

ASBESTOS IN SOIL, MADE GROUND AND DEMOLITION MATERIALS

JOINT INDUSTRY WORKING GROUP

MEETING No. 2 – HCA Office, London

29th May 2012

FINAL

Attendees

| NAME | REPRESENTING |
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| Steve Forster - Chair | EIC |
| Nicola Harries - Secretariat | CL:AIRE |
| Simon Cole | SoBRA |
| George Kowalczyk | HPA |
| Trevor Howard | EA |
| Kate Brooks | UKAS |
| Joanne Kwan | CIRIA |
| Rob Blackburn | ATAC |
| John Ferguson | Balfour Beatty Major Civil Engineering |
| Craig Bell | HSE |
| Janice Martin | HSE |
| Martin Gibson | HSE |
| Tracy Braithwaite | SAGTA |
| Rachel Adams | MoD [observer] |
| Seamus Lefroy-Brooks | AGS |
| Alan Jones | IOM |
| Colette Willoughby | BOHS |
| Steve Martin on behalf of Barry Menzies | CECA & NFDC |
| Garry Burdett | HSL |
| Lee Brownsword | Liverpool City Council |

Agenda

1. Welcome and Apologies
2. Previous Minutes and Actions
3. Update on funding
4. Membership Update
5. Programme
6. JIWG Code of Practice – content scope and framework
7. Update from HSE on asbestos related documents and other activities
8. Update from Environment Agency Programme
9. Update from CIRIA on the progress of their Asbestos Project
10. AOB

| No. | DISCUSSION | ACTION |
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| 1. | <p><u>WELCOME and APOLOGIES</u></p> <p>The chair Steve Forster welcomed everybody to the 2nd Joint Industry Working Group for Asbestos in Soil, Made Ground and Demolition Materials. House-keeping information was provided and all participants introduced themselves round the table.</p> | |
| | Apologies were given for Dr Richard Boyle of HCA. | |
| 2. | <p><u>PREVIOUS MINUTES and ACTIONS</u></p> <p>The chair confirmed that the minutes from the last meeting had been circulated in draft for comment and the final minutes incorporating all the comments have now been uploaded on to the CL:AIRE website www.claire.co.uk/asbestos for public consumption. They have also been widely circulated.</p> <p>A Venn diagram was identified as being needed to see the interaction of all the different stakeholder groups. The chair explained that this had evolved into a more complex matrix sheet identifying all of the key stakeholder groups involved in the JIWG and their potential interaction with both each other and the topics to be covered in the Asbestos in Soil Code of Practice. The JIWG members were asked to review and see if there are any amendments needed as this will be useful when preparing the author briefs.</p> <p>The chair offered those individuals who did not attend to ask for clarification on any points. None were raised.</p> <p>All actions from the last meeting were discussed. All actions were signed off except one detailed below.</p> <p><u>ACTIONS OUTSTANDING</u></p> <p>CL:AIRE to prepare a draft press release for sign off. CL:AIRE had not completed this action as it was felt that the press release would be better to be issued when the project had a more positive story to tell i.e. when the scope and programme had been finalised. This was agreed by all.</p> | <p>ALL</p> <p>CL:AIRE</p> |
| 3. | <p><u>UPDATE ON FUNDING</u></p> <p>CL:AIRE provided an update on funding and confirmed that they had now received a commitment of £80k with an additional £20k as a strong possibility. There are some sponsors that are asking to remain anonymous. Currently the companies that have agreed to sponsor are: Vertase FLI, National Grid and Harrow Estates. Sponsors are providing between £5k and £20k. There are also other companies that have agreed to provide smaller amounts of funding for recognition in the CoP but acknowledge that they will not be called sponsors. The Chair explained that there had also been interest from a number of parties to provide in-kind financial support to help write chapters of the Asbestos in Soil CoP. It may be possible for leading individuals working in industry to get their companies to allow them to work on the project for a reduced cost. The CoP could perhaps fund a small</p> | |

