

THE EXECUTIVE

13 APRIL 2004

JOINT REPORT OF THE DIRECTOR OF LEISURE AND ENVIRONMENTAL SERVICES AND THE DIRECTOR OF CORPORATE STRATEGY

ASBESTOS MANAGEMENT IN NON DOMESTIC PROPERTIES	FOR DECISION
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This report deals with the need for funding under the Capital Programme and this decision is reserved to the Executive.

Summary

At the end of December 2002 new legislation was introduced requiring sampling, identification and management of asbestos in non-domestic premises by May 2004. In order to comply with the Control of Asbestos at Work Regulations 2002 (CAW) it is felt advisable that the Council instigates a corporate strategy for the management of asbestos in non-domestic properties. It is also necessary for resources to be allocated, including Capital Funding to meet management requirements of the CAW Regulations 2002 and in particular Regulation 4. This report also provides information on work already undertaken and the current status of asbestos management.

Recommendation

The Executive is recommended to:

1. Agree to the corporate strategy for the management of asbestos in non-domestic dwellings as outlined in this report;
2. Agree to the allocation of resources to meet management requirements of the CAW Regulations 2002, including Capital funding totalling £2,185,000, and the re-profiling of this funding to £1,400,000 in 2004/05 and £785,000 in 2005/06; and,
3. Note that it is intended to report in relation to asbestos management in Council owned residential properties at the end of June 2004.

Reason

To assist the Council in achieving its Community Priority of "Making Barking and Dagenham, Cleaner, Greener and Safer", and to comply with Legislation.

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1. Introduction

- 1.1 At the end of December 2002 new legislation (Control of Asbestos at Work Regulations 2002) was introduced requiring sampling, identification and management of asbestos in non-domestic premises by May 2004. The duty to manage asbestos in Council premises is covered in Appendix I attached as the Council has a duty to manage asbestos there is an expectation that works will still need to be completed in 2005/06.
- 1.2 A team of three officers was set up approximately two and a half years ago to establish an asbestos database and management system on a corporate basis. The Asbestos Manager and his team are part of the Leisure and Environmental Services Department (LESD). Surveys are being carried out in connection with capital schemes and the database is now fully operational and is being populated with survey data.
- 1.3 Action has also been taken to address identified problems and a corporate asbestos working party has been set up, with the Head of Asset Management and Development as chair, to promote a corporate approach to common issues and the management of asbestos. To date the group has made progress in addressing:
- sharing of data and information (historical, current and experiential) of where asbestos is present in Council premises
 - producing a master list of duty holders as required by the Control of Asbestos at Work Regulations 2002
 - developing training and awareness packages, and importantly,
 - working towards the development of a corporate strategy for the management of asbestos.
- 1.4 The introduction of the new CAW Regulation 4, although applying to non-domestic premises, has meant that a strategy for the management of asbestos in Council owned dwellings also needs to be considered; not the least because such premises are also at times places of work for Council employees and others who act on our behalf, such as Thames Accord Ltd. and contractors. In addition, public and / or communal areas in domestic premises are included in the Duty to Manage requirements.
- 1.5 Whilst this report primarily deals with non residential properties it is intended that a report will be presented to the Executive at the end of June to complete 2004 with regard to the actions needed in relation to the management of asbestos in Council owned residential premises.

2. Resource Issues

- 2.1 There are resource implications in complying with the Health and Safety at Work etc Act 1974 (CAW Regulations). The items outlined below are priority areas which need to be addressed in order to meet the May 2004 deadline set by the Regulation. The Council can not comply with Section 4 of the Regulation by May of this year. It is hoped that the Regulation Body, the Health and Safety Executive, will be satisfied with the Council's plan to try to demonstrate conformance with the Duty to Manage asbestos in non-domestic premises. The programme of work will be spread between 2004 and 2006.

2.2 Asbestos Management System (AMS)/Corporate Asbestos Register (CAR)

This system shows the type and location of asbestos in premises, whether a survey has been carried out and what action has been taken to manage the asbestos if present and known.

The database is operational and although some progress has been made in populating this database, which is the main system for asbestos management in the Council, there is a need to ensure assimilation of data from the NBA (the company which set up the database as a result of Stock Condition Survey of residential properties) and Major Repairs Allowance (relating to major repairs and refurbishment) databases held by Housing & Health and the Council's CORMIS database. Currently there are pockets of information held in different formats and these need to be both consistent and made available across departments. There is an initial cost associated with down loading Asbestos data onto the corporate system, which is estimated at £20,000, however, further funds may be required to enable updating and dissemination of collected data. The lead in time for this is 3 months from placing the order.

