

Asbestos Liaison Group (ALG)

ALG Memo 02/09

ALG memos are produced by the ALG to provide information and guidance to the asbestos industry and other interested stakeholders.

Date: 9 March 2009

Subject: Asbestos licences and the role of consultants

- 1) Licensing is an addition to the general framework of health and safety law. It builds on the fact that the legal duty to manage risk lies with the organisations that create them. In order to be granted a licence to work with asbestos an applicant will need to demonstrate that they (not their consultant) have the necessary skills, competency, expertise, knowledge and experience of work with asbestos, together with excellent health and safety management systems.
- 2) ALU's role is to ensure that licences are granted to (and held by) those who are able to ensure that asbestos work is done to an appropriate standard. HSE's interest lies in an applicant's management arrangements and competence, as the legal duty to manage risk will rest with the applicant. External consultants will be peripheral to this decision making process.
- 3) Detailed guidance on general expectations with regard to health and safety management is beyond the scope of this memo and should be found elsewhere. The following publications will be particularly useful and demonstrate the expectations with regard to licence applicants (irrespective of any involvement with consultants):
 - a. The Asbestos Licence Assessment Guide (<http://www.hse.gov.uk/asbestos/information.htm>) and the HSE publication "Successful health and safety management" (HSG65)
 - b. The Institute of Directors / HSC leaflet "Leading health and safety at work" INDG417 (<http://www.hse.gov.uk/pubns/indg417.pdf>)
- 4) Operational inspectors frequently comment on the poor quality or generic nature of documentation produced by licence holders. Anecdotal evidence suggests that externally produced paperwork frequently has no relevance to the licence holder's business and therefore only serves to demonstrate a lack of competence with regard to managing health and safety. Any health and safety system and paperwork, whether or not produced with the help and guidance of a consultant, can only be relevant where it reflects the actual working practices and management structure of the licence holder. To be meaningful, policies and written procedures etc. must be used to determine the way work is carried out. The emphasis is on the effectiveness and usefulness of systems etc. rather than volume of paperwork. Effective policies

and procedures can not be produced without the active involvement of senior managers / directors.

Assessment interviews

- 5) The purpose of an assessment interview is to assess whether or not the applicant possesses the attributes mentioned above. Other than in extenuating circumstances, the contact visit with the company should be arranged with the person who signed the ASB1 and with the person or persons who have the appropriate in-depth expertise on asbestos and will be responsible for the standards of work that will be carried out. In small, specialised companies these may be one and the same.
- 6) An external consultant may be present, but applicants should remember that the assessing inspector is seeking evidence that there is **sufficient in-house expertise** otherwise a licence may not be issued. Therefore, the consultant would normally not play an active part during the assessment. Coaching, or the provision of advice to an applicant during the interview, may be taken to indicate that the applicant lacks sufficient competence. The assessing inspector may request that the consultant should not be present, or request that they leave during the interview. If so, the consultant must comply with the inspector's instructions.

Appropriate roles for external consultants

- 7) By way of illustration, the following suggests suitable roles for external consultants when working with licence holders. This list is not intended to be exhaustive.
 - a. Consultants might assist the applicant in preparation for an initial assessment. The following examples indicate the kind of help that may be useful:
 - i. A consultant might help an applicant produce a meaningful health and safety policy and written health and safety arrangements. Such documentation could only be developed through detailed discussions between the two parties and a consultant's thorough investigation of current management arrangements.
 - ii. Generic documentation (or documentation produced with scant reference to an applicant's actual business activities and management arrangements) will not be acceptable and would reflect poorly on the applicants' competence and attitude.
 - iii. A consultant may be well placed to guide an applicant through the ALAG and the standard letter sent from Asbestos Licensing Principal Inspectors to new applicants prior to assessment meetings.
 - b. New licences will not be granted unless an applicant is able to demonstrate sufficient competence. However, in certain circumstances, such as when a contractor is developing experience during the initial year of a licence, consultants may (as agreed with the assessing inspector) be a valuable source of assistance with regard to specific circumstances, or with regard to the maintenance and development of effective management techniques and systems. The limitations of a consultant's role should be

fully appreciated. It is the licence holder who creates and owns risk associated with their licensed work.

- c. A successful licence applicant will have been able to demonstrate sufficient in-house competence and robust management. This would incorporate an ability to recognise when external advice is needed. A consultant might provide assistance on specialist matters, not directly related to the attributes required to obtain and keep a licence. This may be useful if in-house expertise is not sufficient, competent or is lacking in specific areas (e.g. confined spaces, work at height).
- d. To provide **additional** auditing / measuring information in relation to a licence holder's activities. This is unlikely to be meaningful or relevant unless licence holders can demonstrate that such information is used by senior management to review and develop the way they work. External auditing would not replace an organisation's own methods of monitoring and measuring performance: a licence holder's own senior managers/ directors are best placed to ensure appropriate standards are met.

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(updated November 2013)