asbestos in non-domestic properties’ and is the ‘Duty Holder’ for the purposes of the legislation. We are required to:

- Find out if asbestos containing materials (ACMs) are present, where we have an obligation to do so, presuming that materials contain asbestos unless we have strong evidence that they do not.
- Identify the location and condition of any ACMs.
- Assume asbestos is present if the property was built prior to the year 2000.
- Keep an up-to-date record (an asbestos register) of the location and condition of ACMs or presumed ACMs.
- Assess the risk from any ACMs found.
- Prepare an Asbestos Management Plan that sets out how we will manage the risk from ACMs, and review and monitor its implementation.
- Set up a system to provide information on the location and condition of ACMs to anyone who is liable to work on or disturb them.
- Assess the reliability of information we receive relating to asbestos within the properties we own and manage. Anyone who has information on the whereabouts of asbestos within these properties is required to make this available to us.

6.0 Statement of Intent

- 6.1 We acknowledge and accept our responsibilities under CAR 2012 as outlined in Section 5, and we recognise that the main hazard in relation to asbestos is the non-identification of ACMs. As such, we will protect those persons potentially exposed to asbestos as far as is reasonably practical, using appropriate control measures and working methods.
- 6.2 To fully comply with CAR 2012, we will have a Cabinet-approved Asbestos Policy, an Asbestos Management Plan and we will maintain an asbestos register.
- 6.3 We will carry out an intrusive refurbishment/demolition survey to domestic and non-domestic properties as and when required, as per HSG264.
- 6.4 We will ensure that information about ACMs (known or presumed) is provided to every person liable to disturb it, accidentally or during the course of their work. This includes employees, contractors, and tenants.
- 6.5 We will generally not use asbestos labelling in domestic premises, however, in non-domestic premises and common areas of domestic blocks, labelling will be used where practicable.
- 6.6 We will provide appropriate personal protective equipment to our in-house delivery team where required.
- 6.7 We will ensure that there is a robust process in place to manage immediately dangerous situations identified during asbestos related works.
- 6.8 We will operate effective contract management arrangements with the contractors responsible for delivering the service, including ensuring contracts/service level agreements are in place, conducting client-led performance meetings, and ensuring that contractors' employee and public liability insurances are up to date on an annual basis.
- 6.9 We will use the legal remedies available within the terms of the tenancy and lease agreement should any resident, leaseholder, or shared owner refuse access to carry out essential asbestos related inspection and remediation works. Where resident vulnerability issues are known or identified we will ensure we safeguard the wellbeing of the resident.
- 6.10 We will establish and maintain a risk assessment for asbestos management and operations, setting out our key risks from asbestos and appropriate mitigations.
- 6.11 To comply with the requirements of the Construction (Design and Management) Regulations 2015 (CDM) a Construction Phase Plan will be in place for all repairs to void and tenanted properties (at the start of the contract and reviewed/updated annually thereafter), component replacement works and refurbishment projects.
- 6.12 We 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/depots) that we own or manage (within the scope set out in 2.1), built prior to the year 2002, will have an asbestos management survey that is compliant with CAR 2012 (i.e., all surveys will be dated after 6 April 2012, when this legislation came into effect).
- 7.2 Thereafter, we will maintain a programme of asbestos re-inspections for all properties that contain ACMs (known or presumed) or where we cannot confirm there are no ACMs present. Re-inspections will either be annual or in accordance with the risk level as identified by the previous survey. We will not re-inspect any properties where the initial asbestos management survey confirms that there are no ACMs.
- 7.3 **Domestic properties** – We currently hold asbestos survey data on approximately 76 per cent of our domestic properties. Within the lifecycle of this policy, we will implement a risk-based approach to pro-actively carrying out surveys within domestic properties. We will also replace any cloned data with property specific surveys through surveys undertaken as part of our capital programmes.
- 7.4 **Garages** – We own or manage 91 garages, many of which may contain ACMs. We will carry out a risk-based programme of sample inspections to assess the location and condition of ACMs within these garages and implement a programme of remedial works as necessary.
- 7.5 **Repairs / planned maintenance** - We will review existing asbestos survey information prior to carrying out any intrusive void work, day-to-day repairs, planned maintenance or refurbishment work. Where there is no asbestos information, prior to the work taking place, we will commission a refurbishment/demolition survey to the areas of the property that are likely to be disturbed as part of the proposed works. We will also undertake a management survey to the remainder of the property as part of the same refurbishment/demolition survey. Once completed, survey details will be provided to the relevant operatives or contractors.
- 7.6 Where the repair or planned improvement work is carried out by any of our contractors or strategic partners, we will continue to hold the asbestos register and survey information and will co-ordinate this and make the relevant information available to them. Where surveys are required, we will commission the appropriate survey, make the information available, and update our register.

