Asbestos Developments
Review of CAR 2012

BOHS Seminar
London June 2017
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Agenda

- Background and Requirements for Review
- Scope of the Review
- Review process
- Review findings
- Future actions
**Review Background**

- **Most recent Asbestos Regulations implemented in 2012**

- **CAR 2012 introduced following complaint that CAR 2006 had not fully implemented Article 3 EU Directive 2003/18/EC**

- **Complaint related to omission of terms “non-friable” and “without deterioration of non-degraded material” from Reg 3:**
  - The omission deemed to have the effect of widening scope of exemption for non-notifiable non-licensed work

- **Full transposition of EU Directive in CAR 2012 introduced a new category of “notifiable” non-licensed work**
Review Background

- The UK was also tasked to carry out a review of CAR 2012 within 5 years
  - Set out in Reg 35

- To assess whether the Regs were effective and the objectives of the Regs were being achieved
Scope of the Review

• The review is termed a “Post Implementation Review” (PIR)

• In broad terms the review examines:
  – Whether the regulations have been, and continue to be, the most effective means of minimising asbestos exposure to workers and the public arising from work on buildings that contain asbestos

• The purpose of a PIR is to evaluate the existing regulatory framework, rather than to examine government policy regarding asbestos
Scope of the Review

• The review required three overarching research questions to be addressed:

  • To what extent are the Regulations working?
  • Is government intervention still required?
  • Are the Regulations and the way they are implemented the most appropriate approach?
Review Process

The review process involved consultation and research with:

• Dutyholder (DH) groups under CAR 2012 (ie those carrying out licensable, notifiable non-licensable, non-notifiable and, duty to manage) using focus groups/workshops

• European partners and desk-based research using questions to the Labour Inspectorates in other EU Member states

• Light-touch communications and engagement strategy to gather views from the wider asbestos community via the HSE’s Asbestos e-bulletin and by placing key messages regarding the PIR on HSE’s Asbestos webpages.
Review Process

• To assess whether the Regs are working, the PIR has examined:
  – The evidence to support that exposures are reducing over time
  – Whether the “Regs” through controls and other factors are reducing the number of deaths
  – The cost of compliance with the Regs
  – The savings to society of the number of prevented deaths

• Research and analysis work by carried out by HSE epidemiologists, statisticians, economists, HSL psychologists and human factor specialists
To what extent are the Regs working?

• Clear consensus among DHs of the importance of the specific duties of CAR in keeping workers and others safe rather than general duties of HSWA. Highlighted:
  – Specific duty to prevent/minimise exposure
  – Sets clear control standards
  – Training and awareness

• Groups highlighted the Regs and guidance (particularly ACOP L143) contained sufficient information to achieve compliance
  – Requirements practical to implement
  – Regs also implemented in a reasonable and fair manner
To what extent are the Regs working?

Analysis carried out using the Mesothelioma Predictions Model (based on the National Statistics for Mesothelioma)

Figure 7: Observed and predicted annual mesothelioma mortality under six alternative scenarios for annual population exposure from 1980, males aged 20-89
Regulatory Factors ("Leading Indicators") affecting Asbestos Exposure include:

- **Prohibition of asbestos use:**

- **Prevention of exposure (specific duty 1983)**

- **Changes in work practices/control:**
  - eg wet stripping, power tool reduction, training, awareness

- **Licensed regime**

- **Tighter Control Limits**

- **Duty-to-manage**

- **Changes in nature of materials being removed/disturbed**
  - eg less sprayed coating/more AC, artex

- **Enforcement action**
One example of change in Control Standards

Figure 10: Asbestos removal workers reporting wet or dry stripping, 1988-2004
## Significant reduction in Exposure Limits

### Table 3: Exposure limits / control limits for asbestos since 1970

<table>
<thead>
<tr>
<th>Date Implemented</th>
<th>Legislation (Guidance)</th>
<th>Chrysotile tfl (4 hrs 10 mins)</th>
<th>Asbestos tfl (4 hrs 10 mins)</th>
<th>Crocidolite tfl (4 hrs 10 mins)</th>
</tr>
</thead>
<tbody>
<tr>
<td>1969</td>
<td>Asbestos Regulations 1959 (Limits in Technical Data Note 13)</td>
<td>2.0 12.0</td>
<td>2.0 12.0</td>
<td>2.0 12.0</td>
</tr>
<tr>
<td>1970</td>
<td>(Department of Employment Technical Data Note 13 &quot;Hygiene standards for airborne dust concentrations for use with the Asbestos Regulations 1969&quot;)</td>
<td>2.0 12.0</td>
<td>2.0 12.0</td>
<td>2.0 12.0</td>
</tr>
<tr>
<td>1978 (from 12/78)</td>
<td>(EH1: 1976 “Asbestos hygiene standards and measurement of airborne dust concentrations”)</td>
<td>2.0 12.0</td>
<td>2.0 12.0</td>
<td>Not stated 0.2</td>
</tr>
<tr>
<td>1983 (from 01/01/83)</td>
<td>(EH10: 1983 (rev April 1983) “Asbestos control limits and measurement of airborne dust concentrations”)</td>
<td>1.0 0.5</td>
<td>0.2</td>
<td>0.2</td>
</tr>
<tr>
<td>1984 (from 01/03/84)</td>
<td>(EH10: 1984 (rev July 1984) “Asbestos control limits, measurement of airborne dust concentrations and assessment of control measures”)</td>
<td>0.5 0.2</td>
<td>0.2</td>
<td>0.2</td>
</tr>
<tr>
<td>1987 (from 01/03/87)</td>
<td>Control of Asbestos at Work Regulations 1987</td>
<td>0.5 1.5</td>
<td>0.2 0.6</td>
<td>0.2 0.6</td>
</tr>
<tr>
<td>1988 (from 01/03/88)</td>
<td>(EH10: 1988 (rev Feb 1988) “Asbestos exposure limits and measurement of airborne dust concentrations”)</td>
<td>0.5 1.5</td>
<td>0.2 0.6</td>
<td>0.2 0.6</td>
</tr>
<tr>
<td>1992 (from 01/01/93)</td>
<td>Control of Asbestos at Work (Amendment) Regulations 1992</td>
<td>0.5 1.5</td>
<td>0.2 0.6</td>
<td>0.2 0.6</td>
</tr>
<tr>
<td>1995</td>
<td>(EH10: 1995 (rev 1995) “Asbestos: exposure limits and measurement of airborne dust concentrations”)</td>
<td>0.5 1.5</td>
<td>0.2 0.6</td>
<td>0.2 0.6</td>
</tr>
<tr>
<td>2001</td>
<td>Control of Asbestos at Work (Amendment) Regulations 1996 (EH10: 2001 “Asbestos: exposure limits and measurement of airborne dust concentrations”)</td>
<td>0.3 0.9</td>
<td>0.2 0.6</td>
<td>0.2 0.6</td>
</tr>
<tr>
<td>2002 (from 21.11.02)</td>
<td>Control of Asbestos at Work Regulations 2002</td>
<td>0.3 0.9</td>
<td>0.2 0.6</td>
<td>0.2 0.6</td>
</tr>
<tr>
<td>2006 (from 13.11.06)</td>
<td>Control of Asbestos Regulations 2006</td>
<td>0.1 0.6</td>
<td>0.1 0.6</td>
<td>0.1 0.6</td>
</tr>
</tbody>
</table>