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| | <p>amount of their time and they commit a much larger amount of time and in return they are identified in the final CoP as a contributor. It was agreed that this is a sensible approach to keep the project moving forward however CL:AIRE will continue to seek additional funding to meet the target of £150k. If the target is met then there may not be a requirement to ask for so much in kind support.</p> <p>It was agreed that it is important that the project selects the right authors for the individual chapters/sections and not specifically from those that are offering to write chapters/sections as in kind support. Concern was also expressed that you need to ensure that you get a true reflection of time committed to the project for in kind support. This will be reflected in the contracts and author briefs. It was agreed that chapters need to be prepared in a collegiate way (2/3/4 authors per chapter depending on the complexity) to reduce the risk of bias by one individual as this guidance needs to be credible. It was agreed that all authors need to be identified for transparency.</p> <p>The JIWG were also reminded that they will be the first line for reviewing, then robust editing and a public consultation.</p> <p>Once the Heads of Terms of the CoP are agreed there will be a request for expressions of interest to write chapters with CVs needing to be submitted detailing their experience in specific areas.</p> <p>It was requested that all organisations and industry groups sitting round the table start thinking about individuals that may be interested in participating and to send details to CL:AIRE.</p> <p>It was asked what the current funders are wanting in return for their financial support. CL:AIRE confirmed that none have asked to be authors. They acknowledge that asbestos in soil is a problem, a CoP is badly needed, they will get branding opportunities and know that the only way this work will move forward is by helping contribute towards its development. Pooling resources is an efficient way to move forward.</p> <p>The public sector groups in the JIWG were asked if there is any possibility of funding? All groups agreed that it was highly unlikely.</p> <p>HSE confirmed that they would assist in authoring sections. They feel it is important that they have strong input to some of the chapters identified in the Heads of Terms. It may be less resource intensive if they write and steer chapters rather than review. They will discuss internally how best this can be achieved and report back to the JIWG.</p> <p>HSE confirmed that they will make a request internally for budget but do not think it is likely.</p> <p>EA confirmed that currently there is no budget available, later in the year there may be underspend but this will not be known for a while. Like HSE, they may be willing to contribute resource time towards the development of the CoP. This will need to be discussed internally as there are a number of departments that work on asbestos. Again like the HSE it may be more advantageous to steer the relevant chapters. EA will report back to the JIWG after discussing internally.</p> | <p>ALL</p> <p>HSE</p> <p>EA</p> |
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| | <p>HSE confirmed that their aim is to have their logo on this CoP, but they will reserve the right to add additional text to distinguish what in the CoP is required by law rather than industry best practice. This is needed due to government restrictions on adding burden to industry.</p> <p>HPA confirmed they are not a regulatory body but are publically funded. They also do not have funding available to contribute to the Co. HPA will be disbanded in April next year and will be reconstituted as Public Health England. They too will not be able to provide funding but will be able to provide resources to the project and can facilitate access to specialist independent advisory bodies, such as the Committee on Carcinogenicity if independent opinion is needed. This could be very useful.</p> | |
| 4. | <p><u>MEMBERSHIP</u></p> <p>WRAP have been identified as another stakeholder who should be at the JIWG in relation to their Waste Protocols. CL:AIRE confirmed that they have had a meeting with them and they want to stay informed of the progress of the CoP.</p> <p>It was discussed how the Devolved Administrations should be communicated with as it is key that they are on board. CL:AIRE confirmed that through the Land Forum they will be kept up to speed which they were happy with.</p> <p>CL:AIRE to check with SEPA, WG and DoE NI who within their organisations should the JIWG engage with particularly in relation to health protection. JIWG were reminded that EA Wales won't exist from April 2013 it is merging with the Countryside Council for Wales and Forestry Commission, Wales. This new body will have responsibility for contaminated land and waste issues in Wales. It is important to engage early on so that the devolved administrations can flag inconsistencies with legislation. The JIWG were reminded that HSE's remit covers the whole of Great Britain; HSENI is responsible in Northern Ireland.</p> <p>HPA agreed to also find out who deals with Health Protection in the devolved administrations and feedback to the JIWG.</p> <p>Local Authority membership of the JIWG was also discussed. It was agreed that it is a difficult group to engage with. Currently we have one local authority – contaminated land officer through Lee Brownsword. The difficulty is there are 354 different local authorities. CIEH (Chartered Institute of Environmental Health Officers) represent all environmental health officers but not all contaminated land officers who work in environmental teams in local authorities. Currently the JIWG engage with contaminated land officers and environmental health officers through the Contaminated Land Officer Groups (CLOGS) and the regional forums. Also SoBRA, CL:AIRE and CIRIA have good links through their memberships. EPUK have also offered to help through their Land Quality Team to disseminate information. Bill Baker represents CIEH on EIC Asbestos in Soil Sub Group and has asked to represent CIEH on the JIWG. This request needs to be made officially from CIEH and then can be considered.</p> <p>There was discussion on how to engage better with planners as it was felt that they are an important group regarding development. It was felt that</p> | <p>CL:AIRE</p> <p>HPA</p> |