8.0 Follow-up Work

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

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

9.0 Data and Records

9.1 We will maintain a core asset register of all properties we own or manage, setting out which properties are and are not required to be included on the asbestos re-inspection programme (for assets identified as being within scope in 2.1).

9.2 We will operate a robust process to manage all changes to our assets, including property acquisitions and disposals, to ensure that properties are not omitted from asbestos programmes and the programme remains up to date.

9.3 We will maintain and keep an asbestos register in Share Point, keeping it secure and with write access only available to those who need to update the register. We will implement the Civica CX system during 2023, and from that point will hold our register in it. The asbestos register will include details of ACMs in the properties we own or manage, with information on the property address, the type of asbestos, its location and condition. We will hold inspection dates, asbestos surveys, details of remediation works and evidence of completion of these works in Share Point.

9.4 We will keep all these records for at least the duration that we own and manage the property/in line with our document retention policy and have robust processes and controls in place to maintain appropriate levels of security for all asbestos related data.

9.5 We will keep air monitoring and health surveillance records for at least 40 years.

10.0 Resident Engagement

10.1 We consider good communication essential in the effective delivery of asbestos safety, therefore we will establish a resident engagement strategy and communication programme. This will support tenants in their understanding of asbestos, advise them of how they can manage any risk if there is asbestos within their property, and encourage them to report any asbestos safety concerns.

- 10.2 We also aim to successfully engage with vulnerable and hard to reach tenants. We will share information clearly and transparently and will ensure that information is available to tenants via regular publications and information on our website.
- 10.3 We will provide tenants with a resident friendly version of the asbestos survey for their property, where we have carried one out. A full version of the asbestos survey will be made available upon request.

11.0 Competent Persons

- 11.1 The operational lead (currently Team Manager Property Operations) will hold a P405, 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 carry out asbestos management surveys and asbestos reinspections. We will require surveyors to hold the P402 qualification and to be able to demonstrate they have sufficient experience to be competent in carrying out surveys and reinspections.
- 11.3 Only competent Licensed Asbestos Removal Contractors will carry out all work on asbestos, including non-notifiable non-licensed work, notifiable non-licensed work, or licensed works.
- 11.4 Only suitably competent asbestos consultants and contractors will provide third party technical quality assurance checks.
- 11.5 We will check that our contractors hold the relevant qualifications and accreditations when we procure them, and thereafter on an annual basis; we will evidence these checks and each contractor's certification appropriately.

12.0 Training

- 12.1 We 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 We will report robust key performance indicator (KPI) measures for asbestos safety. These will be provided to SLT monthly and to Cabinet on a quarterly basis. As a minimum, we will report:

Data – the total number of:

- Properties – communal blocks 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 90 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.

14.0 Quality Assurance

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

15.0 Significant Non-Compliance and Escalation

- 15.1 Our definition of significant non-compliance is any incident which has the potential to result in a material breach of legislation or regulatory standard, or which causes a risk to health or safety. All non-compliance issues will be reported and escalated as soon as possible, and no later than 24 hours after the incident occurred, or of an EFDC employee becoming aware of it.
- 15.2 Any non-compliance issue identified at an operational level will be formally reported to the lead officer for Asset Strategy in the first instance, who will agree an appropriate course of corrective action with the Director of Housing. The Director of Housing will report details of the same to the Senior Leadership Team, EFDC's Monitoring Officer and the Portfolio Holder.

15.3 In cases of serious non-compliance, the Portfolio Holder and Senior Leadership Team 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. In such instances, the issue will also be reported to Cabinet.

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:

- Health and Safety at Work Act 1974
- Defective Premises Act 1972
- Housing Act 2004
- 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