

Chesterfield Borough Council

Asbestos Compliance Review

October 2015

Prepared For:



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Chesterfield Borough Council

Asbestos Compliance Review

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1.0 Executive Summary

1.1 Summary

In summary good progress has been made over a period of years by those responsible for both Housing and Corporate Services to address asbestos related risk management at Chesterfield Borough Council (CBC). This is evidenced by the appropriate use of specialist surveyors and contractors, accumulated data and related operational processes and documentation. Notwithstanding this, it is evident through the process of review, there remain a number of concerns which, in the event of an inspection by the Health and Safety Executive may currently result in a less than satisfactory assessment.

This review has identified some gaps in assurance which need to be addressed.

These are identified in the separate Housing and Corporate recommendations (draft Action Plans within Appendix 1) respectively, which set out our view as to what actions ought to be considered and/or taken. Although listed separately for ease of application, it should be noted that a number of themes identified are common between Corporate and Housing and may therefore benefit from a joint approach.

At this time, post review, there has been a positive direction of travel. CBC has made as much progress as it can reasonably do pending approval/ endorsement of the recommended Action Plans.

For CBC to reach a point of robust assurance, the recommended actions need to be approved, implemented as a priority, and then reviewed and audited as part of an on-going compliance management regime.

If implemented in this way, the asbestos compliance position ought to move from limited to full assurance.

It should be noted that the recommendations being made within this review are the sort often made for organisations of this nature. This is however not to say that they are not important. Careful consideration of the recommendations within the Action Plans (appended) is recommended. In our view there should be a particular focus toward the recommendations around the commercial (non-domestic) premises.

2.0 Introduction

2.1 The Brief

- 2.1.1 Savills were commissioned by Chesterfield Borough Council (CBC) to conduct a preliminary audit/ review of asbestos compliance, adopting a methodology that is typically applied by the HCA and HSE in compliance audit circumstances. The purpose of this review has been to establish the current status of asbestos compliance, identify possible areas for improvement and make practical recommendations in relation to the Housing and Corporate sphere. Staff and contractor representatives have been interviewed, the Keystone (Housing) and Frontline (Corporate) register systems accessed and a wide cross section of relevant documentation, both policy and procedural, examined together with pro-forma templates, leaflets, information sheets, web data formats, contract specifications, advice notes, example survey reports, job descriptions etc. Recommendations are made with reference to prevailing legislation, approved codes of practice, published guidance and good practice.
- 2.1.2 Through review of the sample information gathered a broad gap analysis was undertaken to assist in identifying areas of limited assurance which has resulted in two draft Action Plans (under Appendix 1). Detailed procedures relating to the operations performed by specific external contractors, their operatives, or 'OSD' (CBC In-House service provider) in particular, were excluded other than the general strategic overview and examination of sample documentation/ the register data presented during interview with associated staff.
- 2.1.3 Site visits to practically test the findings of this review (or individual asbestos survey reports examined) have not been conducted at this stage; and it is not therefore intended to be interpreted as a forensic audit of specialist service providers employed by CBC (including asbestos removal contractors, surveyors, site analysts, or others working directly, or as sub-contractors). Such site auditing and routine method statement/ risk assessment review will however be appropriate as part of an enhanced CBC compliance management regime in the future and has been reflected within the recommendations made.

2.2 Interviews (Staff)

2.2.1 Informal meetings were held with the Housing team at Venture House, and with the Corporate team at Chesterfield Town Hall, where the key individuals involved directly or indirectly in the asbestos management process for CBC are based. Interviews were held on an informal basis and over a period of months during December 2014 to April 2015, in parallel with review of documentation and supplemental discussion via telephone. Staff were helpful, open and honest and enabled the differing operational aspects related to both the Corporate and Housing management operations to be assessed comprehensively. The draft report and recommendation based Action Plans were then subject to detailed review together with appropriate CBC staff, and updated to reflect recent progress made, in order to issue the final report in October 2015.

2.2.2 Julian Ransom of Savills undertook interview with the following staff/ committee members:

- Alison Craig - Housing Service Manager, Business Planning and Strategy (Housing Services)
- Roger Farrand - Design and Capital Investment Manager CBC (Housing Services)
- Marc Jasinski - Corporate Health & Safety Adviser (Corporate Services)
- Karen Brown - Business Transformation Manager CBC (Corporate Services)
- David Johnson - Assistant Health & Safety Adviser (Corporate Services)
- Paul Stepto - Asset Management Co-ordinator (Housing Services)
- Andy Granger - Capital Contracts Manager (Housing Services)
- Cathy Jones - Senior Quantity Surveyor (Housing Services)
- Martin Wainwright - Architectural Assistant (Housing Services)
- Peter Bartle - CDMC Business Planning & Strategy (Housing Services)
- Jon Vaughan - Facilities Maintenance Team Leader (Kier Asset Partnership Services Ltd)
- Matthew Sorby - Head of Contract [Chesterfield] (Kier Asset Partnership Services Ltd)
- Joanne O'Neal - Clerical Assistant (Kier Asset Partnership Services Limited)
- Martin Stone - CBC Assistant Executive Member for Housing
- Steven Oliver - CBC Solicitor
- Graham King - Chair CBC H&S Committee

2.2.3 Notes arising from interview, review of extracted Frontline and Keystone Register data, as well as considerable accumulated documentation, sample surveys and certification have been used to collate this report and summary recommendation.

3.0 LEGAL CONTEXT / BEST PRACTICE

As a Council responsible for civic/ corporate buildings, providing places of work and as a social housing provider, CBC has to satisfy statutory and legislative landlord compliance obligations to ensure that it provides a safe environment for its building occupiers and tenants. Amongst others, this covers legislation in relation to fire risk, gas safety, electrical safety, lifts, water testing and asbestos.

