

Asbestos in Soil, Made Ground and Demolition Materials

Joint Industry Working Group (JIWG) Meeting

8th February 2012 Meeting Notes

Location: CL:AIRE Office, Marble Arch, London

11am to 4pm

FINAL

Present:

Steve Forster (<i>Chair</i>)	Environmental Industries Commission (EIC)
Nicola Harries (<i>Secretariat</i>)	Contaminated Land: Applications In Real Environments (CL:AIRE)
Mike Quint	Society for Brownfield Risk Assessment (SoBRA)
Ian Martin	Environment Agency (EA)
Martin Gibson	Health and Safety Executive (HSE)
Craig Bell	Health and Safety Executive (HSE)
Garry Burdett	Health and Safety Laboratories (HSL)
Tracy Braithwaite	Soil and Groundwater Technology Association (SAGTA)
Lee Brownsword	Local Authority Representative
Seamus Lefroy-Brooks	Association of Geotechnical and Geoenvironmental Specialists (AGS)
Jonathan Francis	Asbestos Testing and Consultancy Association (ATAC)
Alan Jones	Institute of Occupational Medicine (IOM)
Colette Willoughby	British Occupational Hygiene Society (BOHS)
John Ferguson	Civil Engineering Contractors Representative
Joanne Kwan	Construction Industry and Research Information Association (CIRIA)
Chris Chiverrell	Construction Industry and Research Information Association (CIRIA)
Jane Garrett	Contaminated Land: Applications In Real Environments (CL:AIRE) (attended part of the meeting)
Bill Baker	Independent Consultant (attended part of the meeting)

Meeting Notes

1) Welcome

The chair welcomed everybody.

2) Introductions and Industry Groups Represented

Each attendee introduced themselves and the body that they were representing.

The chair explained that although the JIWG is badged "EIC/CL:AIRE", it is the intention that the JIWG will be representative of the broad range of industry views and opinions on the subject, not just representative of EIC's members or CL:AIRE.

The chair explained that the main object of the meeting was to bring industry and the regulators around the table to look at the issues associated with asbestos in soil, made ground and demolition materials (asbestos in soil for short). This meeting had come about because EIC members over 2 years ago identified that there was insufficient guidance for working with Asbestos in Soil. Last year they joined forces with CL:AIRE and held a conference in November 2011 to raise the awareness of the key issues surrounding asbestos in soil and at the end of the conference Michael Lunn – Director of policy of EIC announced that EIC and CL:AIRE would look to form a Joint Industry Working Group as there is a strong appetite for the development of a Practitioners Guide – Code of Practice for Asbestos in Soil, Made Ground and Demolition Materials that will provide a consistent approach for the UK industry and regulators.

The chair also explained that there were a number of HSE representatives at the meeting today as HSE are currently refining/updating HSE guidance relating to asbestos however this work only relates to worker protection (which is HSE's remit), but they want to ensure that what the HSE produces dovetails and complements with the work that the JIWG is looking to produce in the Practitioners Guide – Code of Practice.

The chair outlined the rationale for the selection of the groups represented at the meeting; it had been decided that organisations should be represented as opposed to companies/individuals, and that one representative of each organisation, going forward, would be allowed to attend meetings in order to keep meetings to a manageable size and to avoid accusations of bias.

3) Apologies

Apologies were given for Richard Boyle – Homes and Communities Agency, Michael Lunn – EIC and Trevor Howard – Environment Agency.

4) CIRIA and EIC/CL:AIRE Joint Position Statement

The chair explained that a Joint Position Statement had been produced between CIRIA and EIC/CL:AIRE to ensure that two guidance projects that were being undertaken concurrently on the same subject would complement and link and there would be a co-ordinated output. There had been some concern expressed by industry that there was not going to be a co-ordinated approach. It has been agreed that CIRIA's project will focus on developing a guidance document that will consider all the issues associated with asbestos in soil and will highlight the key issues and areas where detailed best practice guidance is required. The EIC/CL:AIRE project (with the support of the JIWG) will develop the best practice guidance identified in the CIRIA project and will produce a detailed Practitioners' Code of Practice which links in with the work being undertaken by HSE/HSL.

