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DIO POLICY INSTRUCTION (PI)

N°: 2019/006

Title: **MANAGEMENT OF ASBESTOS IN FIXED INFRASTRUCTURE**

DIO Sponsor: Head of Safety, Health, Environmental Protection & Sustainability (Hd SHEPS)	Date of issue: V1.0 10 Sep 19. V2.0 15 Dec 2021
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Who should read this: DIO Staff and Contractors; Public Private Partnerships / Private Finance Initiatives Project Managers/Commercial Officers; Commanding Officers / Heads of Establishment (CO/HoEs) and representatives; and Chief Environment and Safety Officers (CESOs) or equivalent.	
When it takes effect: Immediately	Expires: When updated or rescinded
Status: Extant	Replaces: DIO Policy Instruction 2015-02 which is hereby withdrawn.

Health and Safety

Equality Analysis

This policy has been Equality and Diversity impact assessed in accordance with the Defence Equality Analysis Guidance 2017 up to:

Stage 2 Initial Equality Analysis only – **no impact found; full EA not required.**

RECORD OF CHANGES

Version	Summary of Changes Made	Authority	Date Issued	Author
1.0	First Issue	DIO CESO	10 Sep 19	D Webber
2.0	Amended to clarify that the CO/HoE undertakes the duties of the Reg 4 “duty holder” on behalf of the parent TLBH/EOC at establishment level with DIO/ Infrastructure Delivery Agents carrying out duties on their behalf for those assets/activities within the scope of the contract. Minor amendment to Annex A Para 2 to clarify HoE role for disposals passed to a Land Sales Delivery Partner; and Para 3d to remove reference to a withdrawn Guidance document.	DIO CESO	15 Dec 21	D Webber

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1.0 DOCUMENT AIM AND SCOPE

1.1 This document details the management arrangements and roles and responsibilities placed on Defence Heads of Establishment (HoE), DIO, and its contractors by the Control of Asbestos Regulations 2012; the HSE Approved Code of Practice and Guidance L143¹ and MOD Policy² for the management of asbestos in fixed infrastructure³ provided/maintained by DIO. Requirements within are mandatory for all DIO Staff and Contractors.

1.2 It is not intended to provide a full explanation of the Control of Asbestos Regulations. The best source for that information is Health and Safety Executive (HSE) document L143. Further guidance on competence, quality assurance and surveys, including: survey planning, carrying out surveys, the survey report and the duty holder's use of the survey information can be found in HSE document HSG264⁴. Both documents can be downloaded from the [HSE website](#).

Where there is a conflict between this Instruction and a Regulation or HSE Approved Code of Practice or Guidance, the DIO Chief Environment Safety Officer (DIO CESO) is to be advised.

2.0 DEFENCE AND STATUTORY REQUIREMENTS

2.1 MOD Policy² and guidance on the management of asbestos is contained within JSP 375 and must be complied with. This includes that:

- a. All Asbestos Surveys be undertaken in accordance with HSG 264 by persons/organisations that meet the recommended competency requirements detailed within.
- b. A site-wide Asbestos Register, Asbestos Management Plan (AMP) and Asbestos Action Plan (AAP) that meets L143 and HSG264 requirements and guidance is put in place and maintained for each establishment that covers all known/presumed asbestos containing materials (ACMs) in premises, equipment, vehicles, stores, and contaminated soil/made ground identified within.
- c. The Asbestos Register and AMP (including supporting records, surveys, and drawings) be subject to recorded review at least six-monthly to confirm information remains accurate and to monitor the effectiveness of actions taken.

¹ L143 - Managing and Working with Asbestos, Control of Asbestos Regulations 2012, Approved Code of Practice and Guidance.

² JSP 375 Management of Health and Safety in Defence, Volume 1 Chapter 36 – Asbestos.

³ Fixed Infrastructure – the systems forming part of the permanent asset for which DIO is responsible for maintenance.

⁴ HSG264 - Asbestos: The Survey Guide. This is the lead reference document for people carrying out asbestos surveys and people with specific responsibilities for managing asbestos under the Control of Asbestos Regulations.

d. The condition of known/presumed asbestos containing materials (ACMs) left in situ is inspected by competent persons at a frequency proportionate to assessed risks but at least annually and that any change in risk/condition be passed to the HoE.

e. All known/presumed ACMs be labelled with standard “Asbestos Warning” symbol either affixed to the ACM itself; at entry points to unoccupied spaces (e.g. roof hatches) or the covering material where encapsulated. The location of the warning notices is to be detailed in the AR and condition/clarity monitored through the AMP.

2.2 Defence barracks, messes, Single Living Accommodation (including Substitute Single Living Accommodation and hirings) and Service Family Accommodation are deemed by MOD to be “non-domestic” for Regulation 4, management of asbestos purposes.

2.3 DIO policy is that all DIO staff, contractors, and their supply chain work in accordance with industry best practice and comply with all applicable legislative requirements; HSE ACOP; MOD/DIO mandated publications⁵ including this PI: and the HoE HS&EP policy both in the UK and overseas. For asbestos management this specifically includes HSG264.