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| | <p>planners tend to use standard wording in their conditions with regard to asbestos. Liverpool City Council has now written their own Developers Guide to help inform and they have referenced asbestos in it.</p> <p>It was agreed that CL:AIRE will inform Royal Town Planning Institute and Planning Officers Group about the work of the JIWG and see they wish to engage.</p> | CL:AIRE |
| 5. | <p><u>PROGRAMME</u></p> <p>The draft programme to deliver the CoP was presented and comments were invited. It has always been envisaged a 15-18 month programme once funding was secured. It is felt that sufficient funding has been secured to start the project in earnest now, therefore June 2012 we project will kick off with a hope of 15 months delivery until final draft. From then there will be final review, preparing the final document for publication and launching at the end of November 2013, which is 24 months from the last Asbestos in Soil Conference.</p> <p>At this point there is also time allocated for delivery of training/ event which is to be decided to ensure that people are fully appraised of the CoP. There then is one additional JIWG meeting to review any discussion once the CoP is launched.</p> <p>It was felt the JIWG should not meet quarterly after launch, but perhaps 6 monthly thereafter to raise any issues/concerns that are being raised by the industry while it beds in and is used.</p> <p>It was felt that maintenance needs to also be factored in. How will the CoP be kept up to date as legislation changes? It was agreed that this needs to be factored in. It was suggested that a 3 month maintenance period should be included in the programme to identify any immediate changes that may need to be made that have not been picked up in the reviewing stage. Final end date will then need to move into 2014. CL:AIRE to amend the programme.</p> <p>The CoP will be seen as a living document rather like the Definition of Waste: Development Industry Code of Practice (DoW: DICO) which is on its second version. If there are regular clarification points that need to be addressed within the DoW: DICO these are discussed at a steering group meeting and sometimes Frequently Asked Questions are added onto the website and circulated to people.</p> <p>It was agreed that there needs to be some budget factored in for a resource to keep up to date and maintain the CoP. CL:AIRE to amend the budget.</p> <p>Balfour Beatty buy a resource who identify when legislation changes. They will send their details through as this could be useful to ensure the CoP is kept up to date.</p> <p>It was felt that 7 months was tight to prepare and develop the bulk of the text of the CoP especially as the first three months are over the summer holidays and it will be difficult to co-ordinate people's diaries between co-authors. It was also agreed that it is important to have a tight programme. It will need a lot of co-ordination. This is also during the period that HSE are planning to</p> | <p>CL:AIRE and Chair</p> <p>CL:AIRE and Chair</p> <p>Balfour Beatty</p> |