It was also agreed that at least one member of EIC/CL:AIRE JIWG will be invited to join the CIRIA Project Steering Group and visa versa, that the production of the two documents will be identically badged and consideration is being made to making the CIRIA guidance freely available to download.

CIRIA's project is anticipated to last 12 months with it being substantively complete after 9 months with a draft available after 6 months.

5) Any Groups Missing

It was thought that Department of Environment Food and Rural Affairs (DEFRA) should be invited. The meeting was informed that DEFRA had recently sent a letter to EIC welcoming the setting up of a JIWG and DEFRA had been informed that the Environment Agency were attending and supporting the work of the JIWG. It was felt that it was unlikely that DEFRA would attend. The issue was then raised that should Scottish Environment Protection Agency (SEPA) and the Department of Environment – Northern Ireland (EA NI), Welsh Government also then be invited?

The attendees were reminded that this is an industry working group and therefore there needs to be a greater number of industry groups, there could be a risk of too many public sector groups being invited round the table.

The meeting was reminded that DEFRA, Welsh Government, SEPA and EA NI are all members of the Land Forum. The Land Forum was established to be a focus of land issues at a strategic level. This Forum could be provided with an update on the JIWG work on asbestos in soil without additional members needing to join the JIWG. This would ensure that the devolved administrations are kept abreast of progress.

ACTION: CL:AIRE to contact the Land Forum to give them an update of the JIWG and the Asbestos in Soil Code of Practice project.

HSE reminded the meeting that Health and Safety was not a devolved activity and HSE covers the whole of the UK.

The issue of local authority representation was also raised. There currently is not one body that represents all local authorities. It was agreed that through CIRIA's links, CL:AIRE's links and SOBRA's links to local authorities that there was not a requirement to have additional attendees from local authorities on the JIWG.

It was suggested that a Demolition/Recycling Contractor also needed to be invited as asbestos primarily gets into the soil from demolition processes. This was agreed.

It was suggested that UKAS should also be invited as they will be the accrediting body that accredits the laboratories implementing the analysis techniques. This was agreed.

It was also suggested that the Health Protection Agency (HPA) should be invited. It was agreed.

ACTION: It was agreed that CL:AIRE should invite HPA, a leading Demolition and Recycling Contractor and UKAS to the next meeting.

6) Formal appointment of Chair and Secretariat

It was agreed by all that the Chair for the duration of the JIWG should be EIC and the secretariat duties should be performed by CL:AIRE.

7) Setting the scene with aims and objectives of JIWG

There was open discussion of the key issues that the JIWG felt needed to be addressed and what they felt should be the aims of the group. It was noted that there were a number of

different organisations represented around the table that may never have met before/or been aware of each other which was refreshing. They agreed that each party had different issues and level of interest and it would be useful for a general overview/scope sketched out to show where it was believed everybody fitted into the issue of asbestos in soil.

ACTION: CL:AIRE to scope out key players in JIWG and how each group links to each other and the issue of asbestos in soil and circulate for comment.

There was lengthy discussion about how the contaminated land industry is focussed on risk-based decision making, however the waste industry is hazard-based and often people confuse the two regimes. There is inconsistency between waste and contaminated land legislation that needs to be clarified with respect to asbestos in soil.

From a contractors point of view there needs to be clear guidance on legislation and what is or is not permissible activities when there is asbestos in soil. Can material containing asbestos be used or does it need to be sent to landfill? Is a site that contains asbestos suitable for use? The industry needs to be provided with the correct tools. What are the long term health risks and how can these be managed. There was discussion whether asbestos should be treated as just another hazardous substance? Therefore it is really important that what the JIWG develops is not incompatible with the way other substances are dealt with.

