

Report to the Cabinet

Report reference: C-002-2023/24

Date of meeting: 30th May 2023

Portfolio: Housing and Property (Cllr Holly Whitbread)

Subject: Asbestos Policy

Responsible Officer: Pam Wharfe, Interim Director for Housing & Property

Democratic Services: V Messenger (01992 564243)



**Epping Forest
District Council**

1 Recommendations/Decisions Required:

Adoption of the attached document as Epping Forest District Council's Asbestos Policy

2 Executive Summary

The Council has duties to manage asbestos in the buildings it owns, and this policy describes how and why those duties will be carried out.

The Council has had an agreed asbestos policy in place from the 3rd December 2020. This new, revised policy has been produced by officers with the advice of Pennington Choices, an expert company on matters of compliance for social housing landlords. Pennington Choices have been working with officers over the last 12 months to review *all* the Council's compliance policies and the new policies will be presented to Cabinet over the coming months.

This policy forms part of the Council's wider organisational commitment to driving a health and safety culture amongst staff and contractors.

The key aspects of the policy are highlighted in this report, but the attached full policy is the key working document.

3 Need for the Policy

Homes or buildings built or refurbished before the year 2000 may contain asbestos. If an asbestos containing material is disturbed or damaged it can release asbestos fibres into the air which are a danger to health if inhaled. Workers who carry out repairs and maintenance work are at particular risk, however, building occupants could also be put at risk.

It is the Council's legal duty (see below) to manage asbestos in the buildings described in the Scope of the policy below.

4 Scope of the Policy

This policy applies to:

- 4.1 The housing assets which are owned by the Housing Revenue Account (the HRA) and any which are leased by the Council and rented and managed as social housing stock. This includes domestic properties (houses and flats), communal areas of any blocks containing such properties, and sheltered and supported housing schemes and associated offices/communal spaces.
- 4.2 Any commercial premises which are owned by the HRA.
- 4.3 Any depots, operational and commercial buildings owned and / or managed by EFDC.
- 4.4 The policy is relevant to all the Council's employees, tenants, contractors, stakeholders, and other persons who may work on, occupy, visit, or use the Council's premises, or who may be affected by the Council's activities or services.
- 4.5 Adherence to this policy is mandatory.

5 Roles and Responsibilities

5.1 Cabinet

- Cabinet has overall governance responsibility for ensuring this policy is fully implemented to ensure full compliance with legislation and regulatory standards. As such, the Cabinet will formally approve this policy and review it every two years (or sooner if there is a change in legislation or regulation).
- For assurance that this policy is operating effectively in practice, the Cabinet will receive regular updates on its implementation, asbestos safety performance and any non-compliance.

5.2 Senior Leadership Team

- The Senior Leadership Team (SLT) will receive monthly performance reports in respect of asbestos safety and ensure compliance is being achieved. They will also be notified of any non-compliance issue identified. The Chief Operating Officer will fulfil the role of the Responsible Person and will be the overall responsible person on behalf of EFDC.

5.3 Service Responsibilities

- The Director for Housing has strategic responsibility for the management of asbestos safety, and ensuring compliance is achieved and maintained. They will oversee the implementation of this policy.
- The lead officer for Asset Strategy has operational responsibility for the management of asbestos safety and will be responsible for overseeing the delivery of these programmes.
- The Appointed Person role is required under HSG264 (see para 4.3), to assist in the management of asbestos containing materials in buildings and must have the necessary skills and training for the effective management of the asbestos. This role is carried out by the Team Manager Property Operations.

6 Obligations for the Council

The Council is required to:

- Find out if asbestos containing materials (ACMs) are present, where the Council has an obligation to do so, presuming that materials contain asbestos unless there is strong evidence that they do not.
- Identify the location and condition of any ACMs.
- Assume asbestos is present if the property was built prior to the year 2000.
- Keep an up-to-date record (an asbestos register) of the location and condition of ACMs or presumed ACMs.
- Assess the risk from any ACMs found.
- Prepare an Asbestos Management Plan that sets out how we will manage the risk from ACMs, and review and monitor its implementation.
- Set up a system to provide information on the location and condition of ACMs to anyone who is liable to work on or disturb them.
- Assess the reliability of information received relating to asbestos within the properties the Council owns and manages.
- Anyone who has information on the whereabouts of asbestos within these properties is required to make this available to the Council.

7 Resource Implications:

In order to comply with the Policy officers have commissioned surveys of the Council's communal areas. These surveys will be carried out by a company which has specialist knowledge in this area. The surveys will cost the Housing Revenue Account £65680.

8 Legal, Regulatory Standards, Sanctions and Governance Implications:

8.1 Legal responsibilities

The key legal duties are set out in The Control of Asbestos Regulations 2012, and more detailed expectations are set out in the Approved Code of Practice L143.

