

Asbestos – What Are Your Responsibilities

This guide has been created to remind you of your responsibilities to tenants and contractors regarding Asbestos.

1. What is Asbestos?

Asbestos is a potentially dangerous mineral fibre. Before its dangers were known, asbestos was often used in buildings for insulation, flooring and roofing, and was sprayed on ceilings and walls. Asbestos use is now banned in the UK, however buildings constructed before the year 2000 may still have asbestos in them.

When materials containing asbestos are damaged or disturbed, tiny asbestos fibres can be released into the air and breathed into the lungs. The associated health risks can take 15 to 60 years to develop. They are incurable and often fatal.

Where can it Hide? – See the [diagram from the Health and Safety Executive](#) which explains the potential areas where asbestos can hide.

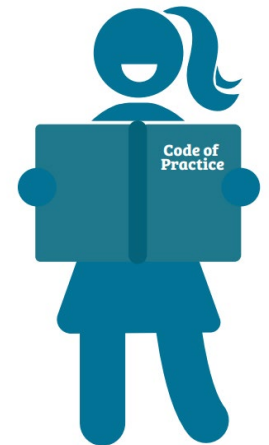
2. Asbestos and your Rent Smart Wales Licence.

Your licence conditions state that you must comply with 'Code of Practice for Licensed Landlords and Agents' licensed under Part 1 of the Housing (Wales) Act 2014'.

In order to satisfy the requirements in regard to Asbestos, a risk assessment should be carried out by a competent person* in respect of every rental property being managed. This could be done by ensuring that these checks are included on your property inspection checklist and discussed during initial conversations between agents and landlords.

It is essential that you have basic awareness of what asbestos is and where it can be found. This will assist you to provide required information to contractors prior to the commencement of any works. Rent Smart Wales also advise and strongly recommend that you pass this information onto your tenants.

Where Rent Smart Wales considers that a landlord or agent has not complied with the requirements set out the legislation, a referral will be made to the relevant enforcement body for their consideration and action, if required.



* Competent person – could be an employee trained in asbestos identification.

3. What are your responsibilities?

Asbestos must be managed appropriately due to the danger it poses. To ensure that it is managed effectively, different responsibilities for landlords and agents have been determined within the law throughout Wales.

You have a duty of care to inspect properties and ensure that any potential hazards are minimised or controlled. It is your job to identify where, if anywhere, in your rental property, asbestos may be present and to take the appropriate action.



Responsibilities to your Tenants

You must ensure that properties are kept in a safe condition, and with no unacceptable risk to the health of your tenants.

This responsibility extends to members of the public that may visit your rental property.

Responsibilities to your staff and contractors

Health and safety legislation in the UK requires employers to conduct their work in such a way that their employees will not be exposed to health and safety risks, and to provide information to other people about their workplace which might affect their health and safety.

Businesses are required to conduct risk assessments to consider all possible hazards in the workplace.

You must ensure that any contractor instructed is informed of the presence or potential presence of asbestos. If you do not inform a contractor and the contractor is exposed to asbestos, you could face enforcement action. You would need to prove that you took all reasonable precautions to protect that contractor.

Responsibilities within your HMO properties

If you manage/maintain HMO properties, you have further responsibilities. This is because an HMO or parts of an HMO might fall under the definition of a non-domestic premises. See [HSE website](#) for further information.

Some of your responsibilities are to:

- take reasonable steps to find out if there are materials containing asbestos in non-domestic premises, and if so, its amount, where it is and its condition.
- presume materials contain asbestos unless there is strong evidence that they do not.
- make, and keep up to date, a record of the location and condition of the asbestos-containing materials - or materials which are presumed to contain asbestos.
- assess the risk of anyone being exposed to fibres from the materials identified.
- prepare a plan that sets out in detail how the risks from these materials will be managed.
- take the necessary steps to put the plan into action.
- periodically review and monitor the plan and the arrangements to act on it so that the plan remains relevant and up-to-date and;
- provide information on the location and condition of the materials to anyone who is liable to work on or disturb them.

Case Studies

Agent fined after contractor finds asbestos in rental property

The contractor was sent to a domestic property by a letting agent to fix a leaking porch roof. As they removed a sheet of material from the underside panel of the damaged roof, they realised that the insulation board contained asbestos. The sheet was broken during removal and the surrounding area was contaminated with asbestos debris.

A HSE investigation found that the contractor had not been given any indication that asbestos was present in the property. No risk assessment was carried out, and the agents made no attempt to ensure he was competent to identify or work with asbestos.

The agents were found guilty of breaching Section 3(1) of the Health and Safety at Work Act 1974 and fined £1,500 with £2,500 costs.

Contractors fined

Two employees of a company that was used to carry out works on a garage door replacement pleaded guilty to breaching Regulation 6 (1) of the Control of Asbestos Regulations 2012 and Section 3(1) of the Health and Safety at Work etc. Act 1974. Asbestos was disturbed and was spread around the home via the central heating system.

A suitable and sufficient assessment to establish whether asbestos was liable to be present in the premises, and what type of asbestos containing material may have been present, was not carried out prior to the start of the job.

The company was fined £10,000 and ordered to pay costs of £1,589.

Health and Safety at Work etc. Act 1974

Landlord and agent fined over asbestos management

A contractor had raised concerns that asbestos insulation boards had been removed from unoccupied floors of a building; inspectors discovered that asbestos was also present in parts of the building occupied by tenants.

Although the letting agent had raised the issue of a lack of an asbestos assessment previously, they did not follow it up and no asbestos survey was carried out.

The letting agent and the owner both pled guilty to a breach of the Health and Safety at Work Act 1974 in respect of their failure to ensure the safety of the people within the building. The owners had also breached the Control of Asbestos Regulations 2006 by failing to properly assess the risks of asbestos at the site.

The letting agents were fined £15,000 (and ordered to pay costs of £11,011). The owner was fined £40,000 (with costs of £8,969).

Useful Links:

- [HSE – Asbestos Health and Safety](#)
- [HSE – Where can you find Asbestos?](#)
- [Rent Smart Wales Code of Practice](#)
- [Health and Safety at Work etc. Act 1974](#)
- [The Control of Asbestos Regulations 2012](#)

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