One main issue raised was the lack of awareness of how to identify asbestos in soil. The JIWG was reminded of some the results that laboratories supplied to the EIC industry survey demonstrating the number of soil samples sent to laboratories that contained asbestos that were not scheduled for asbestos. People were not surprised as most brownfield sites contain made ground. Therefore the question posed was "Should all soil samples from brownfield sites be testing for asbestos?" It was felt that this should not be an automatic default position. It was argued that if there was a proper desk study carried out, then this should indicate former history of the site which would give a greater understanding that asbestos could be present. Therefore this is a key point that should be raised in the Code of Practice. It was agreed that awareness raising of asbestos in soil needs to occur and better quality desk studies and ground investigations undertaken to mitigate the risks better. Sites should be assumed clean unless there is evidence to the contrary, not the reverse. It was emphasised that decisions about such assumptions would only be valid on the basis of thorough desk studies and site investigations which is deemed good practice.

It was agreed that there are some relatively simple processes and procedures that should be undertaken on site to reduce the risk of spreading asbestos across a site. These need to be highlighted in the Code of Practice.

8) Terms of Reference for JIWG

There was discussion about the draft Terms of Reference that was circulated ahead of the meeting.

It was agreed that deputies from the same organisations could attend if they had different skill sets which might be more appropriate to the agenda or tasks of subsequent meetings.

It was felt that the "Purpose" needed to be expanded to reflect the joint position statement agreed with CIRIA.

It was felt that the “Aims” wording should be altered slightly to read. Point 2 – “*To develop practical practitioner guidance on asbestos in soil*”

Point 3 should read – “*To promote the development of the relevant*”

It was agreed that people were content with their names and organisations that they represented to be included on the document but not their direct company name.

It was agreed that CL:AIRE should circulate the Word version of the draft Terms of Reference and people track their changes. CL:AIRE will then circulate the final version for agreement.

ACTION: CL:AIRE to circulate Terms of Reference and amend in light of the comments above. ALL to forward their comments to CL:AIRE.

It was agreed that a dedicated area on CL:AIRE’s website (www.claire.co.uk/asbestos) be set up to have the notes from the meeting and Terms of Reference be established for transparency.

ACTION: CL:AIRE to set up area of website

9) Development of Joint Industry Code of Practice

Discussion was had on the target audience. It was agreed that this document is aimed at practitioners from a number of distinct audiences who engage with asbestos in soil on a regular basis. It will be written in detail and in technical language, but clearly and succinctly.

It was agreed that presentation is important and flow charts are very useful. Reference was made to the Definition of Waste: Development Industry Code of Practice as a good example particularly the Materials Management Plan. The draft headings were circulated and it was agreed that this was a great start.

Several areas were identified that could be included:

- Insurance/liabilities
- Planning and development issues

The JIWG were requested to go away and think if there are any other areas that are missing.

ACTION: All asked to feed back on draft content of the Code of Practice and identify areas that are missing.

After feedback from the JIWG, the Chair volunteered to put a more detailed scope and framework together and expand the sections further for the Code of Practice for circulation and comment.

ACTION: The Chair agreed to scope the Code of Practice further and circulate for discussion.

CIRIA’s scoping study will assist in developing the main chapter headings where further guidance is required by the industry.

It is envisaged once the scope of the document is finalised, detailed briefs will be prepared for each section of the report and groups of specialists with a lead author will be asked to work together and prepare sections of the Code of Practice.

It was agreed that there will be an extensive and open consultation process once the first draft is prepared.

It was seen as good practice that once a final draft report was produced to request reviews to be carried out by people who have not been involved in the project to ensure that it is clear and concise.

10) Interaction with other asbestos initiatives

A. HSE Revision of Control of Asbestos Regulations (CAR) 2006 and other updates

HSE representatives explained that CAR 2006 are currently being updated due to an EU Commission 'reasoned opinion' that the existing regulations omitted wording contained in the asbestos worker protection Directive which meant that the exemption from notification, health monitoring, etc was too wide. The Government accepted the reasoned opinion and has decided to replace CAR 2006 with CAR 2012. The requirements in the regulations will not be changing significantly; the omitted wording will be added and minor changes made to maintain consistency. There will also be some minor amendments made to reflect legislative changes since CAR 2006 came into force (e.g. introduction of asbestos prohibitions in REACH). The main impact will be that certain activities that previously were not notifiable will now become notifiable and be subject to health monitoring.

