

BRITISH ASBESTOS NEWSLETTER

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1. Asbestos Politics 2017

On May 17, 2017, the Labour Party manifesto for the 2017 general election was published; it included a pledge to undertake the “phased removal of asbestos from existing schools,” as part of plans to reinvigorate the educational infrastructure by investing in new schools and improving older ones.¹ The high-level nature of this commitment was warmly received by key stakeholders with John McClean from the Asbestos in Schools (AiS) Group saying: “AiS welcomes this overdue commitment and would like to thank both Ian Lavery MP and Rachel Reeves MP for ensuring that this has finally been included in a major party's manifesto along with a planned refurbishment of the school estate.” Seconding Mr. McClean’s reaction, Graham Dring, Chair of the Asbestos Victims’ Support Groups Forum (UK), commented:

“We welcome Labour’s pledge for a phased removal of asbestos in schools. This problem has been ignored for too long by Government. The combination of lax asbestos management and inadequate funding for schools’ maintenance and repair is putting the safety of school children, and teachers and other school workers, at risk. The other political parties need to tell us how they plan to deal with this problem if elected.”

Encouraged by Labour’s policy, Hugh Robertson, Senior Policy Officer for Health and Safety for the Trades Union Congress (TUC), pointed out that the asbestos remediation of public buildings “has been a major campaign for unions for many years... [and that] we still want to see a programme for the removal of asbestos from all workplaces, although this would be a great start and definitely sends the right message.”

Just a fortnight before the manifesto was published, the TUC had accused the Health and Safety Executive (HSE), the “watchdog for work-related health, safety and illness,” of “complacency” and being “irresponsible” over plans to downgrade protection for workers at risk of asbestos exposure. A new ninety-page HSE audit² of the effectiveness of the 2012 Control of Asbestos Regulations had, the TUC argued, failed to consider the benefits to workers of an asbestos removal policy which would completely eliminate toxic occupational exposures. Unsurprisingly, the HSE maintained in its publication that it was “better to keep the regulations” than eliminate the problem in the “estimated half a million [contaminated] workplaces (and a million homes)...³ The TUC blog, written by Hugh Robertson, concluded:

“Over 50,000 people have died in the UK from mesothelioma as a result of asbestos exposure, several tens of thousands more have died from lung cancer or other asbestos-related diseases. Tens of thousands more will die because of exposure that they have already had. How many more will die over and above that will depend on what we do now. The fact that Government and regulators see the status quo as the best option is a damning indictment of our health and safety system.”

After so many years of neglect by governments of various hues and compositions, it was unlikely to be coincidental that as the HSE policy paper was being finalized, other government departments

were releasing publications dealing with overlapping areas of interest. In mid-February 2017 key documents from the National Audit Office (NAO) and the Education Funding Agency (EFA), both of which detailed long-term and severe failings by the authorities to protect schools users from asbestos exposures, were issued. In the NAO's 53-page report *Capital Funding for Schools*,⁴ warnings were given that "asbestos is a significant, and potentially dangerous, issue in many buildings, including most schools." In section 2.7 contained under the headline title: "Condition of the school estate," the NAO authors explained that asbestos:

"was used extensively from the 1950s to the mid-1980s, often to fireproof and insulate buildings. Where asbestos is not maintained properly people exposed to it can develop types of cancer. Individual schools are responsible for maintaining a record of asbestos and the Department does not collate information on the number of school buildings affected."

Sections of the EFA's 28-page *Asbestos Management in Schools Data Collection Report* also raised cause for concern: "Around 20% [of schools responding to the survey] were," the EFA wrote "not fully compliant, in that they did not have fully documented plans, processes and procedures in place at the time of the data collection; or did not know if asbestos was present."⁵ Statistics cited in this report included the following:

"Of the schools that responded to the data collection [exercise]:

- 4,646 (83.1%) reported that asbestos was present
- 872 (15.6%) reported that asbestos was not present
- 74 (1.3%) reported that they did not know if asbestos was present
- ...
- 1,060 (19%) were not compliant"; 114 (~2%) schools in this group "gave significant cause for concern."

In what might be seen as a serious case of bolting the stable doors after the horses had bolted, in February 2017 the Education Funding Agency (EFA) released 21-page and 19-page departmental guidance documents for school leaders, governors, staff, local authorities, academy trusts and charitable trusts entitled respectively: *Managing asbestos in your school* and *Asbestos in schools: Where it may be located*.⁶ These documents were cited as mitigating evidence by Lord Nash, a former venture capitalist and more latterly the Parliamentary Under Secretary of State for Schools, in a House of Lords response to Lord Alton of Liverpool who had asked what action the government intended to take "to protect children and teachers from the dangers of asbestos, in the light of the findings of the Education Funding Agency in their reports published in February, and of the information released in the Freedom of Information request 201607236, of August 2016, that 319 teachers have died of mesothelioma since 1980, published by the National Union of Teachers."⁷ Lord Nash's comments were evasive and without merit:

"We also intend to further enhance scrutiny on duty holders for managing asbestos in their schools, by developing an assurance process for all duty holders to report on the management of asbestos across their respective education estates. Alongside this, we continue to provide significant funding to schools to help those legally responsible for maintenance to keep their school buildings in a good state of repair. We are investing £10 billion to maintain and improve the condition of the schools estate by 2021, and schools and responsible bodies are able to use the funding that is available to them to remove asbestos where that is appropriate."