- Approved Code of Practice (ACoP) - The principal ACoP applicable to this policy is:
- ACoP L143 - Managing and working with Asbestos (Second edition, 2013).
- Guidance – The principal guidance documents applicable to this policy are:
- HSG227 - A comprehensive guide to managing asbestos in premises (First edition, 2002).
- HSG247 - Asbestos: The licensed contractors' guide (First edition, 2006).
- HSG264 - Asbestos: The survey guide (Second edition, 2012).
- INDG223 - Managing asbestos in buildings: a brief guide (Revision 5, April 2012).
- HSG210 - Asbestos Essentials: A task manual for building, maintenance and allied trades and non-licensed asbestos work (Fourth edition, 2018).
- HSG248 – Asbestos: The Analysts' Guide (Second edition, 2021)

8.2 Regulatory Standards

The Council must ensure that it complies with the Regulator of Social Housing's regulatory framework and consumer standards for social housing in England; the Home Standard is the primary one applicable to this policy. The Social Housing (Regulation) Bill will change the way social housing is regulated and may result in future changes to this policy.

8.3 Sanctions

Failure to discharge the Council's responsibilities and obligations properly could lead to sanctions, including prosecution by the Health and Safety Executive (the HSE) under the Health and Safety at Work Act 1974; prosecution under the Corporate Manslaughter and Corporate Homicide Act 2007; prosecution under the Control of Asbestos Regulations; and via a regulatory notice from the Regulator of Social Housing.

9 Significant non-compliance and escalation

Definition

9.1 The definition of significant non-compliance is any incident which has the potential to result in a material breach of legislation or regulatory standard, or which causes a risk to health or safety. All non-compliance issues will be reported and escalated as soon as possible, and no later than 24 hours after the incident occurred, or of an EFDC employee becoming aware of it.

Reporting

9.2 Any non-compliance issue identified at an operational level will be formally reported to either the lead officer for Asset Strategy in the first instance, who will agree an appropriate course of corrective action with the Director of Housing. The Director of Housing will report details of the same to the Senior Leadership Team, EFDC's Monitoring Officer and the Portfolio Holder.

Escalation

9.3 In cases of serious non-compliance, the Portfolio Holder and Senior Leadership Team will consider whether it is necessary to disclose the issue to the Regulator of Social Housing as required by the regulatory framework, or any other relevant organisation such as the Health and Safety Executive. In such instances, the issue will also be reported to Cabinet.

10 Safer, Cleaner and Greener Implications:

The Asbestos Policy and its implementation ensures the safety of residents, staff and contractors. The appropriate management of any asbestos found is critical to protecting the environment.

11 Consultation Undertaken:

Tenants and leaseholders need to be consulted around the Asbestos Policy a meeting will be organised before the Cabinet Meeting with the Tenants Panel and leaseholders will be consulted by letter.

12 Risk Management:

The biggest risk is that the policy is not embedded in working practices or that tenants and leaseholders are not aware of the issues around asbestos. These risks are mitigated by good communication with staff, contractors and residents living in the council's housing.

Equality Impact Assessment

1. Under s.149 of the Equality Act 2010, when making decisions, Epping District Council must have regard to the Public Sector Equality Duty, ie have due regard to:
 - eliminating unlawful discrimination, harassment and victimisation, and other conduct prohibited by the Act,
 - advancing equality of opportunity between people who share a protected characteristic and those who do not,
 - fostering good relations between people who share a protected characteristic and those who do not, including tackling prejudice and promoting understanding.
2. The characteristics protected by the Equality Act are:
 - age
 - disability
 - gender
 - gender reassignment
 - marriage/civil partnership
 - pregnancy/maternity
 - race
 - religion/belief
 - sexual orientation.
3. In addition to the above protected characteristics you should consider the cross-cutting elements of the proposed policy, namely the social, economic and environmental impact (including rurality) as part of this assessment. These cross-cutting elements are not a characteristic protected by law but are regarded as good practice to include.
4. The Equality Impact Assessment (EqIA) document should be used as a tool to test and analyse the nature and impact of either what we do or are planning to do in the future. It can be used flexibly for reviewing existing arrangements but in particular should enable identification where further consultation, engagement and data is required.
5. Use the questions in this document to record your findings. This should include the nature and extent of the impact on those likely to be affected by the proposed policy or change.
6. Where this EqIA relates to a continuing project, it must be reviewed and updated at each stage of the decision.
7. **All Cabinet, Council, and Portfolio Holder reports must be accompanied by an EqIA.** An EqIA should also be completed/reviewed at key stages of projects.
8. To assist you in completing this report, please ensure you read the guidance notes in the Equality Analysis Toolkit and refer to the following Factsheets:
 - Factsheet 1: Equality Profile of the Epping Forest District
 - Factsheet 2: Sources of information about equality protected characteristics
 - Factsheet 3: Glossary of equality related terms
 - Factsheet 4: Common misunderstandings about the Equality Duty
 - Factsheet 5: Frequently asked questions
 - Factsheet 6: Reporting equality analysis to a committee or other decision making body