3.0 RISKS TO HEALTH

3.1 Asbestos is a naturally occurring, Category 1 human carcinogen formed from a group of silicate minerals that are highly fibrous. The three main types are: Crocidolite (“blue asbestos”); Amosite or Grunerite (“brown asbestos”) and Chrysotile (“white asbestos”). Exposure to all types can cause asbestos-related diseases. Large amounts of asbestos containing materials (ACMs) were used for a wide range of construction purposes in new and refurbished buildings until 1999 when all use of asbestos was banned. This extensive use means there are still many buildings within MOD which contain asbestos.

3.2 The presence of asbestos alone does not create a health concern, where ACMs are in good condition and unlikely to be disturbed, they do not present a significant risk to health. However, where they are in poor condition - or disturbed or damaged by occupants or visiting workers - microscopic asbestos fibres are released into the air which, if inhaled, put people at risk of serious lung diseases, including cancer. Although long term ill-health or disease is unlikely to occur from a single exposure, this risk increases as a person’s exposure increases – i.e., the greater the frequency, duration, or concentration of exposure, the greater the likelihood and severity of ill health.

⁵ For contractors, where/as specified by the terms of the contract.

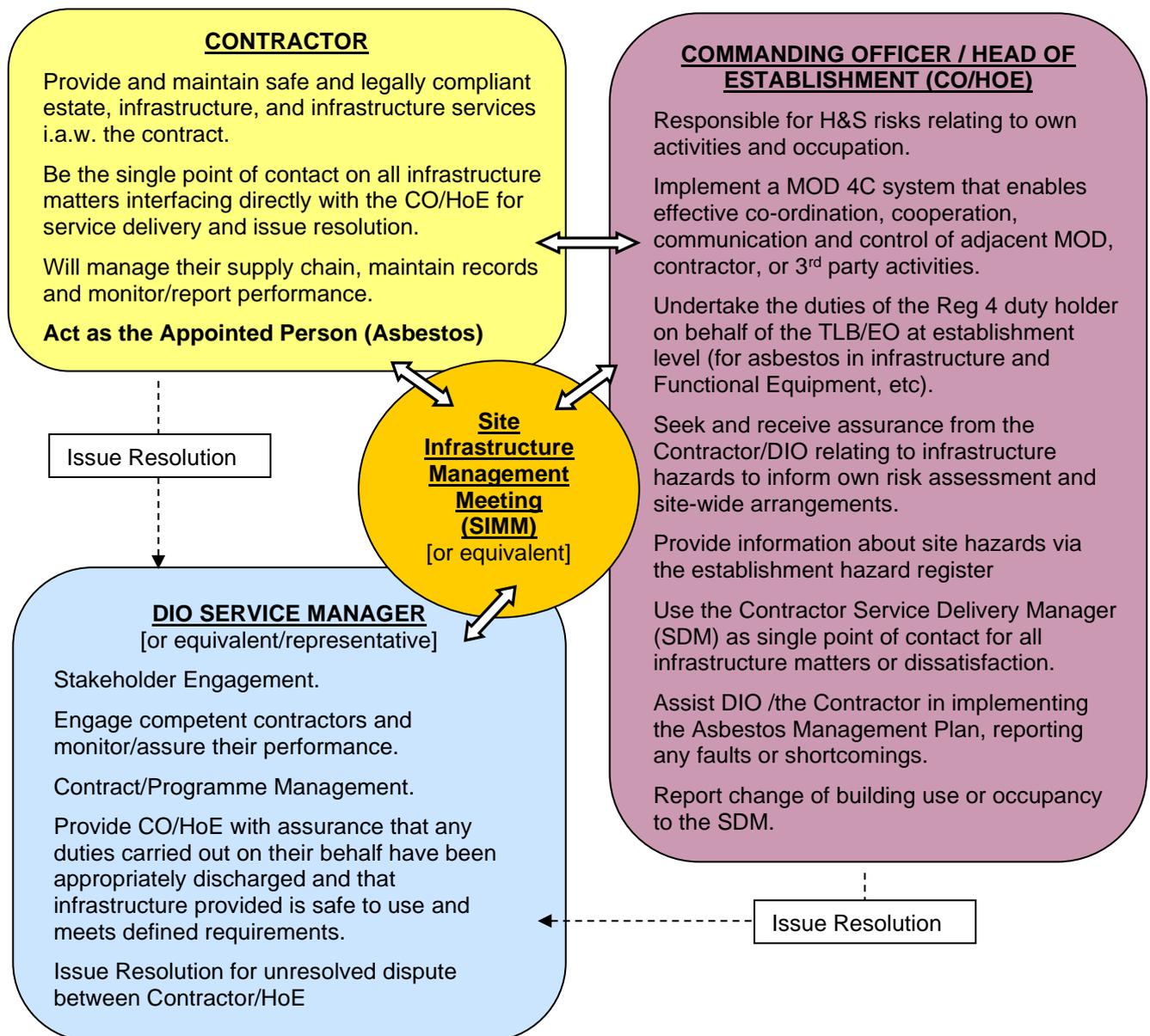
4.0 KEY STAKEHOLDERS AT ESTABLISHMENT LEVEL

4.1 As the TLB/EO's representative, the CO/HoE is responsible for having suitable management arrangements in place to ensure all "Reg 4 duty holder" duties are adequately discharged at establishment level - whether that be by their direct employ, lodger units, etc. or those engaged to deliver certain duties on their behalf (e.g., DIO/Infrastructure Delivery Agents)

4.2 DIO, as a Defence enabler and, where applicable, CDM⁶ Client is responsible for provision of statutory compliant infrastructure⁷ and has a significant role in discharging Asbestos duty holder requirements on behalf of the CO/HoE for those assets/activities provided or maintained within the scope of the contract. However, DIO cannot discharge this duty without input from Heads of Establishment and the Contractor as the task of managing asbestos on the Defence Estate requires input, sharing of responsibility and co-operation by all parties.