2.3 Non-Domestic Premises Survey and Sampling

There are three categories of survey types:

Type 1 - No samples are taken.

Type 2 - Samples are taken and the type of asbestos and quantity is identified.

Type 3 - Sampling taken prior to major works or demolition.

The estimated cost of carrying out Type 2 surveys on operational properties (excluding schools and housing) is £190,000, it is also generally accepted that in schools and public buildings Type 2 surveys should be carried out. However, within housing services with many structures being of the same design it is felt that a mixture of Type 2 and Type 1 surveys will produce necessary information and will also ensure good value. Type 3 surveys will be completed as part of each major refurbishment project (e.g. Town Hall), the cost of which will be born by the project. Some of these funds have been included as part of other bids; however, there will be a need to have a contingency budget to deal with urgent asbestos removal although this cannot be fully quantified at this point in time. It is recommend, based on the experience of surveys carried out on School properties that a sum of £500,000 is initially set aside for the urgent removal of asbestos in operational buildings. Although for each instance of major asbestos find, consideration may need to be given as to whether it would be better to close the facility.

2.4 Non-Domestic Contingency Funding Schools

As a guide, during 2003/04 15 out of 60 schools have already been surveyed for DEAL. An additional £350,000 was required to deal with urgent remedial action (that is asbestos removal) as a result of the surveys. This suggests that an additional £1,050,000 (£350,000 x 3) will be required for the remaining 45 schools. Survey costs for schools have already been budgeted out of the 2004/5 major repairs fund. The implication is that contingency funding will be required to cover urgent remedial action following on from work already completed by DEAL.

2.5 Duty Holder Awareness and Training Package

Although some work has already been done in this area there is a need to develop a duty holder pack to ensure staff with responsibilities for buildings where asbestos is or may be present understand their obligations to manage asbestos. The estimated cost for this to include production, printing, distribution and training is £10,000.

2.6 Domestic Premises

The following items are related to costs associated with domestic premises.

2.6.1 Housing Common Areas

Whilst the new CAW Regulation 4 relates to non-domestic premises, there has been debate over what is domestic and non-domestic. Clarification from the Health and Safety Executive (HSE) and other authorities in a similar position advise that inside the entrance door to the flat or house is domestic, outside the door it is non-domestic.

The Council has 52 blocks above six storeys and the cost for sampling and surveying these blocks is £100,000.

There are 1,200 blocks of low-rise properties and the cost for surveying and sampling these blocks is £250,000.

2.6.2 Housing Domestic Dwellings

Domestic dwellings are not covered by the CAW Regulation 4. The simple option is that the Council does nothing inside domestic dwellings. However, as 22,000 homes mean 22,000 work places for some Council staff and contractors a full option appraisal with costs will be presented to the Executive at the beginning of June 2004. This will also assist the Council in making a comparison of its performance against Beacon Authorities with a similar housing stock. It will also provide the facilities to enable operatives to access information of where asbestos containing materials can be found and so enable the operatives to effect safe working and stop the disturbance of encapsulated asbestos.

2.6.3 Housing Domestic Voids and property types will be the subject of a further report in June 2004.

2.7 Contaminated Land

Although not covered by the new Control of Asbestos at Work Regulation 4 2002 land contaminated by asbestos can potentially pose a risk to health. The Council has adopted a Contaminated Land Inspection Strategy that describes how we will investigate and manage these situations. A five year inspection programme has been developed and funded by the Council to carry this work forward.

2.8 Programme and Project Management

In order to ensure effective management and delivery of surveys and subsequent action to deal with removal it will be necessary to appoint a programme manager whom will report to the corporate working group. A project manager will also be required to drive out delivery. The estimated costs are £55,000.

2.9 Financial Implications / Cost Summary

The £2,185,000 has been accommodated for in the Council's 2004/05 Capital Programme, however, due to the delays in drawing this project together it is anticipated that funding will need to be re-profiled as shown below. A break down of the cost shown is attached as Appendix II and unless indicated otherwise in Appendix II all costs are Capital.

Capital	2004/05	2005/06	Total	
Original Capital	£2,110,000	£ 75,000	£2,185,000	
Re-profiled	£1,400,000	£785,000	£2,185,000	
Revenue				
To be met from existing budgets.	£ 30,000		£ 30,000	

The above cost does not include monies that may be required to remove asbestos from housing common areas. As mentioned earlier, a further report will be submitted in relation to housing domestic properties at the end of June 2004. In order to comply with the CAW Regulations, the Council does need to take action now and progress cannot wait for all issues to be resolved.

