

Response to the Petitions Committee re Asbestos in Schools Petition 1st

March 2016

Since I gave evidence before the Committee, and in the interests of transparency, I felt that should confirm that I have assumed responsibility for secretarial duties for the Cross Party Group on Asbestos which has now met on the 20th October 2015 and on the 26th January. (I am also an observer member of the Joint Union Asbestos Committee (JUAC)-10 unions working together and aiming to make UK schools and colleges safe from the dangers of asbestos, both for staff and pupils. I am also a member of the Asbestos in Schools Group (AiS) chaired by Rachel Reeves MP.)

I have been asked for my comments on the letter of the Minister for Education and Skills of the 22nd December 2015 together with the terms of reference. I also propose to comment upon the evidence of the Minister to the Petitions Committee on the 24th November 2015.

Enclosures

I am attaching the following documents:-

- Letter of the Minister to Julie Morgan AM (with her permission) 1st February 2016
- Letter of Eluned Parrot AM to the Minister (with her permission) 1st February 2016
- Letter of the Minister to Eluned Parrot AM (with her permission) 17th February 2016
- The asbestos crisis-Why Britain needs an eradication law-All Party Parliamentary Group on Occupational Health –Asbestos Sub-Group
- DfE Terms of Reference for Steering Group on Asbestos in Schools 25 March 2011
- Email Chair of Department for Education Asbestos in Schools Steering Group 19.10.15
- Asbestos management in schools-DfE 25.03.15
<https://www.gov.uk/government/publications/asbestos-management-in-schools--2>
- Asbestos in Schools-A review of Department for Education Policy-March 2015
- Education Funding Agency-"Asbestos in schools data collection-Guidance on completing the online form"
- Email Julie Cook - the Wales TUC 10th February 2016
- Minutes of Cross Party Group on Asbestos 26th January 2016

There are a number of issues arising from both the evidence of the Minister and the subsequent correspondence. They include the question of responsibility and information being available online. They also include the Minister's statement,

"It's worth bearing in mind also that it's not just schools that contain asbestos; right across the public realm and, indeed, the domestic realm, we spent 30 years building this stuff into our buildings, and it's ubiquitous—this stuff is all around us all the time, unless we're spending all our time in very modern buildings."

I would respond that this is not a reason for inaction, and for this reason I have attached a copy of paper "The asbestos crisis-Why Britain needs an eradication law-All Party Parliamentary Group on Occupational Health –Asbestos Sub-Group".

I would add that the reason that schools should be prioritised is that they are special workplaces, in that they contain children. We now know that children are more vulnerable to asbestos risk and the Committee is of course aware of the report of the "Committee on Carcinogenicity" of June 2013.

We are aware that approximately 85% of the Wales' school contain asbestos, which in short means that the vast majority of our nation is affected by the issue of asbestos in schools.

It is in any event heartening to learn of the recent initiative of the Minister for Communities and Tackling Poverty.

[http://www.southwalesargus.co.uk/news/14290108. Lifesaving action being taken on asbestos/?ref=mr&lp=15](http://www.southwalesargus.co.uk/news/14290108. Lifesaving_action_being_taken_on_asbestos/?ref=mr&lp=15)

I shall revert to issue of responsibility for asbestos in schools in Wales below and shall be brief with regard to the issue of online accessibility as I wish to concentrate on the question of a Welsh Steering Group.

I do not agree that local authorities making available information as to asbestos in schools, is adding an additional burden. In the 21st Century, the storing of information electronically, is the way forward in all walks of life. There is a duty in any event under the Control of Asbestos Regulations to ensure that information is kept up to

date and under review. I fail to see how it “*add a tremendous bureaucratic burden onto local authorities*” particularly the issue of reduction of local authorities in Wales is on the agenda for the Welsh Government and ensuring retention of and transfer of information will key in such reorganisation.

I refer to the attached correspondence between Eluned Parrott AM and the Minister particularly with regard to online availability of information for the emergency services in the event of fire and flood.

I would remind that Regulation 4 (9) of the Regulations contains specific duties which I have highlighted with regards to the emergency services.

“(9) The measures to be specified in the plan for managing the risk must include adequate measures for—

(a) monitoring the condition of any asbestos or any substance containing or suspected of containing asbestos; .

(b) ensuring any asbestos or any such substance is properly maintained or where necessary safely removed; and .

(c) ensuring that information about the location and condition of any asbestos or any such substance is— .

(i) provided to every person liable to disturb it, and .

(ii) made available to the emergency services.”

I would refer to discussion held by the Cross Party Group on Asbestos on the 26th January 2015, which are attached (as they are not yet on the National Assembly website) where support can be found for online access from those trade union representatives present including the FBU.

However as indicated above I shall concentrate on the issue of an Asbestos in Schools Steering Group.

Steering Group on Asbestos in Wales

I was surprised to learn for the first time, when the Minister for Education and Skills gave evidence, that his Department had set up its own working group, which had met seemingly in the summer of 2014 (and I shall return to this below) and that it observed on the English working group.