4.3 The diagram below illustrates the general inter-relationships for Health, Safety and Environmental Protection (HSEP) management at Establishment level. For other contractual arrangements, refer to Annex A 'Differences in Implementation'.

4.4 For specific details of roles and responsibilities, refer to Section 5.0.



⁶ CDM – Construction (Design and Management) Regulations.

⁷ With the exception of 'retained areas' where another party retains control.

5.0 ROLES AND IMPLEMENTATION

5.1 Overview

5.1.1 Most regulations within CAR are placed on the **employer** to not undertake work, or instruct employees to carry out work, that has the potential to expose persons to asbestos fibres unless they have met regulatory requirements.

5.1.2 Regulation 4 (Reg 4) covers the “**duty to manage**” ACMs present in premises and defines the “Reg 4 duty holder” as the building owner (e.g., the MOD or a third-party tenant where the lease/contract makes the tenant responsible for building maintenance and repair) or the controller of premises. The “Reg 4 duty holder” is permitted to engage/contract others to carry out duties on their behalf but those parties do not assume the duties under law.

5.1.3 **TLB Holders/EO CEs:** Within Defence, the SofS for Defence’s role as “**Reg 4 duty holder**”⁸ is delegated to the controlling TLBH/EOC and then down through their respective chains of command to the CO/HoE who discharges associated duties on their behalf at establishment level. As such the TLBH/EOC will be responsible for ensuring the CO/HoE:

- a. Has appropriate information, instruction and training, and access to competent advice in the delivery of their duties.
- b. Has the resources, funding and authority needed for the acceptance or escalation of risk, to implement agreed mitigation measures, and to stop activities/prevent asset use where risks exceed acceptable levels.
- c. Has management arrangements in place to ensure all “Reg 4 duty holder” duties are adequately discharged at establishment level, whether that be by direct employ, lodger units, etc. or those engaged to deliver duties on their behalf (e.g., DIO/Infrastructure Delivery Agents).
- d. Has identified all delivery agents on site have been identified and arrangements are in place for the effective identification, communication, and management of arising risks or matters effecting (e.g., incidents, change of infrastructure use/occupancy, etc).

5.1.4 **DIO / Infrastructure Delivery Agents:** DIO and their contractors (or any other Infrastructure Delivery Agent) are legally responsible for their employer duties under CAR, and accountable to the HoE/TLB/EO for the Reg 4 duties they discharge on their behalf. As such DIO are responsible for:

- a. Providing the HoE with evidence-based assurance that any “Reg 4” duties carried out on their behalf have been appropriately discharged and that infrastructure and infrastructure services provided are safe to use and meet defined operating requirements.
- b. Ensuring the HoE/building users are informed immediately where the above assurance cannot be provided, or an infrastructure-based hazard is identified.
- c. Supporting the HoE/TLB/EO in understanding how arising infrastructure risks impact on the safe operating envelope and deciding short and long-term infrastructure solutions.
- d. The provision of expert advice as it relates to infrastructure and associated risks/delegated duties.
- e. Ensuring sufficient resources to discharge their responsibilities to the HoE/TLB/EO, including ensuring that agreed tasks are given the appropriate priority.

Duties within the typical Regional Prime Delivery arena are as follows; see Annex A for contract specific or other stakeholder variations including Service Family Accommodation.

⁸ In this document, the term duty holder is taken in the context of the Asbestos Regulations and this is **not** to be confused with appointments made under the MOD Duty Holder construct (DSA 01.2 Chapter 3).

5.2 CO/Head of Establishment.

5.2.1 The CO/HoE⁹ is responsible for site wide hazard management and emergency arrangements including co-ordination and co-operation elements of the MOD 4C system. This includes responsibility for the relevant employer obligations where non-infrastructure Asbestos forms part of site activities e.g., asbestos incorporated in equipment, stored, or used at site.

5.2.2 As the TLB/EOs representative, the CO/HoE is to have in place a suitable monitoring regime to ensure “Reg 4 duty holder” duties and MOD mandated requirements have been assigned to competent persons and are being adequately discharged on their behalf (e.g., infrastructure, functional equipment, vehicles, etc). Namely to:

- a. Take reasonable steps to find out if there are ACMs in the premises, its type, amount, where it is and what condition it is in.
- b. Presume materials contain asbestos unless there is strong evidence they do not.
- c. Make and keep an up to date a record of the location and condition of the ACMs or presumed ACMs in your premises (i.e., an Asbestos Register).
- d. Assess the risk of anyone being exposed to fibres from the materials identified.
- e. Prepare a plan that sets out in detail how the risks from these materials will be managed and take the necessary steps to put the plan into action (i.e., Asbestos Management Plan and Asbestos Action Plan).
- f. Periodically review and monitor the plan and arrangements made to put it in place to ensure it remains up to date and relevant.
- g. Set up a system¹⁰ for providing information on the location and condition of the materials to anyone who is liable to work on or disturb them