The timetable for CAR 2012 to come into force is April 2012. HSE will produce online guidance explaining the changes. It was stressed that there is no change in relation to the principal requirements of the legislation related to working with asbestos.

There is also a review of all HSE guidance being undertaken. It is aimed to review/update the top 100 guidance documents (that are most accessed from the HSE website) by March 2012. Within the 100 documents, 4 relate to Asbestos. The review is being undertaken to ensure that the documents remain fit for purpose, references are up to date and cross referenced correctly, etc. HSE will be reviewing the rest of its guidance throughout 2012

Professor Löfstedt's review on Health and Safety legislation, recommended a review of all the Approved Codes of Practices. to consider what can be done to simplify and clarify them without diluting existing standards. Where there is overlap of requirements HSE will look to consolidate where possible. It is currently aimed to complete the ACoP review by end of 2013 but this timetable still under review and there may be a requirement to do it sooner.

The group felt that the streamlining of HSE guidance provided a great opportunity to develop a common understanding between the regulated and the regulator in developing a framework upon which the whole industry can work together and identify what are licensable and not licensable practices. Therefore for asbestos in soil, perhaps aligning the new framework with permitting and deployment forms could be a possibility?

HSL are also looking at reviewing the Survey Guide (HSG264) and Analyst's Guide (HSG248). HSL are looking at how this can be adapted to include information for analysts on how to analyse soil samples HSE are keen to work with the JIWG to address health risks relating to asbestos in soil but, this can only cover worker protection when work activities are

being undertaken, as HSE's has no environmental remit. Duties under health and safety legislation relate to ascertaining the risks to workers – how readily are Asbestos Containing Materials (ACM) released to atmosphere, etc? The dustiness test currently measures this. HSL and IOM have used laboratory tests (with different techniques) to measure release of asbestos fibres from soils.

The Survey Guide (HSG264) is totally focussed on premises. The word “premises” can include the land within a curtilage upon which buildings on a site sit, but up to now people have generally not applied the survey requirements to land. A point of clarification needs to be highlighted in the Code of Practice that the Duty to Manage asbestos applies to premises in the strictest sense, i.e. land and buildings. This requirement to extend asbestos surveys to the curtilage, however, could cause problems as many asbestos surveyors are not trained at looking at ground materials. Also HSG264 contains guidance that training is required to undertake an asbestos survey

Therefore, should all geo-environmental specialists wishing to carry out investigations for asbestos have specialist training/qualifications? With the prevalence of asbestos on sites there should also be a greater awareness of the different types of asbestos. It was agreed that there is a very poor awareness of asbestos and types of asbestos for the contaminated/geo-environmental engineers which needs to be addressed urgently. It was also noted that asbestos awareness training is not the same as training in asbestos surveying and is not sufficient for that purpose.

It was pointed out by HSE that geo-environmental specialists, likely to be exposed to asbestos as part of their work, must have formal asbestos awareness training relevant to their work activities if visiting or working on sites as a minimum.

There was a lengthy discussion on what are the true risks with asbestos in soil. It was concluded that if control measures on work activities, such as damping down, are put in place, the health risk will be minimised. Asbestos only presents a risk when fibres are released into the air and are breathed-in.

A discussion was held on the issue of commercial risk and it was acknowledged that this may not always align with actual health risk.

The Analyst's Guide (HSG248) provides details on approved analytical methods for evaluating fibres in air for control to occupational exposure standards and for completion of asbestos removal and the current sampling and analysis of materials for the presence of asbestos and airborne fibres and site assessment. HSG 248 mentions soil twice only, once in connection with removal of soil rubble from an enclosure that has a loose rubble flooring, and once in specifying the maximum number of soil samples that an analyst could analyse within 24 hours unless additional quality checks are undertaken. The Code of Practice will need to deal with the sampling strategy for land suspected to contain asbestos. There is a requirement under the regulations to ensure that all asbestos laboratory identification of asbestos is undertaken by a laboratory accredited with a recognised accreditation body. The United Kingdom Accreditation Service (UKAS) is currently the sole accreditation body in Great Britain.

