

Nick Ramsay AM
Chair
National Assembly for Wales
Public Accounts Committee

16th May 2018

Dear Chair,

Public Accounts Committee: Inquiry into 21st Century Schools and Education Programme

I hope that you don't mind my writing to you as I have been informed of the inquiry being carried out by the Committee. My letter relates only to matters regarding asbestos in schools and colleges in Wales.

As you may recall from when you were Chair of the Cross Party Group on Asbestos in Schools, I am the secretary of that CPG, (which is now chaired by Dawn Bowden AM).

For completeness you may also recall that I am an observer member of the Joint Union Asbestos Group. My petition on asbestos in schools continues to be scrutinised by the Petition's Committee <http://senedd.assembly.wales/ielIssueDetails.aspx?Id=8437&Opt=3>

The Public Accounts Committee may find the presentation given by John Evans of Santia Asbestos Management Ltd to the CPG in January 2018 to be of assistance on the issue of asbestos in schools in Wales. This is dealt with in particular from slide 10 onwards and includes reference to the information obtained by Lucie Stephens (who lost her mother, a school teacher, to mesothelioma) and in particular can be set out at slides 13 and 14. The FOI responses can be seen in full at https://www.whatdotheyknow.com/user/lucie_stephens/requests

The main purpose of my letter was to highlight the scrutiny by the House of Commons Public Accounts Committee and also the positive responses to the Public Accounts Committee from the UK Government. I have previously highlighted this with the Petitions Committee.

I refer firstly to the House of Commons Public Accounts Committee of the 26th April 2017 (attached) and section 5.

"5. The Department still does not know enough about the state of the school estate, meaning that it cannot make well-informed decisions about how best to use its limited resources. The Department now has a better understanding of the condition of school buildings after completing a survey of the estate in 2014. This property data survey estimated that it would cost £6.7 billion to return all school buildings to satisfactory or better condition, and a further £7.1 billion to bring parts of school

buildings from satisfactory to good condition. Much of the school estate is over 40 years old, with 60% built before 1976. The Department estimates that the cost of dealing with major defects will double between 2015-16 and 2020-21, even with current levels of investment, as many buildings near the end of their useful lives. The property data survey did not assess the safety or suitability of school buildings or the extent of asbestos. Over 80% of schools responding to a separate survey by the Department had asbestos, with 19% reporting that they were not complying with asbestos management guidance. However, only a quarter of schools responded to the survey, meaning that the Department does not have a complete picture. The Department estimates that it would cost at least £100 billion to replace the entire school estate which it believes would be the only way to eradicate asbestos from school buildings. The Department is undertaking a second property data survey but, until this is complete, it cannot assess reliably how the school estate is changing and does not know the extent to which its funding is helping to improve the condition of school buildings.

Recommendation: The Department should set out a plan by December 2017 for how it will fill gaps in its knowledge about the school estate in areas not covered by the property data survey. Specifically it needs to understand the prevalence, condition and management of asbestos, and know more about the general suitability and safety of school buildings.”

In October 2017 HM Treasury responded (and this response is also attached) agreeing with the recommendations of the Public Accounts Committee,

“5 : Committee of Public Accounts conclusions : The Department still does not know enough about the state of the school estate, meaning that it cannot make well – informed decisions about how best to use its limited resources .

Recommendation: The Department should set out a plan by December 2017 for how it will fill gaps in its knowledge about the school estate in areas not covered by the property data survey. Specifically it needs to understand the prevalence, condition and management of asbestos, and know more about the general suitability and safety of school buildings .

5.1 The Government agrees with the Committee’s recommendation.”

More recently the House of Commons Public Accounts Committee on 30th March 2018 <https://publications.parliament.uk/pa/cm201719/cmselect/cmpubacc/760/76005.htm> has stated as follows:-

"6. The Department does not have enough information about the extent of asbestos in schools to ensure that the risks are being properly managed. Asbestos is a significant, and potentially dangerous, problem in many schools. In April 2017, we found that the Department did not have a complete picture of the extent of asbestos in school buildings. The Department's first property data survey did not assess the extent of asbestos. Only a quarter of schools responded to its second survey, in 2016, which aimed to collect data on this issue. We recommended that the Department should set out a plan by December 2017 for how it would fill gaps in its knowledge about the school estate in areas not covered by the property data survey. The Department's latest property data survey is currently taking place and will provide more information on the presence and management of asbestos. The Department accepted that information on asbestos in school buildings should be available locally and easily accessible to parents and local communities. ESFA told us that it expected information on asbestos to be available locally for parents to view, and without recourse to Freedom of Information requests. We were concerned to hear of an example where this had not been the case and local communities could not easily access this information.