5.2.3 For Asbestos risks associated with infrastructure or infrastructure services that fall within the scope of a DIO Estates Contract, the DIO RD Regional Head will discharge these duties on behalf of the CO/HoE through delivery of the contract, including the appointment of the contractor as the Appointed Person Asbestos. **However, the CO/HoE will be required to:**

- a. As MOD Coordinating Duty holder, co-signs the Asbestos Management Plan in respect to risks generated by, and requirements placed on, the user community and ensure these are communicated to, and complied with, by own and all lodging TLB/EO units.
- b. Co-ordinate and inform the Contractor of building occupancy and use, including planned / arising changes or damage, so that asbestos risks due to user activities can be evaluated and managed.
- c. Notify, co-operate and co-ordinate with the Contractor and DIO of any user aspects for incorporation into the establishment AMP and any asbestos related issues or other concerns raised by the user community, including discovery of asbestos in the ground.
- d. Prohibit activities which may damage or result in the release of asbestos fibres into the atmosphere.
- e. Put arrangements in place to ensure that an establishment-wide Asbestos Register, AMP, and Asbestos Action Plan are prepared, implemented and maintained and that the relevant

⁹ Note the HoE role may be discharged by a DIO employee in the case of sites in service housing, accommodation, sites in disposal or the training estate.

¹⁰ Anyone who has information on the whereabouts of asbestos in your premises is required to make this available to you as the duty holder, but you will need to assess its reliability. Those who are not duty holders, but control access to the premises, must co-operate with you in managing the asbestos.

extracts are communicated to all defence personnel, visitors, or emergency services that through their work activity may disturb known or suspected ACMs.

f. Maintain sufficient and up-to-date information to enable accident and emergency services immediate access to relevant detail on arrival. This is to include a current copy of relevant asbestos documentation (specifically the Asbestos Register) and a site plan indicating all buildings that contain asbestos.

g. If no in date AMP, AAP or AR is in place, or it is considered that material changes have taken place that could, potentially, undermine the validity of the AMP, AAP or AR, the HoE must immediately inform the Service Manager who will arrange for an AMP, AAP and/or AR to be drawn up/reviewed and implemented by the MMO.

h. Engage with the DIO Service Manager, Contractor and, where necessary, parent TLB to decide on submissions for additional works/funding received from the Contractor. Responsibility for any risks associated with decisions not to fund rest with the duty holder making them (e.g., DIO or the HoE/Parent TLB depending on financial delegation thresholds).

i. Take the lead in coordinating other events; including activities involving Self Help Projects organised by the Establishment, DII, BT, Charity Events and Aquatrine/SLAM activities etc.

5.2.4 To avoid duplication and potential for gaps in asbestos management, a single Asbestos Management Plan (AMP) is to be implemented at Establishments, incorporating all relevant Asbestos aspects and responsibilities. The AMP should signpost to other AMPs (e.g., Head Accommodation) where controlled by another party.

5.2.5 In order to be assured that the responsibility is being adequately discharged, the DIO Service Manager requires evidence of monitoring, activities, and data to demonstrate the discharge of DIO responsibility using the product of EM/02 checks and, where necessary, reach back to the DIO Regional H&S Support Team. Where appointments or nominations are made to assist in managing asbestos the DIO duty holder needs to be assured of the nominees or appointees continuing suitability and competence.

5.2.6 The evidence to assist in assuring the adequate discharge of duties is to be provided by a combination of information provided by the Contractor's Appointed Person (Asbestos); supported by local scrutiny of performance conducted on behalf of the DIO Service Manager with regional and site/establishment level checks. DIO Performance and Assurance Teams provide a compliance/assurance programme using Practitioners Guide (PG) EM 02 and are supported by the DIO Technical Services Health and Safety Team as appropriate who can conduct targeted and more specific checks.

5.3 **DIO Service Manager** [or equivalent¹¹]

5.3.1 The DIO Service Manager (e.g., the DIO Regional Head/Regional Delivery Accommodation Service Manager) has responsibility to ensure that competent contractors have been engaged (this can be a corporate appointment) to deliver and maintain a safe and legally compliant estate.

5.3.2 For infrastructure assets and services covered by a DIO Estates Contract, the DIO Service Manager will undertake the following duties on behalf of the CO/HoE, and remains accountable for them where these are sub-delegated through their chain of command:

a. Appoint the contractor to act as the Appointed Person Asbestos to advise DIO and the CO/HoE on the discharge of their Asbestos duties; and to take day-to-day responsibility for

¹¹ DIO Service Manager is a term used within DIO estate contracts as the post with overall contractual accountability. For varying methods of delivery with DIO involvement, refer to Annex A - 'Differences in Implementation'.

managing asbestos by identifying and controlling associated risks in all in-scope fixed infrastructure or contracted tasks¹².