3.1 Legislation

In relation to the CBC residential and corporate portfolio the primary asbestos management legislation relevant is:

- The Control of Asbestos Regulations 2012 [CAR]
- The Health and Safety at Work Act 1974 [HASWA]
- The Construction (Design and Management) Regulations 2015

Regulation 4 of the above legislation (CAR) places a specific obligation upon 'duty holders' (owners and/or those responsible for maintenance) to manage asbestos within non-domestic premises (including corporate buildings and common parts of domestic dwellings). This requires identification of the location and condition of asbestos containing materials (ACMs), a corresponding risk assessment and written management plan to prevent harm to *anyone* who occupies or works upon the building.

In respect of the ACMs identified or presumed (through specialist survey), the duty holder must then:

- Monitor its condition;
- Maintain or safely remove it;
- Provide information regarding its location and condition to *every person* liable to disturb it; and
- Review the management plan and ensure it is implemented.

When commissioning work within a tenanted property, the duty to manage ACMs is extended to the relevant domestic area of that dwelling by virtue of the HASWA regulations. Specialist survey and risk assessment is therefore required within domestic areas of dwellings prior to undertaking any invasive work which may disturb ACMs present. While the direct responsibility of the 'employer' (of the operatives undertaking work) to ensure a safe working environment, the duty holder (the property owner/ those responsible for maintenance, i.e. CBC) responsibility extends to ensuring appropriate information is made available and where necessary that ACMs are safely removed. This responsibility is further re-iterated by the requirements placed upon the 'client' under part 2 (Client duties) Regulation 4 of the Construction (Design and Management) Regulations 2015 which states:

- 'A client *must provide pre-construction information as soon as is practicable* to every designer and contractor appointed, or being considered for appointment, to the project';
- Ensure 'the construction work can be carried out, so far as is reasonably practicable, *without risks to the health or safety of any person affected by the project*';
- 'Must make suitable arrangements for managing a project, including the allocation of sufficient time and other resources'.

3.2 Best Practice

In addition to the primary legislative regulation published, the HSE publish Approved Codes of Practice specifically in relation to asbestos compliance. A number of these carry 'special legal status', notably including ACOPL143 'Managing and Working with Asbestos' (December 2013) which sets out 'practical advice as to how to comply with the law' (i.e. the duty holder obligations within CAR 2012).

Other key HSE guidance publications relevant to asbestos management include HSG227 'A Comprehensive Guide to Managing Asbestos in Premises' and HSG264 'Asbestos The Survey Guide'. These are not compulsory, but state that 'if you do follow the guidance you will normally be doing enough to comply with the law'.

In addition to legislative compliance, many major landlords will go further and extend the principles within published guidance to adopt best practice and incorporate additional, demonstrable asbestos management measures to ensure the continued safety of staff, residents and contractors.

3.3 Context of Recommendations

This review has been prepared following consideration of current legislative requirements and guidance. We have also included areas for consideration which do not fall within either current legal mandate or published guidance requirements. This is for the following reasons:

1. Some landlords chose to go beyond the requirements set out in law or prevailing guidance in relation to certain issues around asbestos;
2. Within the draft Action Plans, we have therefore highlighted issues where CBC may practically wish to consider taking steps over and above any legal or direct guidance requirements in a deliberate effort to mitigate litigation, reputational and/or other risk. CBC are not obliged to do so.

It should be noted that the recommendations and draft Action Plans provided have been prepared following our review and subsequent detailed consultation with representatives within both the Housing Services and Corporate Services spheres.

4.0 RECOMMENDATIONS

- 4.1 Following review of all information made available, the following tables (Appendix 1) list the key summary recommendations arising. For ease of application (and to facilitate the subsequent development of operational Action Plans) these recommendations are presented using similar generic headings, but collated separately for the Housing and Corporate compliance areas respectively.
- 4.2 Additional columns can be added at a later stage if required in order to incorporate the 'clients' response and to list key resources, timelines, milestones, etc through which to clearly monitor and record revision and improvement to the asbestos compliance regime. The 'Red/ Amber/ Green' status allocated to each composite recommendation (numbered heading) are somewhat subjective, but are intended to provide a clear sequential representation of the compliance position overall and to provide a visual record over time of the implementation of measures to demonstrate a robust compliance regime overall.
- 4.3 Key strategic recommendations to CBC are:
1. Consider and approve the recommended Housing and Corporate recommendation Action Plans (Appendix 1):
 2. If approved, ensure systems are in place to deliver these Action Plans in a timely fashion, with adequate resources;
 3. Identify appropriate people to be accountable to deliver actions against discrete timescales and then monitor progress;
 4. Develop a robust audit function to provide assurance as to actions undertaken and compliance / identify future gaps in compliance; and
 5. We suggest that in 6 to 9 months time, CBC obtain a short addendum, independent report to provide external assurance that approved Action Plans are being appropriately progressed.

Note: Housing Services and Corporate Services teams need to work in a cooperative way to effectively implement the recommendations made. It is understood through review that CBCs intention is to set up a working group to do so. We support this proposal.

It should also be noted that while a number of actions within Appendix 1 are currently shown at 'Amber' status these still need to be actively progressed because overall there is currently limited assurance and if not progressed further, these actions may revert to 'Red' status.