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| | <p>review their CoP which they are committed to doing by their Minister. HSE could be stretched on resources to work on both documents and the HSE workload has to take priority.</p> <p>It was agreed that once the author briefs are produced and circulated it will be easier to decide if the programme of 7 months is realistic or not. The programme can then be revisited.</p> <p>It was agreed to circulate the author briefs as soon as possible for JIWG input as this is a key stage of the process.</p> <p>It is envisaged that the CoP will be out for public consultation for 6 weeks, this was agreed to be an appropriate length of time.</p> <p>CIRIA were asked how the JIWG programme fits in with their asbestos guide programme? CIRIA confirmed that they anticipate that the first draft will be available in October 2012 to their members and available as an open sourced document in November 2012. It will not be available free of charge.</p> <p>The CIRIA project aims to identify the key environmental and health & safety issues that need to be considered in relation to asbestos in soil with respect to planning and contaminated land. It does not aim to be detailed guidance.</p> | CL:AIRE and Chair |
| 6. | <p><u>JIWG CODE OF PRACTICE – CONTENT SCOPE AND FRAMEWORK</u></p> <p>A draft Heads of Term for the CoP was circulated at the meeting for comment. This will be used to prepare the author briefs.</p> <p>The JIWG will be required to sign off the structure so it is important to get detailed feedback. CL:AIRE was asked to circulate an excel version as soon as possible.</p> <p>It was felt that the Heads of Terms was missing risk communication and perception. This was not included as this is being covered by CIRIA. SNIFFER has produced a document on risk communication which should be signposted to.</p> <p>It is necessarily not the purpose of the CoP to repeat in detail what is already in a document, although it is recognised by the JIWG that it may be useful to provide concise summaries of requirements set out in existing guidance. Generally, though, the aim of the Asbestos CoP is to signpost and reference existing unequivocal policy/guidance where this exists, to elaborate on this where required and ultimately to provide clear guidance on how best to comply with existing legislation.</p> <p>Dealing with radioactivity of soils and screening of soils that contain asbestos needs to also be covered as there are health and safety issues relating to this type of material.</p> <p>Section 2 – identifies details of HSE legislation disproportionately more to other environmental legislation such as waste. Should the same level of rigour be placed on this legislation? The JIWG felt that the HSE details needs this level of detail as it is key that the principal audience who will be environmental consultant and contractors understand what the guidance</p> | CL:AIRE |