- b. Ensure that a suitable, sufficient, and up to date AMP, Asbestos Action Plan (AAP) and Asbestos Register (AR) is put in place, maintained and subject to recorded review (at least six-monthly) for every establishment. If not in place, or considered unsuitable, the Service Manager will arrange for an AMP/AR/AAP or its review to be carried out by the Contractor.
- c. Agree and co-sign the Asbestos Management Plan (AMP) on behalf of DIO.
- d. Put systems in place via the assurance process to monitor and assure contractor performance and competence in managing asbestos.
- e. Provide assurance¹³ to the CO/HoE that the Asbestos Management Plan is being implemented and controls remain effective.
- f. Is responsible for alerting the Contractor to any relevant new information to enable the Asbestos Management documentation to be updated e.g., discovery of asbestos in ground, availability of updated Land Quality Assessment reports, or other sources of information in relation to Asbestos in ground from Land Condition Files (LCFs).
- g. Engage with the CO/HoE (and where necessary parent TLB) to advise and decide on submissions for additional works/funding received from the Contractor. Responsibility for any risks associated with decisions not to fund rest with the CO/HoE/Parent TLB.
- h. Seek advice from the DIO Regional H&S Support Team as required in the delivery of their duties and funding decisions.
- i. Undertake contract/programme management and facilitate resolution of issues elevated by the CO/HoE or Contractor.

5.4 **The Contractor**

5.4.1 The Contractor is responsible for planning, implementing, and delivering all aspects of asbestos management work to secure compliance within the scope of the contract. This includes producing plans and delivering control measures to manage asbestos containing materials. Specific to asbestos, the Contractor:

- a. Is appointed by DIO to act as Appointed Person¹⁴ (Asbestos) to advise DIO and the CO/HoE in the discharge of their asbestos duties; and to take day-to-day responsibility for managing asbestos by identifying and controlling associated risks in all MOD controlled fixed infrastructure within the scope of the contract¹⁵.
- b. Takes all reasonable steps to determine the location of materials likely to contain asbestos and check their condition¹⁶; this is to be done by completing systematic asbestos surveys in accordance with HSG264 and maintaining a written (or appropriate electronic system) record i.e., an Asbestos Register (AR) of the location and condition of known or presumed ACMs. The record is to be kept up to date, to include a site plan indicating the location of all asbestos and where asbestos products have been identified and removed with associated clearance/disposal records.

¹² With the exception of 'retained areas' where another party retains control. See Annex D for sample Letter of Appointment

¹³ Refer to Annex B - Aide Memoire to Support Awareness of DIO Assurance Checks providing assurance to the CO/HoE.

¹⁴ As described in HSE publication HSG 264.

¹⁵ With the exception of 'retained areas' where another party retains control.

¹⁶ This is to include consideration of the potential for deterioration/delamination of the asbestos or its containing product (e.g., cement) due to its life expectancy/age.

c. Prepares, maintains, and reviews an Establishment Asbestos Management Plan (AMP) for tri-party¹⁷ ownership where appropriate; co-signing and maintaining it on DIO's behalf and in conjunction with the CO/HoE. The plan is to be put into effect to ensure that the asbestos management regime meets DIO/MOD mandated requirements (see Section 2.0), and active steps are taken to check, manage, inspect on a risk-basis (at least annually), and formally record the following actions:

- All known and presumed ACMs are kept in a good state of repair.
- Any ACM/presumed ACM is repaired or removed on the basis on the risk associated with its location, condition, and asset use.
- Information on the location and condition of the ACM is provided to anyone potentially at risk¹⁸.
- The Asbestos Register and AMP (including supporting records, surveys, and drawings) is subject to recorded review by the Contractor and HoE at least six-monthly to confirm information remains accurate and to monitor the effectiveness of actions taken.

d. Keep the AMP, AAP, and AR up to date to reflect any change in asbestos risk being managed by the establishment.

e. Immediately notifies DIO, the HoE and building users of any known or suspected change in asbestos risk or release of airborne fibres.

f. Appoints and monitors competent persons / sub-contractors to manage and undertake practical application of the Asbestos Management Plan and asbestos management activities under their control.

g. Co-operates and shares information (including the AMP and register) in accordance with site procedures using the CO/HoE 4C system or equivalent site mandated arrangements¹⁹.

h. Providing assurance to the DIO Service Manager and CO/HoE that the AMP and control schemes within it are being delivered and remain effective.

i. Produces structured and coherent submissions to DIO for allocation of resources and funding for programmes and projects to deal with asbestos.

j. Provides competent advice on asbestos management and support to unusual or emergency events (e.g., provision of clearance / reassurance analysis and certification for reoccupation).

k. The MMO must ensure that their staff and contractors are competent and properly trained to the appropriate standard in line with the task they are undertaking to ensure their health and safety and the health and safety of others (see Annex C).

6.0 WORKING WITH ASBESTOS

6.1 Notifications of licensable and non-licensable work are to take place in accordance with L143; however, the DIO approach to work with asbestos is as follows.

a. All DIO contracted activities involving Notifiable Non-Licensed Work (NNLW) on asbestos is to be carried out by licensed asbestos contractors.

¹⁷ DIO, Contractor and Head of Establishment.

¹⁸ Occupants of Service Families Accommodation are exempt from this requirement and will only be provided specific results upon request.