5.0 GLOSSARY / ABBREVIATIONS

The following terms/ abbreviations are employed within the report and recommendations tables (Appended):

ACM	-	Asbestos Containing Material
AMP	-	Asbestos Management Plan
AIB	-	Asbestos Insulation Board
CAR	-	Control of Asbestos Regulations (2012)
CBC	-	Chesterfield Borough Council
CDM	-	Construction Design Management Regulations (2015)
Frontline	-	Asbestos Register system (CBC Corporate Services) via Frontline Data Ltd
H&S	-	Health and Safety
HSE	-	Health and Safety Executive
Keystone	-	Keystone Asbestos Register (KAR) system (CBC Housing Services)
MAN	-	Management Actions
MRA	-	Material Risk Assessment (HSE methodology HSG264)
Non-Domestic	-	Commercial areas, or corridors/ landings/ stairwells/ etc associated with residential blocks (often referred to as 'Communal' areas)
Northgate	-	Housing Management Information System (incl. repairs ordering)
OSD	-	CBC 'in-house' service provider (direct/partner service organisation)
PRA	-	Priority Risk Assessment (HSE methodology HSG264/227)
RA	-	Risk Assessments (MRA + PRA)
RAMS	-	Risk Assessment and Method Statement
R&D	-	Refurbishment and Demolition (pre-works) surveys
RIDDOR	-	Reporting Injuries Diseases and Dangerous Occurrences Regulations (1995)
RMSGAM	-	Risk Management Sub Group - Asbestos Management
TNA	-	Training Needs Assessment (HSE ACoP L143 methodology)
TOR	-	Terms of Reference
VFM	-	Value for money
UDC	-	User Defined Content (in this context an asbestos related pop up warning)

Appendix 1

Recommendations Summary (draft Action Plans)

Chesterfield Borough Council Asbestos Compliance Recommendations Action Plan:

Version: ISSUE 01

Date: Oct-2015



HOUSING

REF/RAG	Title:	Activity / Task:	Legal Requirement:	Notes:	Responsibility/Input:
1A	Asbestos Compliance Audit + Action Plan	Commission a CBC strategic asbestos compliance review and recommendations.	No	Undertake an asbestos specific compliance review and compile a related 'asbestos compliance recommendations action plan'. Review undertaken by Savills (autumn 2014/ spring 2015) and recommendation action plan developed (spring/summer 2015).	Savills
1B			No	Implement Action Plan and monitor/ report progress. Consider alignment of mutual recommendations/ actions with CBC Corporate asbestos compliance regime for consistency/ VFM. While this recommendation is a 'red' status, this is necessarily the case until the Action Plan has gone to Cabinet for ratification and approval. If approved, the status will then change to Amber as the implementation phase can be commenced swiftly.	CBC + Savills Input
2A	Non-Domestic Area Surveys	Comprehensively check that all housing related non-domestic areas are discretely identified, surveyed (if appropriate) + re-surveyed within initial 12 month cycle. Review ACM RAs + 'no access' areas + implement recommendations. Include garage blocks.	Yes [CAR Reg 4]	Highest HSE/ CAR legislative mandate. Non-Domestic areas surveyed 2010 and 2013 i.e. beyond 12 month cycle (applicable up to December 2013). Recommend re-inspection 2015, review of findings and alignment of new RA based cycle thereafter. Reflect approach/findings within new compliance documentation (AMP). Ensure data entry/ management within KAR electronically. Ratification of non-domestic stock definition advised + UPRN alignment. Non-Domestic survey re-inspections programmed 2015.	CBC + Savills
2B			Yes [CAR Reg 4]	Include garage blocks specifically (and treat external envelope of garage blocks as non-domestic areas), together with boiler rooms and consider any additional non-domestic areas identified. This action commenced; specification for these surveys completed and surveys programmed for commencement October 2015.	CBC + Savills input
3A	Prioritised Domestic Area Surveys (3A) + Retained Specialist Surveying Services (3B)	Robust Survey Strategy required (desk top review/ prioritisation protocol as per guidance HSG227).	No	Approx 23% survey of domestic housing stock currently achieved. Following desk top risk review/ prioritisation for next phase, CBC have a plan to undertake a further 20% to 25% survey in 2015. Although not a legal requirement, as part of a proactive risk management approach, CBC aspire to reaching 100% of properties surveyed over time. This provides a reasonable/ prudent approach. We also recommend CBC consider their non-standard conventional stock in this prioritised survey process (example: South Yorkshire Housing stock and non-traditional construction properties). This approach will be reflected in an updated AMP.	CBC + Savills input
3B		Consider extending retained survey services procurement to provide all retained specialist services for improved compliance consistency + VFM.	No	Surveys currently procured for extended term/ VFM/ consistency. Robust format/ template review and re-alignment of current surveys to CBC compliance regime and enhanced KAR to be incorporated within 2015 survey programme. Future R&D survey brief to include whole house Management Survey while on site. This a 'pragmatic' recommendation to extend existing survey contract to include all survey and analytical services, including re-inspections/ training/ 24 hour cover/ retained advice for consistency, electronic data submission and compliance consistency (partnership approach). This is necessarily at 'red' status at this stage as the tasks relating to this recommendation cannot be considered until the Action Plan is approved by Cabinet. At that time CBC can commence practical consideration and if appropriate implementation at an organisational level, at which point the status will swiftly change to Amber.	CBC + Savills input (+ professional services procurement hub)
4	ACM Re-Inspection Regime	Consider deriving a robust (specific) risk assessment based re-inspection regime for domestic areas.	No	CBC intend to build upon their new 100% domestic survey program by bringing into place a proportionate evidence based ACM re-inspection regime. Savills will work with CBC with regard to corresponding narrative paperwork and phasing. CBC intend to initiate this aspirational regime when nearing 100% survey, unless individual ACM risk assessments warrant otherwise. No proactive domestic re-inspections have been undertaken by CBC previously . The new approach is to be robust, will align with the non-domestic re-inspection protocol and incorporate checks to labelling (where appropriate) as well as comprehensive review of the results, trend analysis and reflection within a 'live' RA protocol. While this recommendation is a 'red' status, this is necessarily the case until the Action Plan has gone to Cabinet for ratification and approval. If approved, the status will then change to Amber as operational consideration and where appropriate implementation commences.	CBC + Savills input
5	Asbestos Data Availability / Management Reporting	Review existing Keystone Asbestos Register system and ensure 'fit for purpose'. These processes have legal relevance in the sense that the 'duty holder' (CBC) have the requirement to provide relevant information regarding ACMs to those that need to see it.	Yes [CAR Reg 4]	Existing register system (KAR) under license with Keystone part implemented/ populated with relevant data and currently no active link to Northgate. Regarding practical implementation and optimisation of the data systems, we recommend that aspects to be reviewed/ enhanced should now specifically include: alignment of KAR to CBC protocols/ RAs (MRA + PRA), enhanced stock list attributes (tenures/config/build dates/etc), all data entered electronically, full register access (24/7) to all that need to see it (staff + contractors), clear management reporting ('no access', ACMs requiring work, re-inspection cycles, etc), ACM removal data capture + entry (register updates and certification), data reference auditing (i.e. have contractors consulted the information appropriately). Documented confirmation recommended to demonstrate that sufficient R&D surveys have been commissioned for any phase of intrusive work. Link to Northgate for headline ACM 'flag/ warning'. Integrate with 'out of hours' service and emergency services (Fire Authority register access). No survey / removal information received post void or disabled adaptation work: process mapping recommended to ensure a robust approach (this started for disabled adapts where reference to the register not previously evidenced). Facilitate 'UDC' flag link to Northgate. 'Arvato' security access protocols may present web data access issues to resolve. Seek assurance within the data systems that historic data is retained and available to CBC when required. This action is at an 'Amber' stage around the fact that review has been commenced, some conclusions drawn, and consequential actions initiated to address aspects raised.	CBC + Savills input