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| | <p>means.</p> <p>Section 4 – It was requested to remove the work “statutory” in relation to training. Formal training is not necessarily required under HSE guidance it is implied.</p> <p>Section 2.11 – It was asked what Civil Liability will cover? It was included as there is evidence that there are legal firms chasing funding problems.</p> <p>Section 8 – site investigation, remediation technology and waste all have risk.</p> <p>All sites that have made ground could contain asbestos. Therefore in the planning of your investigation looking at previous history and the likelihood of asbestos being present needs to be identified. This should be picked up as part of the risk assessment.</p> <p>HSE explained that they do not want an assumption that all brownfield sites have asbestos as this will cost UK a lot of money. The Asbestos CoP must be pragmatic and common sense needs to prevail. If there is no evidence of asbestos from the desk top study then you should be able to proceed cautiously whilst having appropriate procedures and training in place to deal with all eventualities.</p> <p>There was extensive discussion on the problems of actually sampling asbestos in soil and free fibres. Any protocol that gets decided on must be practical.</p> <p>A flow chart identifying the different potential risks in relation to work activity could be helpful.</p> <p>There was a discussion on asbestos awareness training. There was general agreement that asbestos awareness training is required as an absolute minimum for all employees that may be directed to work in environments where they may be exposed to asbestos in soil and demolition materials and their supervisors.</p> <p>More detailed training was also discussed in the context of the experience for surveyors of asbestos-containing materials in buildings. For those employees that may be required to identify potentially contaminated soils for sampling and analysis more extensive training would be required in order that they make qualified decisions regarding asbestos.</p> <p>What form the training takes needs to be clarified. It was agreed that this needs to be looked at in more detail. Should it be aligned with existing training or not? It was felt that the level of training should vary depending on the activity that is being performed.</p> <p>Should there be a minimum requirement i.e. course and practical?</p> <p>The Analyst’s Guide will contain some parts relating to asbestos in soil. The HSE CoP identifies the requirement of training, and its aims and training providers however this may change when the CoP gets reviewed and updated.</p> <p>It was thought that setting out core competencies that are required by people</p> | |
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| | <p>will help design the training accordingly.</p> <p>There was a lot of discussion on CAR 2012 Regulations 4 & 5. It was felt that Regulation 4 – Duty to Manage Asbestos in non-Domestic Premises - was not drafted with the intention of covering land/soil within the definition of premises, rather buildings on the premises. HSE have taken legal advice on this and suggested that they would not look to enforce Regulation 4 in the context of failure of landowners to undertake investigations of soil contamination.</p> <p>HSE suggested that they might be more likely to enforce breaches of Regulation 5 – Identification of the Presence of Asbestos - in the context of an employer's failure to undertake a suitable and sufficient assessment of whether asbestos is present in soil prior to the commencement of any work on that soil that exposes or is liable to expose employees of that employer to asbestos.</p> <p>What about employer's duty in relation to members of the public? Tracy Braithwaite offered to draft some words in relation to employer's duty in relation to members of the public as she has experience in this area.</p> <p>It was agreed before the Asbestos CoP starts to be written that an agreed lists of terms needs to be agreed. This will help with consistency. HSE, EA and HPA agreed to circulate glossary of terms that they have referenced in their documents and CL:AIRE will combine the list of terms for information. It was agreed that people will look at their glossary and forward to CL:AIRE.</p> <p>It was requested that people feed in their comments on the draft list of headings by 15th June and the Chair will amend and finalise.</p> | <p>TB</p> <p>HSE, EA and HPA</p> <p>ALL</p> |
| <u>7.</u> | <p><u>UPDATE FROM HSE ON ASBESTOS RELATED DOCUMENTS AND OTHER ACTIVITIES</u></p> <p>HSE gave an update on their activities since the last JIWG. The newest version of the asbestos regulations, CAR 2012 has come into force in April 2012. Within the regulations, there is no change in duties, however there is now an additional category called "Notifiable Non Licensed Work.</p> <p>The Asbestos ACoPs will be revised and this review will continue into 2013 and finalised at the end of 2013. There is also a possibility that under the review HSE may amalgamate the two asbestos ACoPs.</p> <p>The review of the Asbestos ACoPs is due to start in June 2012. Comments need to be presented back through the official route on the HSE website. The public consultation will be announced in June 2012 until early September. A 2012 version has not been published due to the consultation process being undertaken.</p> <p>There is also an on-going review being undertaken on all documents that are asbestos-related. They will be bringing them up to date by ensuring that all references and cross references are correct. This is when they will hopefully be able to cross reference to the Asbestos in Soil CoP.</p> <p>The Asbestos Survey Guide which will be web based will also have its</p> | |