¹⁹ JSP 375 Management of Health and Safety in Defence, Volume 1, Chapter 34 – 4C System - Management of Visiting Workers and Contractors.

b. DIO staff are prohibited from any work with asbestos, this includes work that gives rise to sporadic and low intensity exposure. In exceptional circumstances, DIO staff may be permitted to complete specified asbestos tasks although this will be agreed by the Delivery area at B1 level, on a case-by-case basis and with an exemption from the DIO Head of SHEPS. In these exceptional cases, MOD Policy and guidance for Line Managers is contained within JSP 375²⁰; staff are to be subject to appropriate health surveillance in accordance with JSP 375²¹. See Section 8.0 below for retention of records.

7.0 INFORMATION, INSTRUCTION, TRAINING AND COMPETENCE

7.1 Anyone or any organisation required to carry out work in connection with asbestos or duties under the Control of Asbestos Regulations must know what they must do and be able to do it safely. Reg 4 duty holders and employers are responsible for ensuring that adequate information, instruction, and training is given to their employees:

- a. Whose work or occupation could foreseeably expose them to asbestos; and,
- b. Who carry out work in connection with the employer's duty to manage asbestos.

7.2 Annex C sets out the DIO approach to training, awareness, and competence with minimum requirements for the various roles in managing asbestos for the MOD estate.

8.0 RETENTION OF RECORDS

8.1 MOD Policy²² requires the recording and retention of details relating to Health Surveillance, Health Records where exposure may lead to a disease many years later. The MOD requirements for retention²³ are greater than the retention period in L143²⁴ and the Contractor is required to comply with the terms and conditions of contract retaining records for the duration and making them available to the authority as required. The Contractor should retain relevant records as appropriate for its own staff to ensure compliance with any legislative requirement and to support any future claim.

8.2 All infrastructure asbestos records are to be retained by MOD for any future claim. Documents are to be stored and remain accessible to the DIO Service Manager. Where building or land is being transferred or disposed of there is a requirement to hand over the asbestos register to the new owner, but a copy of all relevant asbestos documentation (asbestos register, management plan, surveys, analysis, air tests, incidents, asbestos remediation etc) must be retained by DIO in an easily accessible format in a central electronic filing system. The availability and suitability of such records will be subject to both contractor and DIO H&S audits.

8.3 Records relating to asbestos awareness information, instruction and specific training are to be retained for all staff who work with asbestos, this is to be held by the relevant employer for their own staff.

9.0 REPORTING

9.1 Where a HoE/unit, Contractor or DIO controlled activity results in the unplanned disturbance/damage of asbestos containing infrastructure, or the known/suspected release of asbestos fibres, this is to be immediately reported to the DIO Service Manager (or equivalent/their nominated representative) and HoE in accordance with contract and local procedures. The DIO Service Manager (or their nominated representative) is to notify the DIO Incident Notification cell by reporting the incident on the DIO IMS within 24 hours of notification.

²⁰ JSP 375 Management of Health and Safety in Defence, Volume 1 Chapter 36 - Asbestos.

²¹ JSP 375 Management of Health and Safety in Defence, Volume 1 Chapter 14 - Health Surveillance and Monitoring.

²² JSP 375 Management of Health and Safety in Defence, Volume 1 Chapter 39 – Retention of Records.

²³ Typically requiring records to be retained for 60 years from date of last entry/exposure or 100 years from date of birth.

²⁴ Typically requiring records to be kept available in a safe place and in a suitable form for at least 40 years from the date of the last entry made in it.

10.0 ASBESTOS IN THE GROUND

10.1 All Asbestos in ground relates to fibres in the ground that may be released by erosion, significant weather events, construction/demolition, or grounds maintenance works. Known occurrences of asbestos in the ground should be recorded in the establishment hazard register and the asbestos register. Where excavation work is planned, the potential for asbestos in the ground should be considered²⁵. Where asbestos in ground is foreseeable then additional skills, experience and competencies may be required to adequately investigate and assess the potential risks. Reference in this regard can be made to DIO Technical Services – Environment and Planning Service.

Further advice and assistance on matters pertaining to this Policy Instruction can be obtained from the document sponsor or point of contact detailed on Page 1. It is the responsibility of the user to ascertain if they have the most up to date version of the document. Advice on asbestos related matters can also be obtained from Defence Infrastructure Organisation through local Health and Safety Advisors.

²⁵ CIRIA: Asbestos in soil and made ground: a guide to understanding and managing risks (C733)