The Committee will of course recall the Minister's letter to the Chair of the 15th July 2015, when he stated,

"Thank you for your letter of 26 June, where you asked me to expedite my reply to you with respect to asbestos management in schools for the Petitions Committee, and specifically address the key points raised by petitioner Cenric Clement-Evans, which are that:

- a. a Steering Group be set up to assist the Department for Education and Skills to inform policy development;*
- b. there should be easy access to information around asbestos in schools; and*
- c. that the Minister accepts responsibility for asbestos policy in schools.*

I have recently met with my officials to discuss the complex issues around the management of asbestos in schools, and will now address the issues raised in turn: The steering group in England was set up to review the policy of Asbestos Management in Schools in England following the statement of the Committee of Carcinogenicity in 2013. Following the publishing of these review findings we are satisfied that the work carried out by this group of experts will provide sufficient information for Welsh Government to deal with the issue of asbestos at this time. However, I will continue to maintain close contact with the UK Government Department of Education (DfE) as they develop their plan for improving their evidence base, and I will review our policy once these findings are made public"

I find it extraordinary that the Minister failed to mention, in his letter of the 15th July, the fact that he had set up a Working Group in Wales and do wonder if Ms Lerner in her evidence was mistaken when she stated,

“The group had a first meeting back in June or July last year, following the review that came out. We’ve now established it formally as a working group, because we felt it was of value to Wales”

I say this because the DfE Review of policy was not published until March 2015. I would ask if clarification might be sought as to precisely when the Working Group met.

It is in any event surprising that neither the Minister nor Ms Lerner were able to be more precise and provide greater detail in their evidence to the Committee, as the issue of a Steering Group in Wales had become a matter of some importance and indeed was highlighted by the BBC on 30th July 2015 <http://www.bbc.co.uk/news/uk-wales-33708601>

I turn next to the Minister’s evidence that,

“...we may not be a part of the English steering group, but we have our own working group and we do observe on the English working group.”

I am not sure of the nature of this observation. I attach a copy of the email of the Chair of the Asbestos in Schools Steering Group Mike Green which I read to the Committee during my evidence on the 20th October. Unfortunately the email was not put to the Minister when he came to give evidence.

I set it out the body of the email for ease, although reference should be made to the questions emailed to him initially. It should be recalled that I had made contact with Mr Green in light of the letter of the Minister to the Chair of the 15th July 2015 (to which I have referred above).

“The Department for Education’s remit is for schools in England. As such, the Asbestos in Schools Steering Group, which was set up by the department in 2012, only covers the issue of asbestos management in schools in England.

The remit of the committee means it has not received specific representations on behalf of schools in Wales, though as you suggest references to schools in Wales will have been made in the course of its discussions.

Focussing on schools in England enables the group to consider the specific issues faced by English schools, which exist in a different policy framework to those in Wales. I would therefore suggest it is right that the remit of the Steering Group is to consider schools in England.

Clearly, however, many of the issues that schools encounter with regard to asbestos management in Wales will be similar as those faced by schools in England. We are therefore happy to work with the Welsh Government to share the findings of the group as their work continues.”

It will be noted that there have been no specific representations on behalf of schools in Wales. I am also advised by JUAC and AiS that there have been no representatives from Wales at the meeting of the DfE Steering Group. I conclude therefore, that observing, insofar as Welsh Government is concerned, is limited to the reading of the minutes.

I would ask that the Committee asks the Minister to clarify precisely what steps are being taken to observe on the DfE Asbestos in Schools Steering Group.

I was further disturbed, upon hearing the Minister’s evidence to learn that the working group in Wales consisted of effectively Government Departments (whether Welsh or UK Government), namely “NHS, the Health and Safety Executive, Public Health Wales, and Welsh Government.”

This was in sharp contrast to the nature of the group that I suggested when I called for a Steering Group in Wales when on the 6th May 2015 I wrote to the Petitions Committee calling for a Steering Group on Asbestos in Wales.

“As the Minister is aware the Department for Education Asbestos in Schools Steering Group was established to improve the asbestos management in schools. Its members are drawn from a wide range of disciplines and expertise. It is chaired by a senior civil servant and reports to the Minister. The Group both recommended that an assessment should be made of the asbestos risks to children and also that a review should be carried out of asbestos policy in schools. It then played an active part in the review. I enclose a copy of the Steering Group’s terms of reference which

I hope are useful.

.....I would very much urge the Department for Education and Skills to set up a similar Steering Group, so that when deciding upon policy it benefits from the wisdom and experience of many different voices.

In particular such a group should be led by the Department and include Assembly Members, members representing local authorities, governors, trade unions, health professionals, the HSE and asbestos experts.”

(Upon reflection I now feel that I omitted to include representation on behalf those affected by asbestos).

Further to the letter of the Minister to the Chair of the 22nd December, the Minister also wrote to Julie Morgan AM on the 1st February, wherein he stated,

“The Asbestos Management in Schools Working Group met on 25 January, and I can confirm that at present the group comprises representatives from HSE Wales, Public Health/NHS Wales and the Welsh Government. Following group discussions it was agreed that at guidance and policy decision stages additional key stakeholder groups should be consulted, including the teaching unions.”