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| | <p>regulatory references updated.</p> <p>The Analyst Guide hopes to be moving ahead with a draft guide available late summer 2012 for consultation. After which the comments will be assessed and publication will occur in 2013.</p> <p>The Analyst Guide will have reference to the Asbestos in Soil Code of Practice. There was discussion whether there should be reference to the Asbestos in Soil Code of Practice in the Asbestos Survey Guide. It is anticipated that HSG 248 will be out late 2013 which overlaps with the Asbestos in Soil CoP programme, which is good.</p> <p>A task and finish group of HSE's Committee for Fibre Measurement Working Group 2 will meet in June 2012 to develop a section on asbestos in soils to be included in HSG 248. Members of the JIWG will participate in this work to ensure that this work and the Asbestos in Soil Code of Practice overlap. HSL will circulate some draft wording that will form the basis of the starting point for discussion at the first CFM WG2 task group's meeting.</p> | HSL |
| 8. | <p><u>UPDATE FROM ENVIRONMENT AGENCY PROGRAMME</u></p> <p>The EA updated the JIWG on what has been happening recently in the contaminated land sector that could impact the Asbestos Code of Practice.</p> <p>Defra published the revised Part 2A Statutory Guidance which has had major revisions.</p> <p>To support this new guidance Defra has recently let a contract to BGS to assess background contamination in soil. Initially one of the contaminants to review was going to be asbestos, but apparently they were struggling to obtain sufficient data on this contaminant so is no longer going to include this in the research. This should be published shortly.</p> <p>Defra also recently advertised a research project on Category 4 Screening Levels which will be new Generic Assessment Criteria. There is a requirement for 6 substances to be investigated. The project is to devise category 4 screening values for these substances which will be higher than the current soil guideline values but will not be trigger levels. This piece of work is not including asbestos.</p> <p>There was a discussion on how many sites have been determined and how many are due to asbestos contamination? There were approximately 800 sites determined under Part 2A (up to 2007) and it is felt there are a number determined due to asbestos contamination however the exact number was not known. EA would investigate if this information is available and report back to the JIWG.</p> <p>It would be interesting to know why the sites have been determined was it due to the quantity of asbestos in the soil or amount in the air. Determination of a site is the responsibility of the Local Authorities. They would follow good practice when determining a site however there may not be consistency of approach across the different local authorities.</p> <p>EA also informed the JIWG that Asbestos is a cross sector issue for their business and fits within a number of teams within the Agency, so Trevor</p> | EA |

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| | <p>Howard (contaminated land policy) is co-ordinating an internal working party between hazardous and non-hazardous waste teams, evidence directorate and environment and business. After each JIWG he convenes a meeting to feedback to the working group to identify where the JIWG may need input.</p> <p>Two documents were circulated to the JIWG members for comment. Storage and transfer of asbestos waste has recently been issued however the Asbestos Contaminated Soils and Rubble at Construction Sites is draft. They are planned instructions for operational staff not guidance to industry. Important that there is consistency in approach by the regulator.</p> <p>The EA were questioned how this relates to the Definition of Waste: Development Code of Practice. It should tie up with this so material can be reused using a risk based approach. JIWG felt that there were some issues with the way the Asbestos Contaminated Soils and Rubble is currently written and large amounts of material will automatically be deemed hazardous waste and therefore will need to go to landfill. The EA confirmed that this is not the intention. JIWG were encouraged to forward comments to Trevor Howard as soon as possible.</p> <p>There was discussion how REACH fits in? The JIWG were unsure and therefore HSE agreed to get clarification on this. The EA and HSE have agreed to meet outside of the JIWG to clarify on a number of regulatory issues and will feed back to the JIWG.</p> | <p>ALL</p> <p>EA & HSE</p> |
| <u>9.</u> | <p><u>CIRIA</u></p> <p>CIRIA provided an update on the preparation of their Good Practice Guide for Asbestos in Soil for major clients and consultants. The research contract was let in January. The second draft of the document will be available end of June 2012. The next Steering Group will be held in July 2012. The aim is to publish in October. The JIWG will be able to see the second draft and comment but CIRIA would like this to be co-ordinated for ease of addressing the comments.</p> | |
| <u>10.</u> | <p><u>AOB</u></p> <p>Steve Forster fed back that the EIC recently had a meeting of the EIC Asbestos in Soil Working Group on 23rd May 2012. EIC plan to meet Richard Benyon and Chris Grayling and they were wondering whether the JIWG would like EIC to raise any issues regarding asbestos in soil at their meeting other than being positive about the JIWG? Could this be used as an opportunity to ask government for some money now industry have contributed substantially? By developing the Asbestos CoP how much is this going to save the government?</p> <p>The JIWG were asked to provide thoughts within the next two weeks on any issues that could be raised.</p> <p>Also EIC plan to meet the Shadow Minister Mary Craeagh to keep her fully up to speed with the work of the JIWG.</p> | <p>ALL</p> |