It should be noted that if funding is made available for this issue then there will be less scope to fund other projects.

A detailed project appraisal has been submitted to the Capital Programme Management Office (CPMO) and the project has been assessed as satisfactory across all four assessment areas (i.e. achieved four greens).

3. Other Issues

- 3.1 There is a possibility that the Council may be open to claims from parties where existing Term Contracts exist because of contract issues that may involve variations to working practices. These issues are still being investigated.

4. Consultation

The following people were consulted during the production of this report.

Finance

Julie Parker, Director of Finance

Joe Chesterton, Head of Financial Services

Lee Russell, Head of Central Finance

Social Services

Julia Ross, Director of Social Services
Andy Bere, Asset Manager, SS
Steve Whitelock, Head of Finance, SS
Peggy Green, Peggy Green – Senior Business Support Officer

Education, Arts and Libraries

Roger Luxton, Director of Education, Arts and Libraries
Mike Freeman, Head of Assets and Administration
Andy Carr, Asset Manager, DEAL
Paul Pearson, Head of Finance DEAL

Leisure and Environmental Services

Bob Cooper, Interim Head of Finance (LES)
Gary Frost, Health & Safety Adviser
Graham Stocker, Building Surveying Manager
John Hunt, Corporate Asbestos Manager
Ravinder Sangha, Corporate Asbestos Inspector
Sarah Oxley, Corporate Asbestos Database Manager
Jack McKeown, Departmental IT Manager
Colin Beever, Head of Property Services

Housing and Health

David Woods, Director of Housing and Health
Keith Harris, Head of Procurement & Commissioning,
Colin Rigby, Head of Finance (DHH)
Jim Ripley, Head of Landlord Services
Ken Lyons, Project Sponsor
Rob Williams, Environmental Protection Best Practitioner
Melanie Farrow, Health & Safety Adviser
Darren Henaghan, General Manager-Community & Environment

Thames Accord (C/o Housing)

Adrain Honeywell, Technical Director
Derek Eves, Health and Safety Advisor

Corporate Strategy

Paul Feild, Corporate Lawyer, Legal Division
Stephanie May, Corporate Safety Advisor (Health and Safety)

Background Papers

Control of Asbestos at Work Regulations 2002 (CAW)

Control of Asbestos at Work Regulations 2002

The **duty to manage** requires those in control of premises to:

take reasonable steps to determine the location and condition of materials likely to contain asbestos;

presume materials contain asbestos unless there is strong evidence that they do not;

make and keep an up to date record of the location and condition of the ACMs or presumed ACMs in the premises;

assess the risk of the likelihood of anyone being exposed to fibres from these materials;

prepare a plan setting out how the risks from the materials are to be managed;

take the necessary steps to put the plan into action;

review and monitor the plan periodically; and

provide information on the location and condition of the materials to anyone who is liable to work on or disturb them.

ACM = Asbestos containing materials

SUMMARY TABLE OF COSTS

- The £1.05m budget should be against the item 'Contingency budgets Asbestos removal schools' and not 'Survey Costs covered by Existing Budget'
- The £500k budget should be against the item 'Contingency budget for removal operational buildings' and not 'Contingency budget Asbestos removal schools'

ITEM	COST	REQUIRED TO MEET 2004 DEADLINE
Collation of data basis AMS/CAR NBA & MRA assimilation. IT	£20,000 Capital	Yes £20,000 2004/05
Operational Buildings Non-Domestic Surveys & Sampling	£190,000 Type 2 Surveys Capital	Yes £115,000 2004/05 £ 75,000 2005/06
Duty Holder Pack	£10,000 Revenue to be met from existing LES budgets	Yes
Housing Common Areas	£350,000 Capital	Yes £215,000 2004/05 £135,000 2005/06
Housing Domestic Voids and property types	Subject to further report inn June 2004	
Education Additional Resources Education 0.5 person	£20,000 Revenue to be met by existing staff and existing Education budgets Covered Revenue to be met by existing staff and existing Education budgets.	
Survey costs covered by existing budget		
Contingency budget Asbestos removal schools	£1,050,000 Capital	£675,000 2004/05 £375,000 2005/06 No - but to deal with emergency action.
Contingency budget for removal operational buildings	£500,000 Capital	No - but Capital funds will be required to meet emergency removal. £325,000 2004/05 £175,000 2005/06
Cost for producing final asbestos Management document / manual	£20,000 Capital	Yes £ 20,000 2004/05
Programme management and project management costs	£55,000 Capital	Yes £ 30,000 2004/05 £ 25,000 2005/06