The Conservative Government's failure to engage with the scale and gravity of asbestos in schools is underscored by proposed funding cuts announced in February 2017 by the EFA which could, according to the Local Government Association (LGA), leave councils unable to meet their obligations to manage "asbestos in school buildings"⁸ from September 2017. In a press statement, Cllr Richard Watts, Chair of the LGA's Children and Young People Board, clarified the situation:

"Councils have their hands tied. They are legally obliged to provide these services but will have no money to do so unless the school is prepared to pay for it from its own pocket. Councils are committed to ensuring all children get access to high quality education and that

they can do so in a safe and healthy environment. Changes to regulation and school funding mean that councils could fail to meet their legal duties which protect children and teachers whilst at school. Services that were previously provided to schools by councils will become an extra burden for schools, putting additional pressure on already overstretched budgets. If councils are to continue to provide these vital services the £600 million proposed cut to the Education Services Grant needs to be reversed.”⁹

The “see-no-evil, hear-no-evil” advice given by the HSE regarding toxic contamination of UK schools has been regurgitated by successive governments as their excuse to ignore the problem, despite evidence of asbestos disease and deaths amongst pupils, teachers, support staff and building users. A feature uploaded last month (April 2017) featured case studies about Chris Wallace, a 40-year old man with mesothelioma, contracted from asbestos exposures whilst a pupil in Devon and retired teacher Sue Stephens who died from mesothelioma in 2016 after occupational asbestos exposures also in Devon.¹⁰ Unfortunately, the asbestos blight is not confined to one county or region. According to the University of Glasgow: “Scotland currently has the highest global incidence of the condition, with 175 cases diagnosed in 2014.”¹¹ Three years ago, Sandra Naylor died from mesothelioma, aged 52. She believed her disease had been caused by exposures to asbestos during the 1970s when she attended Caldervale High School in Airdrie, North Lanarkshire, Scotland. In the run-up to the general election her husband Iain has called on all political parties in Scotland to address the issue of asbestos in schools as a matter of priority. Speaking at a conference in Glasgow on April 21, 2017,¹² the central theme of which was the urgent public health threat posed by the presence of asbestos in Scottish schools, occupational hygienist Robin Howie warned that “The [asbestos] threat [to those who use schools and other contaminated public buildings] cannot be overstated”; and “unless stringent asbestos fibre limits of less than 100 fibres per cubic meter are introduced and enforced in our schools and public buildings then our children will continue to be exposed to an unacceptable level of risk.”¹³

The public fallout from the government’s admission that school users had been failed was quick and robust, engendering headlines such as Asbestos in schools is a ‘serious’ problem, Government report finds,¹⁴ Staff and pupils ‘exposed to asbestos’ on more than 90 occasions,¹⁵ and Pupils ‘hosed down’ for asbestos and four other key points on school buildings heard by MPs today.¹⁶ In the aftermath of the government’s disclosures, calls for the complete eradication of the asbestos hazard from schools were made by unions such as the National Union of Teachers and the Association of Teachers and Lecturers in online features entitled *Teachers want school asbestos removed by 2028*¹⁷ and *Take action to remove asbestos from our school*¹⁸ with the Joint Union Asbestos Committee highlighting the failure of the Department for Education “to understand the prevalence, condition, and management of asbestos” in schools.¹⁹

Regrettably, experts predict that when it comes to asbestos mortality, “the worst is yet to come”:

“three times as many people will die over the next three decades as have up until now. This is largely because the current official estimates don’t account for future life expectancy. In the past working class men exposed to asbestos would never have lived long enough to develop asbestos-related disease; now they will. Put into stark numerical terms this means there could be as many as 130,000 male mesothelioma deaths between 2014 and 2049.”²⁰

Each one of those affected will need healthcare and various levels of support; the impact on the National Health Service could be colossal. In human terms, the suffering of individuals and their families will be horrendous. It is well past time that the government faced up to the unpalatable facts and took positive action to address the cause: the continuing presence of asbestos in our schools and throughout the UK infrastructure.