20x reduction in Exposure Limits from 1970-2006
HSE Successful Prosecutions 2007-2016

Graph 3.3: Number of CAR breaches leading to successful prosecutions (April 2007-March 2016) by reporting year

- Total
Evidence of Asbestos Exposure Reduction: Average Amphibole Lung Burden by Period of Birth

Figure 5: National mesothelioma mortality and average amphibole asbestos lung burdens* in Britain by period of birth (million fibres/gm longer than 5 microns)
Conclusion on impact of control

• HSE epidemiologists estimated reductions in exposure from ~1980 (approx starting point for introduction of controls) and 2015 will lead to:
  – 25700* fewer deaths between 2001-2100

• Saving “society” estimated £20.9bn
• Saving society £28.8bn over next 100 years
  – (as long as exposures continue to be controlled)
• Cost of compliance (2016-2115) estimated to be “high single billions” (ie <£10bn)

*Reduction not all due to Regs but Regs have been influential in controlling exposure
Scope of the Review

• The review required three overarching research questions to be addressed:

  • To what extent are the Regulations working?
  • Is government intervention still required?
  • Are the Regulations and the way they are implemented the most appropriate approach?
Is Government Intervention still required?

• Research shows that it is the individuals affected by work-related cancer who bear most of the costs
• Employers bear a disproportionately small share
• Latency period means that most individuals develop cancer in retirement or with different employer/industry
• Limits financial incentives for current employers to reduce exposure
• This situation provides an economic rationale for Govt to continue to intervene particularly via HSE
Are the Regs and the way they are implemented the most appropriate approach?

- Evidence from focus groups, workshops and survey showed that DHs are very positive about the Regulations and the way they have been implemented.

- DHs described HSE’s approach as;
  - ‘Clear and consistent’,
  - ‘Effective’, ‘practical’, ‘pragmatic’
  - ‘Setting clear standards’

- Some areas were identified where greater clarification is needed

- Overall, the collective evidence suggests that CAR 2012 are operating as intended
Areas/Issues where greater clarity required

- The distinction between licensable, non-licensable and notifiable work
- Reg 4: Duty to manage:
  - DHs’ roles and responsibilities, with specific guidance on conducting a management plan
- Reg 7: Plans of work:
  - Further guidance and clarity regarding how much information should be included in the POW
- Reg 22: Health records and medical surveillance:
  - DHs unclear as to why the frequency of medical examinations differed for licensed and NNLW
Conclusions and Next Steps

• The evidence from the research and analysis gathered for PIR suggests that overall CAR 2012 has met its objectives and have helped to achieve a high level of compliance

• CAR 2012 provides a robust regulatory framework

• The evaluation aimed to identify if there were any unintended consequences of CAR 2012
  – No unintended consequences were identified
  – Not possible to conclude that there are no unintended consequences
  – but it is unlikely that there have been any significant or major unintended consequences.
Future Actions

• Based on all the evidence/information, Govt does not consider it necessary to amend CAR 2012

• PIR recommendations can be taken forward by changes to administrative guidance and processes (with one exception *)

• Therefore intention is to produce **new guidance** on:
  – Greater clarity around the distinction between licensable, non-licensable and notifiable work
  – Information on DHs’ roles and responsibilities around duty to manage
  – Practical examples of POWs

• *Exploration to align the frequencies for medical examinations for licensable and notifiable work. Align licensed work with NNLW (so examination required every 3 years)
  – Would require a minor change to CAR2012
Warning: Predicted Mesothelioma Deaths from 2045-2100

**Figure 1 – Predicted annual deaths and exposures from the different scenarios**

*Relative changes in annual population asbestos exposure are used to predict subsequent mesothelioma mortality in the HSE model; the absolute scaling of the exposure profile is arbitrary in this chart.*

Source: HSE Mesothelioma Projections Model
Final Comments

• The regulatory regime has been extremely beneficial (so far!!)
  – But job NOT finished!!

• Huge credit to all partners/groups/organisations/individuals that make it work

• CAR 2012 Regulation 35: Further review in maximum of 5 years (2022)!