6	Review outcomes of surveys with a view to on-going assurance.	Collate + review existing survey data/ recommendations and action. Ensure document trail for assurance upon completion. Legal context: to undertake ACM risk assessments and act upon them. Context: to demonstrate good governance by identifying actions and recording their completion.	Yes [CAR Reg 4]	Outcomes arising from surveys and ACM re-inspections ought to be routinely reviewed and audited for interpretation regarding compliance themes, trends and 'gap analysis'. This to help identify pro-active management actions arising and steps needed in consequence. Specific areas to consider will include: 'No access areas' / ACM risk assessment based recommendations upon survey reports/ re-inspections / robust demonstrable review/ recommendation actioning. Similar auditing to ensure post removal data capture recommended as part of routine register/ data management protocols. Although necessarily at 'Red' status currently, it is the view of Savills that once the Action Plan is approved by Cabinet, this can be a swift task and may be commenced rapidly to change the status to 'Amber' overall.	CBC + Savills input
7	Communication Strategy	Provision of enhanced asbestos related information to tenants/ building occupants, as well as general guidance and a wider 'strategy' document. This is to demonstrate 'good practice' by informing those who may otherwise accidentally disturb ACMs by virtue of building occupation.	No	CBC has in place a number of methods, typical of many Local Authorities, with which to communicate with residents regarding asbestos. CBC is however committed to enhance this process and as a component of this review, recommendations to enhance this communication regime have been considered and will now be developed / implemented.	CBC + Savills input
8	Updated Compliance Documentation / Procedures	Review and update the CBC suite of asbestos compliance documentation. Reflect within aligned practical procedures (and guidance for staff/ those commissioning work).	Yes [CAR Reg 4]	CBC commissioned this independent review in part as it was understood that the documentation and processes associated needed update to reflect changes in both guidance and operational processes. Updates to some CBC documentation where therefore delayed pending independent review which we agree represents a reasonable response. Revised/ updated/ expanded CBC Asbestos Policy, AMP, and Procedure documentation is now recommended/ required. Align to an updated compliance regime, with integrated protocols and guidance. Aspects to be incorporated include: roles and responsibilities, asbestos information/ data access/ communication, defined MRA+PRA Man Actions, monitoring/ review criteria, training matrix, QC and audit. It is also recommended the RMSGAM terms of reference (which cover Housing and Corporate Services) are reviewed/ updated and meetings reinstituted to help monitor implementation of the Action Plan. Terms of Kier/Arvato ACM compliance responsibility need express clarification + monitoring. Review now commenced and Savills assisting. Subject to approval of the Action Plan, this activity will continue as part of the operational implementation.	CBC + Savills input
9	Compliance Auditing Regime	Enhance and incorporate additional specific (demonstrable) auditing protocols as an extension of the wider updated asbestos compliance regime/ procedure suite. This item allied to 8 (above), but separated as a reflection of the importance assigned by CBC to provide assurance and demonstrate good governance.	No	Demonstrable, on-going auditing of duty holder compliance regimes is considered important by CBC and consideration of these aspects therefore deliberately incorporated within this review and recommendation. The need to undertake auditing in respect of this compliance area and the recommendation to further develop express processes within the wider asbestos regime agreed with CBC. Recommended auditing related aspects to be considered include the following: Enhanced register system (KAR) management reporting capability/ formatting, audited use of register data (by contractors/ staff/ OSD), QC of surveys, proportion of R&D surveys, QC of removal work (including air testing and RAMS evaluation), partner contractor compliance/ operative training (including OSD + Spire Pride + sub-contractors), annual compliance review (criteria HSE driven + appended to AMP), re-inspection surveys and training cycles. New CDM oriented staff appointment already understood to include in-house auditing role. This is necessarily at 'red' status at this stage as the tasks relating to this recommendation cannot proceed until the Action Plan is approved and the operational implementation commenced. The Council cannot put in place an enhanced audit regime until the new Asbestos Management Plan is in place.	CBC + Savills input
10	Compliance Management Structure	Review of the management structure to ensure sufficient staff resourcing (asbestos related) and a fully integrated strategic compliance function/ enhanced link to the CBC Health & Safety Team. This task recommended in order to demonstrate good governance and provide assurance by providing appropriate resources for active risk management.	No	It is recommended that CBC consider an emphasis toward enhanced strategic level compliance monitoring and reflect within the new management structure contemplated. Differing areas of strength between the Housing and Corporate compliance regimes can be combined for an optimum H&S management approach overall. Detailed recommendations agreed with CBC to include: Focus upon survey report interpretation and trend analysis with appropriate data admin support recommended. Improved lines of communication and routine compliance status reporting. Consider an overall 'Compliance Manager' role (Corporate + Housing) and delegated asbestos steering group (RMSGAM or similar). Include Group 'near miss'/ RIDDOR register and CBC response/ monitoring protocols. Consider a further emphasis toward 'informed client' role with retained (partner) specialist service providers. The in-house CDM compliance appointment a positive development in the light of CDM 2015 regulation changes.	CBC + Savills input
11	Training	Review the training need and suitability to provide assurance.	Yes [CAR Reg 10]	Appropriate training of staff (and in-house service providers [OSD + Spire Pride] operatives/ contractors) and appropriate repeat cycle a clear legal and guidance requirement. General 'Annual Asbestos Awareness' training is provided via e-learning (Frontline portal) for all staff. Certified repeat cycles need careful review/ monitoring. Enhanced training now recommended for staff/ roles with specific asbestos responsibility as a component of an enhanced aspirational CBC regime. An updated CBC Training Needs Assessment (TNA) recommended to help define a 'mandatory' training matrix and monitor / document on-going delivery. Regard 'e-learning' option as refresher (not primary) training resource. Include register system (KAR) training when its use is to be extended. Reflect within the RMSGAM (or equivalent) terms of reference to ensure training delivery is monitored/ audited. Note: CBCs thinking regarding the potential appointment of an overall 'compliance manager' role is thought will help support this task and delivery.	CBC + Savills input
12	Contractor Vetting	Consider establishing an enhanced asbestos compliance related contractor vetting procedure. Repeat annually using a standardised, documented approach/ log.	No	Current contractor compliance vetting variable and in-house guidance as to what to require will benefit from review/ enhancement. Compliance risk should be demonstrably enhanced by 'best practice' duty holder contractor (+ sub-contractor/ specialists/ M&E etc) asbestos compliance vetting process. Document responses including evidence of operative training in compliance with HSE guidance. Include enhanced processes where non-licensed work undertaken directly by contractors/ OSD. Suspend where responses inadequate. Undertake sample auditing as part of related CBC procedure. Terms of Kier facilities management function/Arvato ACM compliance responsibility needs express clarification/ monitoring. This is an operational recommendation and necessarily at 'red' status since it is dependent upon approval of the Action Plan by Cabinet to progress. Approval will allow collation of the operational plan and swift implementation.	CBC + Savills input