ANNEX A: DIFFERENCES IN IMPLEMENTATION

1. **Projects.** For Major and Capital Works Projects, DIO Major Programmes and Projects (MPP) operate Regional and National frameworks to deliver projects across a wide range of asset types. There will be a liaison interface with the Regional Delivery teams for sharing of relevant information to ensure suitability of existing information for scope of intended works. Further Intrusive asbestos survey work may be needed to plan for project safety and achieve compliance.
2. **Disposals.** For Sites-in-Disposal or Acquisitions, DIO Regional Delivery will discharge the (nominal) CO/HoE role. Where sites-in-disposal are passed to a Land Sales Delivery Partner (LSDP) there is no formal HoE appointment but the DIO Estates A&D Officer remains the MOD Accountable Person and shall ensure the LSDP has suitable asbestos management arrangements in place.
3. **United States Forces.**
 - a. On MOD sites utilised by USVF, asbestos is managed as an environmental issue not health and safety.
 - b. The Environmental Management branch of Civil Engineering, US Air Force in Europe Command level (as USVF executive agent for such issues in the UK) have come to agreement with the DIO US Forces division (DIO USF), that USVF assume the *duty holder's responsibilities* in respect of UK Asbestos legislation. However, USVF do this not out of compliance with UK legislation, but out of compliance with their own asbestos management policy. This policy is published in the US Department of Defence documents, Final Governing Standards - United Kingdom - Ch 15 (FGS) and AFI 32-1052.
 - c. The FGS-UK is applicable to all branches of the US Department of Defence operating in the UK. USVF policy covers similar requirements to produce an establishment management plan to identify, risk assess, manage, and communicate information about asbestos in facilities, and to mitigate occupational exposure.
 - d. In line with UK legislation, DIO USF co-operates closely with USVF as 'duty holder' in asbestos management matters and ensures MOD contractors do likewise and comply fully with UK legislation.
 - e. Contractors shall follow the requirements of the USVF's Asbestos Management Plan at each Establishment, whilst ensuring their and their sub-contracted activities comply with UK legislation. USVF's Civil Engineering organisation holds the Establishment Asbestos Register which the Contractor is required to consult when planning work. The existence of this Register and provision of information shall not be considered exhaustive. The Contractor shall anticipate that this register and associated surveys may only be held in hard-copy and may only have been compiled from non-intrusive surveys. Known asbestos containing materials may not have been subject to periodic condition re-inspection.
 - f. No survey of or work with asbestos containing materials is to commence until the Base Civil Engineer Asbestos Programme Manager has reviewed the Contractor's or their supply chain's qualification, accreditation, and method statements.
4. **PFI.** For DIO managed Private Finance Initiatives (PFI) the PFI Contractor is accountable for managing disclosed Asbestos and is the Asbestos Reg 4 duty holder in respect of maintenance and repair of the non-domestic premises, where it falls within its remit. Undisclosed asbestos normally falls to the PFI Contractor to manage (at the Authority's expense), but this may vary by Contract/Establishment. The PFI Contractor should maintain a Business Asbestos Management Plan, an Asbestos Register and supporting Property Action Plans. Assurance that systems are in place and functioning should be reported by the PFI Contractor, normally through the DIO PFI Representative.

5. **RFCA.** For the Reserve Forces and Cadets Association (RFCA), where the RFCA owns the establishment, the RFCA Head of Estates has accountability for managing asbestos, with the duties cascaded down to the RFCA Works Officer to oversee and maintain compliance. Where the RFCA is a lodger unit on a MOD establishment, asbestos will be managed in accordance with the procedures relevant to the establishment and contractual arrangement; typically, by the standard MOD tri-party arrangement involving DIO, the Contractor and the Head of Establishment; or PFI as appropriate.
6. **Overseas.** For overseas locations, outside of UK territorial waters, UK licensed contractors may not be available. To avoid excessive costs involved with engaging contractors from the UK, a suitably competent local contractor may be engaged to carry out the works. To be deemed competent, a contractor must be able to demonstrate the skills and experience as laid down in the relevant Host Nation standards and to the UK HSE ACOP, a record of the assessment should be retained. In such cases, the party engaging those carrying out the work is responsible for assessing their competence and monitoring their performance. Support is available from the DIO Health and Safety team.
7. **Service Family Accommodation (SFA).**
- a. SFA falls out with the establishment's HoE asbestos Reg 4 duty holder responsibility. The HoE for all SFA is DIO Head Accommodation (Hd Accn). For this reason, Regional Delivery Accommodation (RDA) operate their own Asbestos Management Plan (AMP) which Hd Accn signs and may be countersigned by the DIO Service Manager. This AMP sits above the Contractors AMP and details RDA Policy. As a result, RDA do not co-sign the numerous Establishment AMPs, even for SFA behind the wire, and the assets are maintained using an electronic RDA Asbestos Register and not on the Establishment Asbestos Registers. Misappropriated housing that is not under DIO RDA control are managed by the body in control of maintenance.
- b. RDA Policy and Contractor delivery must require and ensure compliance with L143 and HSG 264.
8. **Tenants.** Third parties occupying non-domestic premises under full maintenance and repair arrangements for non-MOD undertakings shall ensure full compliance with the Regulations, including:
- a. Operating their own arrangements including AMP, AR and visiting worker induction programme.
- b. Where relevant, cooperating with the CO/HoE as necessary to ensure site-wide arrangements are suitable and sufficient, including population and revision of the relevant parts of the site AMP to ensure all parties are aware of current risks. A key part of the CO/HoE engagement process at establishment/unit level is the Site Infrastructure Management Meeting (SIMM); this is the primary mechanism for DIO and User engagement and provides a regular forum to share asbestos information/updates.
9. **BFG.** British Forces Germany (BFG) are required to comply with the Supplementary Agreement (SA) to the Status of Force Agreement (SOFA) that clearly states all visiting forces are to comply with German Law and this includes compliance with German Health and Safety Law in respect to activities undertaken on their land (Article 53.1 SA). This general obligation is subject to certain exemptions, but these are rarely applied (e.g., where MOD personnel work in strict isolation).
- a. This obligation is underpinned in the Health & Safety and Environmental Protection for Defence Policy Statement issued by the Secretary of State for Defence which states:
"Overseas, we apply our UK arrangements where reasonably practicable and, in addition, respond to host nations' relevant HS&EP expectations."