Section 1: Identifying details
Your function, service area and team: Housing and Property Services
If you are submitting this EqIA on behalf of another function, service area or team, specify the originating function, service area or team: N/A
Title of policy or decision: Asbestos Policy
Officer completing the EqIA: Tel: Email: pwharfe@eppingforestdc.gov.uk
Date of completing the assessment: 17.4.23

Section 2: Policy to be analysed	
2.1	Is this a new policy (or decision) or a change to an existing policy, practice or project? <i>This is a revised policy replacing the existing one agreed in 2020.</i>
2.2	Describe the main aims, objectives and purpose of the policy (or decision): The purpose of the policy is to be clear about the council’s responsibility around asbestos and to ensure that residents, staff and contractors are kept safe from adverse effects of disturbed asbestos. What outcome(s) are you hoping to achieve (ie decommissioning or commissioning a service)? <i>Implementing the policy as attached.</i>
2.3	Does or will the policy or decision affect: <ul style="list-style-type: none"> • service users • employees • the wider community or groups of people, particularly where there are areas of known inequalities? <p>The policy requires that residents, staff and contractors are aware of the presence of asbestos before undertaking any works that might disturb it. Understanding asbestos may be harder for the council’s more vulnerable tenants as a social housing provider we understand that some council housing tenants have additional needs. The policy and associated documents therefore need to be well written so they can be easily understood. The Tenants Panel already work with the Council to test the comprehensibility of documents and will do this with the Asbestos Policy and leaflet.</p> <p>Will the policy or decision influence how organisations operate? <i>It is possible that staff and contractors will need to review how they work to make sure it is in line with the new policy.</i></p>
2.4	Will the policy or decision involve substantial changes in resources? <i>It does require new surveys to be done of the communal areas of blocks of council housing. This will cost £65,000 in the next 6 months.</i>

2.5	<p>Is this policy or decision associated with any of the Council's other policies and how, if applicable, does the proposed policy support corporate outcomes?</p> <p><i>Forms part of our compliance regimes and supports corporate policies on wellbeing of residents.</i></p>
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Section 3: Evidence/data about the user population and consultation¹

As a minimum you must consider what is known about the population likely to be affected which will support your understanding of the impact of the policy, eg service uptake/usage, customer satisfaction surveys, staffing data, performance data, research information (national, regional and local data sources).

3.1	What does the information tell you about those groups identified? <i>N/A</i>
3.2	Have you consulted or involved those groups that are likely to be affected by the policy or decision you want to implement? If so, what were their views and how have their views influenced your decision? <i>Consultation with resident groups is underway and due to scrutiny on Wednesday 24th May</i>
3.3	If you have not consulted or engaged with communities that are likely to be affected by the policy or decision, give details about when you intend to carry out consultation or provide reasons for why you feel this is not necessary: <i>Consultation with resident groups is underway and due to scrutiny on Wednesday 24th May</i>

Section 4: Impact of policy or decision

Use this section to assess any potential impact on equality groups based on what you now know.

Description of impact	Nature of impact Positive, neutral, adverse (explain why)	Extent of impact Low, medium, high (use L, M or H)
Age	<i>Positive Impact as it will help safeguard the safety of our residents from the risks of asbestos. We do have an existing policy although this is now out of date.</i>	<i>Low</i>
Disability		
Gender		
Gender reassignment		
Marriage/civil partnership		
Pregnancy/maternity		
Race		
Religion/belief		
Sexual orientation		

Section 5: Conclusion

		Tick Yes/No as appropriate	
5.1	Does the EqIA in Section 4 indicate that the policy or decision would have a medium or high adverse impact on one or more equality groups?	No <input checked="" type="checkbox"/>	
		Yes <input type="checkbox"/>	If ' YES ', use the action plan at Section 6 to describe the adverse impacts and what mitigating actions you could put in place.

Section 6: Action plan to address and monitor adverse impacts

NOT Applicable for this application

What are the potential adverse impacts?	What are the mitigating actions?	Date they will be achieved.

Section 7: Sign off

**I confirm that this initial analysis has been completed appropriately.
(A typed signature is sufficient.)**

Signature of Head of Service: Richard Spencer



Date: 19/05/2023

Signature of person completing the EqIA: Richard Spencer



Date: 19/05/2023

Advice

Keep your director informed of all equality & diversity issues. We recommend that you forward a copy of every EqIA you undertake to the director responsible for the service area. Retain a copy of this EqIA for your records. If this EqIA relates to a continuing project, ensure this document is kept under review and updated, eg after a consultation has been undertaken.