13	Removal Contractor	Consider procuring retained asbestos removal services (licensed and un-licensed) from a single provider. Legal context: the requirement to employ specialist contractors 'licensed' by the HSE for particular types of work. The aspirational context is toward an enhanced role provided by a single contractor for improved consistency, VFM and data administration/ management.	No	Varying removal companies used (quotation for individual jobs) currently. Although work volumes low, a single retained provider may offer better VFM (schedule of rates) / streamlined data capture / alignment to CBC compliance protocols / 24 hour cover etc. More stringent regulation to follow (updated HSG248) which can be anticipated as part of specification. Better align processes with retained survey provider (see above) re site analytical audits/ air testing regime etc. Some non-licensed work undertaken by OSD; data capture/ register update processes will benefit from review and enhancement. This recommendation is necessarily at 'red' status at this stage, pending approval of the Action Plan by Cabinet and formulation of the operational plan and implementation.	CBC + Savills input
14	Clarify Non Standard/ Leased Tenure Obligations	Ensure leases and management agreements are clearly understood regarding the liabilities arising around asbestos management.	N/A	This recommendation applies in only a small number of cases for Housing Services. In order to mitigate litigation and/or reputational risk, the Council ought to ensure that it understands the effect of current leases around asbestos compliance obligations and managing future leases and the corresponding legal documentation in order to reduce risk. The council need to be assured that the compliance position regarding shops and commercial premises (allied to the housing stock) is sufficiently clear. Ensure in the event of specific enquiries to the council, these are managed appropriately with reference to legal advice where appropriate as this is a complex area, particularly in respect of historic lease agreements.	CBC

RAG Status:

	Green = Activity / Task Complete
	Amber = Activity /Task Commenced
	Red = Activity /Task Not Commenced

Key to Terms:

ACM = Asbestos Containing Material
AMP = Asbestos Management Plan (and related protocols/ policy)
CAR = Control of Asbestos Regulation 2012
Frontline = Asbestos Register system (CBC Corporate Services) via Frontline Data Ltd
H&S = Health and Safety
HSE = Health and Safety Executive
KAR = Keystone Asbestos Register system (CBC Housing Services)
MAN = Management Actions
MRA = Material Risk Assessment (HSE methodology HSG264)
Northgate = Housing Management Information System (incl. repairs ordering)
Non-Domestic = Commercial areas, or corridors/ landings/ stairwells/ etc associated with residential blocks (often referred to as 'Communal' areas)
OSD = CBC 'in-house' service provider (direct/partner service organisation)
PRA = Priority Risk Assessment (HSE methodology HSG264/227)
RA = Risk Assessments (MRA + PRA)
R&D = Refurbishment and Demolition (pre-works) surveys
RIDDOR = Reporting Injuries Diseases and Dangerous Occurrences Regulations (1995)
RMSGAM = Risk Management Sub Group - Asbestos Management
TNA = Training Needs Assessment (HSE ACoP L143 methodology)
TOR = Terms of Reference
VFM = Value for money
CBC = Chesterfield Borough Council
UDC = User Defined Content (in this context an asbestos related pop up warning)

Chesterfield Borough Council Asbestos Compliance Recommendations Action Plan:

Version: **ISSUE 01**

Date: **Oct-2015**

CORPORATE






REF/RAG	Title:	Activity / Task:	Legal Requirement:	Notes:	Responsibility/Input:
1A	Asbestos Compliance Audit + Action Plan	Commission a CBC strategic asbestos compliance review and recommendations.	No	Undertake an asbestos specific compliance review and compile a related 'asbestos compliance recommendations action plan'. Review undertaken by Savills (autumn 2014/ spring 2015) and recommendation action plan developed (spring/summer 2015).	Savills
1B			No	Implement Action Plan and monitor/ report progress. Consider alignment of mutual recommendations/ actions with CBC Housing Services asbestos compliance regime for consistency/ VFM. While this recommendation is a 'red' status, this is necessarily the case until the Action Plan has gone to Cabinet for ratification and approval. If approved, the status will then change to Amber as the implementation phase can be commenced swiftly.	CBC + Savills Input
2	Non-Domestic Surveys	Comprehensively check that all relevant areas are discretely identified, surveyed (if appropriate) + re-surveyed within initial 12 month cycle. Review ACM RAs + 'no access' areas + implement recommendations. Include garage blocks. Note: all Corporate stock (i.e. non-housing revenue account) is regarded as non-domestic, being either 'communal' areas or 'commercial'/ business lettings.	Yes [CAR Reg 4]	Savills review of existing/ historic surveys (including re-inspections) has revealed gaps in quality and extent in some instances. The proposal of this recommendation is for CBC to have assurance around the content and robustness of surveys and subsequent re-inspection surveys. Current guidance regarding re-inspection surveys is that the duty holder (CBC) bases the frequency of these upon a robust individual risk assessment. Having conducted this review, it is recommended that the starting point will be for annual-re-inspection survey, but that this will then be subject to review as part of the practical implementation process. This process will be reflected in an updated AMP. Notwithstanding the Amber status of this item, it is Savills advice that this is an urgent recommendation, is progressed swiftly and kept under close consideration. This action has commenced; the specification for new updated surveys has been completed and an initial partial phase of new surveys has been piloted in September 2015.	CBC + Savills Input
3	Retained Specialist Surveying Services	Consider commissioning specialist surveys/ analytical services via a single retained survey company relationship to provide all retained specialist services for improved compliance consistency + VFM.	No	Management and R&D surveys commissioned individually (no retained contract). Poor coordination sometimes resulting in reduced notice period (to H&S advisor to commission surveys in time). Consider extending longer term relationship with a single specialist provider for 'partnership' compliance alignment approach and schedule of rates VFM for all related specialist services including: surveys, re-inspections, site analytical/ air testing, contractor site auditing, 24 hour emergency cover, electronic post survey data submission, training, etc. Consider extending arrangements for a single provider for Housing and Corporate. This is necessarily at 'red' status at this stage as the tasks relating to this recommendation cannot be considered until the Action Plan is approved by Cabinet. At that time CBC can commence practical consideration and implementation at an organisational level, at which point the status will swiftly change to Amber.	CBC + Savills (+ professional services procurement hub)
4	Asbestos Data Availability / Management Reporting	In order to obtain assurance, address the areas of weakness detailed/ highlighted in the notes section. In summary: review the existing Frontline Asbestos Register system capability and either enhance or undertake options appraisal for preferred replacement system. Ensure the preferred system is then operationally 'fit for purpose'. These processes have legal relevance in the sense that the 'duty holder' (CBC) have the requirement to provide relevant information regarding ACMs to those that need to see it.	Yes [CAR Reg 4]	Frontline register system not up to date (old surveys and/or post removal data not robustly captured/entered), errors in data apparent (data input errors or insufficient data QC/auditing previously), difficult to interpret, no web access, and management/ strategic reporting capability very restricted. Visual surveys routinely categorised as sampling surveys. Overall little confidence in reliability of Frontline data amongst staff/ OSD/ contractors who resort to hard copy data, and protocols may not therefore be guidance compliant. Access to data very limited and still reliance operationally upon hard copy data due to lack of confidence in electronic data. Reliance upon paper copy 'Register' folder at each premises (including management record/ re-visit records) requires review as difficult to maintain/control and audit robustly. Some data errors apparent during recent sample auditing (as a result of this compliance review). Frontline fees for data import high and original deadlines for 'in-house' hard copy data entry into the register not achieved due to complexity and limited resource. Given 'issues' regarding core data and Frontline, the re-direction of resource to: (a) new robust survey and automated data entry (b) review of Frontline capability and/or options appraisal for a replacement system recommended. Consider KAR as 1st option by way of license extension (from Housing Services) and for compliance consistency. Then fully implement updated/ new register to preferred enhanced electronic template (reflecting updated CBC compliance protocols). To include 24/7 web access (staff + contractors) and improved 'duty holder' management reporting and audit functionality. Consider a link to repairs ordering system for headline ACM 'flag/ warning'. Integrate with 'out of hours' service and emergency services (Fire Authority register access). Regulate/ document R&D survey and post removal data capture processes. This area of recommendation is at an 'Amber' stage because review has been commenced with consideration of new register system criteria and presentations by Frontline and KAR have commenced in September 2015.	CBC + Savills Input. (+ I.C.T + 'Arvato')