HSL will be looking to draft an additional annex to HSG248 through working Group 2 of the committee for fibre measurement – HSL is looking to work with a small number of technical specialist to form a Task and Finish group to draft this annex. It was felt essential to have some representatives from the JIWG to ensure that all the guidance being produced is as

compatible as possible, given HSE's and the JIWCGs remits.. The focus of HSG 248 is to provide guidance for sampling and analysis of asbestos and it will expand this guidance to address in greater detail asbestos materials in soils.

The revised guide (from HSL) will state the minimum that will be required to ensure that practitioners comply with the law but it will be up to industry to establish what is considered best practice and will be addressed in the industry code of practice.

The document will signpost where further information can be found and signpost the industry Code of Practice.

The JIWG welcomed the opportunity to work with the HSE/HSL on their piece of work to ensure compatibility with the Code of Practice to be developed by the JIWG for the broader industry.

B. EA Regulatory Position Statements

EA confirmed that they are committed to working with the JIWG. There are a number of different regulatory regimes that apply to asbestos and it would be desirable to develop a coordinated approach to tackling the issues. Trevor Howard in the Groundwater and Contaminated Land team had previously agreed to review potential issues raised by the EIC and to engage with others at head office. The EA are committed to helping industry to achieve good practice, comply with relevant regulations, and protect health and the wider environment. Where there are problems, the EA will try and work through the issues and consider the need for additional guidance. We have previously produced regulatory position statements to support our aims for other issues.

C. HSE CFM WG2

HSE's Committee on Fibre Measurement Working Group 2 would welcome asbestos practitioners to assist them as technical experts on a subcommittee on a voluntary basis to provide review and clarification with the rewriting of the technical advice. HSE want to ensure that it takes into consideration asbestos in soil so needs greater interaction with environmental/contaminated land practitioners.

If people were interested in being on the technical committee to provide their names to CL:AIRE and they will forward to HSL.

ACTION: Interested parties wishing to be included on technical advisory committee to support HSE/HSL to provide names and contact details to CL:AIRE.

11) Funding

CL:AIRE explained that funding is now being sought from industry to develop the industry Code of Practice. There is some seed funding already in place to start the project off from revenue generated from the conference held in November 2011. The sooner the funding is secured the quicker the project can start in earnest. CL:AIRE confirmed that they had already received some expressions of interest which will be followed up with a full funding proposal. CL:AIRE estimates that the project will cost in the region of £120,000 - £150,000. If further funding is secured then other activities to support the Code of Practice will be developed.

ACTION: CL:AIRE to seek funding for the industry Code of Practice.

12) Programme for preparation and publication of CoP

Once funding is secured it is anticipated that the code of practice would take 12-15 months to produce. A programme for the preparation and publication will be developed for the next meeting.

ACTION: CL:AIRE and EIC to develop a programme for preparation and publication of the CoP and circulate ahead of the next meeting.

13) Preparation of Document

EIC/CL:AIRE explained that the project will be managed by CL:AIRE. Individual chapters will be written by selected industry experts. Detailed briefs will be prepared for each chapter heading to ensure consistency of approach. Lead authors will be selected and requested to work with others on individual chapters to ensure cross fertilisation of ideas and different stakeholders views are taken into consideration. The draft Code of Practice will be circulated to the JIWG for review at key stages and the final draft report will be made available for full external consultation.

14) Publicity including Joint Press Release

It was requested that once the terms of reference are agreed between the participants of the JIWG that a joint press release is produced and circulated for sign off by all parties. It was felt that a joint press release would be a far more powerful statement than individual press releases to demonstrate how industry is looking to work collaboratively together.

ACTION: CL:AIRE to prepare a draft press release for sign off.

15) Date of Next Meeting

It was agreed that the next meeting should be held in May 2012 – date to be confirmed.

ACTION: CL:AIRE to schedule a date.