- b. BFG therefore, is to comply with German Health and Safety standards (in line with the SA) and only to apply a different standard (i.e., UK) where it is reasonably practicable to do so. Reference to “Reasonably Practicable” in the SofS statement means that where there is a measurable reduction of risk in the level of safety this must be proportional to the difficulty and cost of taking the measure.
- c. Despite BFG’s primary obligation to comply with German Health & Safety Standards, it is important to ensure that safety measures taken in BFG which could affect our military, civilian and dependent members of the community are not inferior in principle to those which would be applied in the UK, so that they are provided, in so far as is reasonably practicable, with the same degree of HS&EP support, training and protection that would be afforded to them in the UK.
- d. During the operation of this Asbestos Management Plan (AMP) there may be variations identified where Host Nation legislation and/or guidance (in relation to inspection and maintenance frequencies of ACMs or equipment) may fall short in meeting UK/MOD Standards. In these cases, a judgement needs to be made by the RD Overseas HQ – SME Focal Point (Asbestos), where reasonably practicable, to include additional UK/MOD Standards or guidance if/when considered appropriate.
- e. Host Nation compliance checks are carried out by the German regulatory authorities (KFB) and/or the Accident Insurance Carriers (UVB). Both have statutory powers to take enforcement action in the event of breaches of German health & safety law. BFG are required to ensure full compliance with the HN regulators including any remedial actions recommended.

ANNEX B: AIDE MEMOIRE TO SUPPORT AWARENESS OF DIO ASSURANCE CHECKS

The DIO Service Manager or equivalent (and any DIO staff involved in activities to manage asbestos on the duty holder's behalf) need to be aware of several points to support activities to enable them to assure any interested party e.g., CO/HoE.

The following list is taken from HSG264 - Asbestos: The Survey Guide; providing an aide memoire to specific guidance for clients/duty holders. The publication contains full details and signposts the relevant details within green summary boxes as follows:

- Box 1: The purpose of an asbestos survey.
- Box 3: What the client/duty holder should do to check the competency of the surveyor.
- Box 4: Areas to be inspected as part of a management survey.
- Box 6: Information the client/duty holder should expect from the surveyor.
- Box 9: Information required for a management survey.
- Box 10: Information required for a refurbishment or demolition survey.
- Box 11: What the client/duty holder should do to check the accuracy of the survey report.

On USVF sites, assurance checks are carried out under the Base Facility Management Agreement, Tasks 237.2, 237.4, 549 and 550.

DIO Regional Delivery uses the PG EM 02 document to provide assurance against delivery tasks and activities. This can include sampling activities involving asbestos and these specific tasks can be supported by the DIO Health and Safety team, where there is a need for specialist assistance.

Assurance checks are also needed for storage, carriage, Hazardous Waste consignment and disposal; including the competence of Asbestos removal companies; carriage of Asbestos Waste on public roads; disposal routes and duty of care for Hazardous Waste Consignments through to Consignee's return to Consignor.

ANNEX C: MINIMUM TRAINING REQUIREMENTS

The Table below sets out the minimum training requirements for the various roles in managing asbestos for DIO staff.

Ser	Role	Minimum Requirements	Comments
1	DIO Service Manager	Asbestos Awareness ²⁶ refreshed annually	'Category A' Asbestos or similar Awareness Training - appropriate for those people who do not work on asbestos containing materials however require training to enable them to identify asbestos containing materials. Supplemented by awareness of this Policy Instruction the site Asbestos Management Plan and Asbestos Register
2	DIO /HoE		
3	DIO 4C Duty holder and Area Custodian		
4	Anyone with asbestos management role		
5	Anyone carrying out work that may disturb the building fabric		
6	Anyone occupying a building containing ACM	Awareness of site documents (location and content)	Site Asbestos Management Plan and Asbestos Register
7	Appointed Person (asbestos) and deputy	BOHS P405 or equivalent	Supplemented by awareness of this Policy Instruction and required to develop a working knowledge of site Asbestos Management Plan and Asbestos Register within their area of responsibility
8	DIO H&S Advisors		
9	Asbestos surveyors	UKAS Accreditation or appropriate qualification	As specified in HSG 264

Note: where there is a risk of exposure to asbestos, the training requirements for carrying out work on asbestos are additional to this and are set out in the Regulations²⁷.

²⁶ e.g., In-house presentation, DLE "Asbestos Awareness" module or other 'Category A' Asbestos Awareness training in accordance with the requirements of L143. Asbestos Awareness training is not intended to prepare people to work with asbestos; it is intended to identify where work may disturb ACMs so they can avoid it.

²⁷ CAR 2012.

ANNEX D: SAMPLE LETTER - APPOINTED PERSON ASBESTOS

Dear.....

ASBESTOS APPOINTED PERSON

1. As laid down in HSE publication HSG 264 - Asbestos: The Survey Guide, I hereby formally appoint *[organisation]* to act as Appointed Person (Asbestos), for the management of the Asbestos risk for those assets for which the *[contract]* is responsible.
2. Please confirm your acceptance in writing and provide the names, contact details and declaration(s) of competence/training of those persons who will discharge this role on your behalf and the specific establishments/areas for which they will be responsible, and any subsequent amendment.

Yours sincerely

DIO Service Manager