5	Review outcomes of surveys with a view to on-going assurance.	Collate and complete data entry of all existing survey and post removal data. Review existing survey data/ recommendations and action. Ensure document trail for assurance upon completion. Legal context: to undertake ACM risk assessments and act upon them. Organisational context: to demonstrate good governance by identifying actions and recording their completion.	Yes [CAR Reg 4]	Outcomes arising from surveys and ACM re-inspections ought to be routinely reviewed and audited for interpretation regarding compliance themes, trends and 'gap analysis'. This is to help identify pro-active management actions arising and steps needed in consequence. This is not helped currently as the register (Frontline) not fully implemented/ management reporting capability poor). Specific areas to consider will include: 'No access areas' / ACM risk assessment based recommendations upon survey reports/ re-inspections / robust demonstrable review/ recommendation actioning. Similar auditing to ensure post removal data capture recommended as part of routine register/ data management protocols. The sample review carried out of the Corporate survey data indicated there are gaps in terms of accuracy/ quality and this provides limited assurance currently. CBC in the longer term ought to consider comprehensive re-survey for a robust basis of determining immediate (consistent) actions and the re-inspection regime in the longer term. This process has been started, hence the Amber status, but is at an early stage and should be kept under close consideration.	CBC + Savills Input
6	Communication Strategy	Provision of enhanced asbestos related information to tenants/ building occupants (including lessees for non-domestic/ commercial premises/ areas). Consider enhanced general guidance and a wider 'strategy' document. This to demonstrate 'good practice' by informing those who may otherwise accidentally disturb ACMs by virtue of building occupation/ commercial tenancy.	No	Significant work evident and asbestos compliance documentation provided to commercial lessees ('Tenants Handbook' for shops/ small business units etc + 'Notice to Contractors'). In the light of the HSG143 guidance (December 2013) review is recommended to ensure appropriate emphasis. Current procedures (AMP) rely heavily upon the 'Premise Managers' for practical compliance application (and auditing) and via hard copy records retained on site. Given difficulty of maintaining these records (noted elsewhere) a review of these processes recommended and the use of improved/ auditable 'on-line' register data should be considered. Overall, CBC has in place a number of methods, typical of many Local Authorities, with which to communicate with commercial/ business tenants regarding asbestos. CBC is however committed to enhance this process and as a component of this review, recommendations to enhance this communication regime have been agreed and will now comprise an enhanced approach for CBC subject to approval of the Action Plan by Cabinet (hence the necessity of the 'red' status pending Cabinet approval).	CBC + Savills Input.
7	Updated Compliance Documentation / Procedures	Review and update the CBC suite of asbestos compliance documentation. Reflect within aligned practical procedures (and guidance for staff/ those commissioning work).	Yes [CAR Reg 4]	Corporate AMP: good combined MRA+PRA Man Actions defined. ACoP L143 up to date. New CDM Regs update reference needed. Re-inspection regime + cycle unclear. On-going AMP review/endorsement process unclear. A new 'asbestos steering group' + TOR recommended. Labelling protocol unclear, needs clarification and strict application at the point of next re-inspection. Contractor vetting + criteria unclear. Emergency testing regime requires review and updating, particularly in respect of new guidance coming into force in the near future. 'Premise Manager' role crucial currently: check training and documentation associated up to date/robust and consider move toward electronic data access/record keeping approach. Differences apparent between hard copy site asbestos folder and office data illustrate difficulty in reliance upon hard copies and represent a compliance risk currently. Terms of Kier/Arvato ACM compliance responsibility need express clarification + monitoring. Compliance documentation review now commenced and Savills assisting. Subject to approval of the Action Plan, this activity will continue as part of the operational implementation.	CBC + Savills Input.
8	Compliance Auditing Regime	Enhance and incorporate additional specific (demonstrable) auditing protocols as an extension of the wider updated asbestos compliance regime/ procedure suite. This item allied to 7 (above), but separated as a reflection of the importance assigned by CBC to provide enhanced assurance and demonstrate good governance.	No	Demonstrable, on-going auditing of duty holder compliance regimes is considered important by CBC and consideration of these aspects was therefore deliberately incorporated within this review and recommendations. In some cases, auditing reveals unacceptable inconsistencies in quality / extent/ consistency of survey data currently. The need to undertake auditing in respect of this compliance area and the recommendation to further develop express processes within the wider asbestos regime has been agreed with CBC. Recommended auditing related aspects to be considered include the following: Enhanced register system (Frontline, or KAR) management reporting capability/ formatting, audited use of register data (by contractors/ staff), QC of surveys, proportion of R&D surveys, QC of removal work (including air testing and RAMS evaluation), partner contractor compliance/ operative training (including sub-contractors), annual compliance review (criteria HSE driven + appended to AMP), re-inspection surveys and training cycles. Dedicated staff resource currently limited and compounded by register (Frontline) limitations and over reliance on hard copy data. Ensure the replacement/ enhanced existing register system provides assurance from an auditing perspective. A combined strategic compliance auditing function (Housing + Corporate) recommended as part of wider demonstrable AMP regime. This area of recommendation is necessarily at 'red' status at this stage as the tasks relating to this recommendation cannot proceed until the Action Plan is approved and the operational implementation commenced. The Council cannot put in place an enhanced audit regime until the new Asbestos Management Plan is in place.	CBC + Savills Input
9	Compliance Management Structure	Review of the management structure to ensure sufficient staff resourcing (asbestos related) and a fully integrated strategic compliance function/ enhanced link to the CBC Health & Safety Team. This task recommended in order to demonstrate good governance and provide assurance by providing appropriate resources for active risk management.	No	It is recommended that CBC consider an emphasis toward enhanced strategic level compliance monitoring and reflect within the new management structure contemplated. Differing areas of strength between the Housing and Corporate compliance regimes can be combined for an optimum H&S management approach overall. Detailed recommendations agreed with CBC to include: Focus upon survey report interpretation and trend analysis with appropriate data admin support/ improved register reporting recommended. Improved lines of communication and routine compliance status reporting. Consider an overall 'Compliance Manager' role (Corporate + Housing) and delegated asbestos steering group (RMSGAM or similar). Include Group 'near miss'/ RIDDOR register and CBC response/ monitoring protocols. Consider a further emphasis toward 'informed client' role with retained (partner) specialist service providers rather than retained specialisms in-house. Review CDM compliance related protocols in the light of CDM 2015 regulation changes. Given current arrangements, staff changes and lack of confidence in register system (and reliance upon paper records) staff provision for asbestos compliance processes needs review. Responsibilities between Kier and CBC in some cases unclear and need to be express/ better reflected in procedures.	CBC + Savills Input