2. Mesothelioma: Immunotherapy Clinical Trials

For decades there has been little progress in the drugs or protocols available to treat mesothelioma, a deadly cancer caused by exposure to asbestos. In the run-up to International Clinical Trials Day, marked annually on May 20, it was announced that phase III randomized clinical trials into the

efficacy of nivolumab, previously used for treating melanoma and kidney cancer, on stimulating the immune systems of 304 mesothelioma patients would be conducted across 20 UK-wide sites including Southampton and Leicester. The drug works by blocking a protein (PD-1) found on the surface of immune system cells (T-cells), thereby allowing them to hunt down and eliminate cancer cells. Professor Dean Fennell, clinical lead of the trial, is optimistic:

“Preliminary studies targeting PD-1 in mesothelioma have shown promising activity. CONFIRM aims to definitively assess the true benefit of nivolumab for patients with relapsed mesothelioma in a setting where there is an unmet need. Critically, we aim to understand why patients respond (or not) to this drug, and identify biomarkers to ensure that we can personalize therapy to maximize the benefit for patients.”²¹

Highlighting the deadly impact mesothelioma has had in the UK, Southampton Professor Gareth Griffiths, the study's Co-Chief Investigator, agreed that: “Boosting the immune system by releasing killer T-cells that have previously been blocked could offer us a new way to treat more patients with this devastating disease.”²² The research program, which is supported by Cancer Research UK, Southampton Clinical Trials Unit and the University of Southampton, will assess how well nivolumab, a monoclonal antibody, works on patients whose mesothelioma has come back after chemotherapy, how safe it is and how it affects quality of life. Most of the participants will receive nivolumab but some will receive a placebo. Recruitment for the trial began on March 28, 2017 and will continue until April 23, 2021.²³

The UK has the world's highest incidence rate of mesothelioma; since the 1970s, rates have increased almost six-fold. Between 2012 and 2014, there was an average of 2,540 deaths a year: 7 fatalities every day.²⁴ Currently, most patients receive treatment aimed at keeping the cancer under control and relieving symptoms. Glimmers of hope have been on the horizon with a well-known example being Mavis Nye, whose participation in a phase 1 immunotherapy trial to test the drug Keytruda effected an 81% tumor decrease, with three tumors disappearing completely.²⁵ Mavis, now considered to be cancer-free, actively campaigns to raise awareness about the importance of clinical trials and on April 26, 2017 registered The Mavis Nye Foundation with the Charity Commission.²⁶ According to online documentation the objectives of the new UK charity include: providing financial assistance for treatment costs to eligible patients with life threatening asbestos-related diseases, progressing clinical research for treatment of these diseases and awarding bursaries to support health professionals engaged in courses of study relating to mesothelioma nursing. Commenting on the news of the nivolumab trial, Mavis said:

“Cancer is a terrible and devastating disease that turns everything on its head. I am so thankful that the trial I took part in worked. But it didn't work for every participant. We need more trials to help improve treatments and survival rates for cancer, and this new trial is a big step in the right direction.”²⁷

3. News Round-up

Developments

Support for Mesothelioma Patients

As of April 1, 2017, Mesothelioma UK – a national resource center providing specialist information, support and care services for mesothelioma patients – initiated a scheme under which travel expenses for mesothelioma patients to obtain specialist diagnoses or treatments from medical centers outside their local areas would be reimbursed. Standard class travel and accommodation is covered for up to two nights for the patient and carer as well as the cost of car parking. To apply for assistance, claimants can contact a helpline 0800 169 2409 or consult the advice on the Mesothelioma UK website.²⁸

US Mesothelioma Mortality

A paper published by the US Centers for Disease Control and Prevention in March 2017 has highlighted the country's epidemic of asbestos cancer. Between 1999 and 2015, there were 45,221

deaths reported from mesothelioma, the signature cancer related to asbestos exposure. The annual incidence rate increased from 2,479 (1999) to 2,597 (2015). The researchers' conclusions confirm what asbestos activists have been saying for years: "Contrary to past projections, the number of malignant mesothelioma deaths has been increasing..." despite the introduction of regulatory actions and decreasing consumption.²⁹

Government Mesothelioma Payouts

According to statistics released on January 31, 2017, more than £84 million in compensation has been awarded under the Diffuse Mesothelioma Payment Scheme (DMPS) to sufferers or to the families of those who have died from mesothelioma, a cancer which killed 2,515 British people in 2014. Claimants have 3 years from diagnosis to apply for compensation. The DMPS is a scheme of last resort for mesothelioma victims who were negligently exposed to asbestos at work and are unable to trace their employer or their employer's insurer to seek compensation.³⁰

Tribute to Dr Jim McNulty

The death was reported on January 27, 2017 of Dr. Jim McNulty, a Belfast-born public health doctor who emigrated to Perth, Western Australia and gave decades of dedicated service to Australian workers. In 1956, McNulty and his new wife journeyed to the rough and tumble gold mining town of Kalgoorlie where occupational dust diseases was an accepted fact of life. In 1959, he became involved in the notorious Wittenoom asbestos mining story. Appalled by the conditions at the mine and the use of toxic tailings for public and private spaces, he referred to Wittenoom as "a horrible place." Subsequently, he fought to implement occupational asbestos controls and raise awareness of environmental contamination.³¹

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