This is in sharp contrast with the Department for Education Steering Group where trade unions take an active part throughout and representation is not limited to teaching unions. For confirmation of this, I refer to the terms of reference for the DfE Steering Group dated 22nd February 2011 which sets out the membership

“Membership

3.1. The group is convened by DfE and chaired by a senior civil servant from DfE. The group will report to ministers and make recommendations about ongoing activities, as necessary.

3.2. Membership of the steering group is made up of the following key representatives of organisations and invited stakeholders.

3.3. Annette Brooke, MP for Mid Dorset and Poole, Chair of Asbestos in Schools sub-Committee of The All-Party Parliamentary Group on Occupational Safety and Health

- 3.4. *Teaching union representative, rotated between the unions*
- 3.5. *Non teaching union representative, rotated between the unions*
- 3.6. *Employers' representative, nominated by Local Government Employers (LGE)*
- 3.7. *Asbestos management representative - Chair of Asbestos Testing and Consultants Association (AtaC)*
- 3.8. *A local authority officer with relevant responsibilities,for asbestos management in schools*
- 3.9. *Jim Sheridan, Chair of the All-Party Parliamentary Group on Safety and Health*
- 3.10. *Michael Lees (representing asbestos victims)*
- 3.11. *Representative from the Independent Schools Bursars Association*
- 3.12. *Representative from the National Association of Head Teachers*
- 3.13. *Representative from the National Governors Association has been invited*
- 3.14. *Co-opted expert members if and when required*
- 3.15. *DfE, HSE and PfS will be invited to meetings as policy leads and technical experts, to update the project board on progress and to respond to issues raised.*
- 3.16. *Representative from the National College for Leadership in Schools and Children's Services when its role as trainer of headteachers and school business managers is on the agenda."*

Additionally I refer to the attached email of Julie Cook National Officer for the Wales TUC dated 10th February 2016,

"The Wales TUC are aware of the above working group and its representatives. I also understand that its been suggested that teaching unions should be included as stakeholders which is fine, however, we feel that representation from the Wales TUC would be helpful as asbestos management in schools doesn't just effect teaching staff."

The terms of reference for the Welsh Group are extremely limited when compared with those of the DfE Steering Group which I have referred to above.

"The specific functions of the Group are:

- *review the current guidance for Asbestos Management in Schools and update when and if required;*
- *review and discuss the ongoing work of the English government in the Asbestos Management in Schools field; and*
- *make recommendations where appropriate for new policy strands in this field”*

This is in again sharp contrast with the DfE Steering Group Terms of Reference which I have set out below so that this is contrast is quite clear.

“2. Terms of Reference

2.1. To consider the risks posed by asbestos in schools and other children’s settings

2.2. To contribute to the development of the DfE/HSE/Partnerships for Schools (PfS) plans to ensure that asbestos is competently managed in schools.

2.3. To review progress against DfE/HSE/PfS plans to promote the effective management of asbestos in schools.

2.4. To ensure that key stakeholders are informed of relevant work that is undertaken to ensure that asbestos is managed effectively in schools.

2.5. To provide input to DfE, PfS and HSE in the preparation of any asbestos guidance that may be drafted specifically for schools and children’s settings.

2.6. To promote good practice in asbestos management in schools by local authorities, dioceses, school governors, bursars and school business managers, parents’ groups and the teaching and support staff unions – in the independent and maintained sectors.

2.7. To share good practice in documentation and systems in place to effectively record and manage the risks from asbestos in schools.

2.8. To provide an input into the development of any common standards, tools or documentation for schools, governors, dioceses and local authorities on asbestos management.”

Finally I have attached the Education Funding Agency-“Asbestos in schools data collection-Guidance on completing the online form” which includes the online survey questions sent to schools in England by the DfE on behalf of Mr Mike Green and which survey closed on the 29th February. This is an important survey collating data for use by DfE in addressing the issues of asbestos in schools in England.

I am unaware of any similar work with regard to schools in Wales. Surely the Committee will agree with me that such data collection is essential also here in Wales, to establish the extent of the asbestos issue in the schools estate and to plan strategically for the future.

Conclusion

It can be seen from the above that there are significant differences between the Steering Group in England and the Working Group here in Wales.

Wales needs either a steering group to mirror that of the DfE or as a very minimum full representation at the DfE Steering Group which leads to action here in Wales.

The issue of responsibility continues to be a vexed one, with neither UK Government nor the Welsh Government taking responsibility for schools in Wales.

If the Welsh Government are correct that it is a matter for UK Government responsibility, then why are they not demanding action from UK Government. I would request of the Committee that it asks the Minister for Education and Skills, in view of its position on responsibility, as to what precisely Welsh Government is doing to ensure that UK Government does take responsibility for the issue of asbestos in schools in Wales.

In the meantime the issue of asbestos in schools in Wales is clearly not receiving the same attention as in schools in England. This cannot be right.

Cenric Clement-Evans

1st March 2016