10	Training	Review the training need and suitability to provide assurance.	Yes [CAR Reg 10]	Appropriate training of staff (and in-house service providers [OSD + Spire Pride] operatives/ contractors) and appropriate repeat cycle a clear legal and guidance requirement. General 'Annual Asbestos Awareness' training is provided via e-learning (Frontline portal) for all staff. Certified repeat cycles need careful review/ monitoring. Enhanced training now recommended for staff/ roles with specific asbestos responsibility as a component of an enhanced aspirational CBC regime. An updated CBC Training Needs Assessment (TNA) recommended to help define a 'mandatory' training matrix and monitor / document on-going delivery. Regard 'e-learning' option as refresher (not primary) training resource. Include register system (KAR) training when its use is to be extended. Reflect within the RMSGAM (or equivalent) terms of reference to ensure training delivery is monitored/ audited. Note: CBCs thinking regarding the potential appointment of an overall 'compliance manager' role is thought will help support this task and delivery on an on-going basis. There is an urgent need to have assurance that anyone undertaking surveys 'in-house' is appropriately qualified/ experienced. Insufficient specific training provided for those entering Frontline data is thought to have compounded other system assurance issues.	CBC + Savills Input
11	Contractor Vetting	Consider establishing an enhanced asbestos compliance related contractor vetting procedure. Repeat annually using standardised documented approach/ log.	No	Current contractor compliance vetting variable and in-house guidance as to what to require will benefit from review/ enhancement. Compliance risk should be demonstrably enhanced by 'best practice' duty holder contractor (+ sub-contractor/ specialists/ M&E etc) asbestos compliance vetting process. Document responses including evidence of operative training in compliance with HSE guidance. Include enhanced processes where non-licensed work undertaken directly by contractors/ OSD. Suspend where responses inadequate. Undertake sample auditing as part of related CBC procedure. Terms of Kier facilities management function/Arvato ACM compliance responsibility need express clarification/ monitoring. This is an operational recommendation and necessarily at 'red' status at present dependent upon approval of the Action Plan by Cabinet to progress . Approval by Cabinet will allow preparation and implementation of an operational plan.	CBC + Savills Input
12	Removal Contractor	Consider procuring retained asbestos removal services (licensed and un-licensed) from a single provider. Legal context: the requirement to employ specialist contractors 'licensed' by the HSE for particular types of work. The aspirational context is toward an enhanced role provided by a single contractor for improved consistency, VFM and data administration/ management.	No	Post removal information/ certification/ consignment notes rarely received (licensed or non-licensed work). Frontline consequently not updated or floor plans amended; therefore limited assurance around robustness of historic/ current data. Clarification of related data processes recommended as part of review/ re-procurement of removal services, together with on-going contract administration to ensure appropriate robust data is received, logged and registers updated. Integrate with retained survey provider. This recommendation is necessarily at 'red' status at this stage, pending approval of the Action Plan by Cabinet and formulation of an operational plan and implementation.	CBC + Savills Input
13	Clarify Non Standard/ Leased Tenure Obligations	Ensure leases and management agreements are clearly understood regarding the liabilities arising around asbestos management. Determine CBC asbestos management response as may be dependent upon specific lease arrangements.	N/A	In order to mitigate litigation and/or reputational risk, the Council ought to ensure that it understands the effect of current leases around asbestos compliance obligations and managing current and future leases and the corresponding legal documentation. Shop units (often with flat above), generally surveyed at void and not re-inspected (by CBC). Unclear how many surveyed overall; clarification and survey of remaining units recommended. Only structural alterations require CBC notification/ permission so smaller re-fits are not notified (and may disturb ACMs). Shops/ other commercial premises deemed lessees responsibility are not re-inspected: check legal mandate and re-iterate obligations in writing. CBC to consider the appropriateness of ACM re-inspection surveys in commercially sub-let properties or the non-domestic accommodation allied to these. CBC is to consider and decide whether to limit its obligations simply to those legally mandated, or to go beyond.	CBC

RAG Status:

	Green = Activity / Task Complete
	Amber = Activity / Task Commenced
	Red = Activity / Task Not Commenced

Key to Terms:

ACM = Asbestos Containing Material
 AMP = Asbestos Management Plan (and related protocols/ policy)
 CAR = Control of Asbestos Regulation 2012
 Frontline = Asbestos Register system (CBC Corporate Services) via Frontline Data Ltd
 H&S = Health and Safety
 HSE = Health and Safety Executive
 KAR = Keystone Asbestos Register system (CBC Housing Services)
 MAN = Management Actions
 MRA = Material Risk Assessment (HSE methodology HSG264)
 Northgate = Housing Management Information System (incl. repairs ordering)
 Non-Domestic = Commercial areas, or corridors/ landings/ stairwells/ etc associated with residential blocks (often referred to as 'Communal' areas)
 OSD = CBC 'in-house' service provider (direct/partner service organisation)
 PRA = Priority Risk Assessment (HSE methodology HSG264/227)
 RA = Risk Assessments (MRA + PRA)
 R&D = Refurbishment and Demolition (pre-works) surveys
 RIDDOR = Reporting Injuries Diseases and Dangerous Occurrences Regulations (1995)
 RMSGAM = Risk Management Sub Group - Asbestos Management
 TNA = Training Needs Assessment (HSE ACoP L143 methodology)
 TOR = Terms of Reference
 VFM = Value for money
 CBC = Chesterfield Borough Council
 UDC = User Defined Content (in this context an asbestos related pop up warning)