Recommendation: The Department should publish the results of its ongoing exercise to collect data on asbestos; and make clear to Local Authorities and academy trusts that information should be made available by the end of June 2018."

In a separate although not necessarily unconnected development at the beginning of March 2018 (in respect of which I wrote to the Petitions Committee on 5th March 2018) the Department for Education at Westminster (DfE) launched its Asbestos Management Assurance Process (AMAP) summarised by one of my JUAC colleagues as follows:-

"The DfE has now launched its Asbestos Management Assurance Process (AMAP), which requires 'Responsible Bodies', via an online portal, to provide an electronic declaration that their schools are compliant with legislation on the management of asbestos in their education estate. 'Responsible Bodies' are the main employer of staff at maintained schools and academies (academy trusts, LAs and in some cases governing bodies). Although it is not described as compulsory, Responsible Bodies are 'expected' to comply and the DfE has stated that it intends to publish data which shows which Responsible Bodies have provided assurance declarations. The AMAP will not apply to non-maintained nursery schools or early years providers, FE and HE institutions, sixth form colleges and independent schools.

Although it is the duty of each Responsible Body to ensure that the form is submitted on behalf of all its schools, it can ask individual schools to provide it with the relevant information. However, the Responsible Body remains ultimately responsible for validating

and ensuring the accuracy of information submitted by individual schools, and for providing the overall assurance declaration to the DfE.

The AMAP will be open for 3 months (the deadline for submitting assurances is 31 May 2018). During this time the DfE will remind Responsible Bodies of the expectation that responses are submitted.”

The DfE user guide is here <https://www.gov.uk/government/publications/asbestos-management-assurance-process-amap-user-guide> The AMAP online portal is at https://onlinecollections.des.fasst.org.uk/onlinecollections_ns/

It will be noted that it is stated on the introductory page.

“The AMAP meets the department’s commitments set out in the March 2015 review of Asbestos Management in Schools, enhancing scrutiny on those responsible for managing asbestos in schools.

You are expected to complete the AMAP if you are a Responsible Body.

- *Responsible Body: the main employer of staff at State-Funded Schools and Academies.*
- *State-Funded Schools and Academies : maintained nursery schools, maintained schools (including primary, secondary and middle schools), maintained special schools and academy special schools, pupil referral units, academies and free schools and non-maintained special schools.*

This guidance is for anyone who is responsible for the management of asbestos in the education estate and compliance with the Control of Asbestos Regulations 2012.”

Seemingly the DfE is providing an online solution for data collection which thus far Welsh Government has been reluctant to embrace.

I am highlighting these matters and drawing them to the attention of the Public Accounts Committee as it can be seen that overall that there is a direction of travel being taken by UK Government which is one of increasing its knowledge regarding the extent and condition of asbestos in schools and colleges in England. That direction of travel is an increasingly transparent one.

There is of course a significant cost implication associated with the management of asbestos in schools and increased knowledge of the extent and condition of asbestos is essential when looking at the overall issues of funding of schools whether they in Wales or England. Frankly without detailed central knowledge of the extent and condition of the asbestos, it is impossible to assess the cost of maintenance and renovation of the school stock in Wales. It is self-evident that the presence of asbestos can have considerable impact the costs of any such works. I attach with my letter to illustrate the issues, the report of JUAC “Why unsafe asbestos may still be in our schools in 2050”

I am attaching a number of letters from the Cabinet Secretary for Education, which whilst illustrating that there is some information gathering from local authorities in Wales, there is a lack of transparency as to what information is being sought and what will be done with it. Furthermore there does not appear to be any willingness to share the data with key stakeholders.

I would be grateful for consideration of the Public Accounts Committee of these issues and wonder whether the Committee, as a start, would be prepared to make a recommendation similar to that made by the House of Commons Committee in April 2017.

“Recommendation: The Department should set out a plan by December 2017 for how it will fill gaps in its knowledge about the school estate in areas not covered by the property data survey. Specifically it needs to understand the prevalence, condition and management of asbestos, and know more about the general suitability and safety of school buildings.”

In short when issues of funding relating to schools and colleges in Wales falls to be considered, it essential that cost of maintaining and where appropriate removal be taken into account, particularly in light of the fact that approximately 85% of our schools and colleges are said to contain asbestos.

Yours in anticipation

J Cenric Clement-Evans

Cenric Clement-Evans
Associate
NewLaw Solicitors
Direct Dial: 0333 321 7959
Email: cenric.clement-evans@new-law.co.uk