

ASBESTOS IN SOIL, MADE GROUND AND CONSTRUCTION WASTE

Joint Industry Working Group Meeting

MEETING No. 3 – Tysers Office, London

26th September 2012

FINAL

Attendees

NAME	REPRESENTING
Steve Forster - Chair	EIC
Nicola Harries - Secretariat	CL:AIRE
Tim Morris	EA
Simon Cole	SoBRA
Richard Boyle	HCA
Tracy Braithwaite	SAGTA
Bill Baker	Independent Consultant
Seamus Lefroy-Brooks	AGS
Rob Blackburn	ATAC and ARCA
Alan Jones	IOM
Colette Willoughby	BOHS
John Ferguson	Balfour Beatty Major Civil Engineering
Joanne Kwan	CIRIA
Chris Chiverrell	CIRIA
Barry Menzies	FDC and CECA
George Kowalczyk	HPA
Kate Brooks	UKAS

Apologies

Craig Bell	HSE
Gary Burdett	HSL
Trevor Howard	EA
Lee Brownsword	Liverpool City Council
Rachael Adams	MoD

Agenda

1. Welcome and apologies
2. Previous minutes
3. CIRIA Client's Guide - Project Manager's update
 - a. Update on cooperation agreement
4. Update from HSE on asbestos-related documents and other activities
 - a. ACOP
 - b. HSG248/CFM WG2
5. Update from Environment Agency on review of waste classification/regulation and permitting
6. JIWG membership update
7. Funding update
8. Revised project programme
9. JIWG Code of Practice – scope and framework
 - a. Key regulatory review
 - b. Development Industry Definition of Waste Code of Practice
 - c. Comments on existing structure and thoughts on development
10. Expressions of Interest
 - a. Open call
 1. NZ offer
 - b. Targeted approach
 - c. EIC/JIWG members
11. Critique of CIRIA Client's Guide – Chapters 2, 11, 12, 13 & 14
12. AOB
 - a. AGS Interim Guidance
 - b. DfT/VOSA (CDG/ADR)

No.	DISCUSSION	ACTION
1.	<p><u>WELCOME and APOLOGIES</u></p> <p>The chair Steve Forster welcomed all to the meeting and thanked people for making the time available to meet. Apologies had been received from Trevor Howard – EA however Tim Morris was attending to represent the EA, Craig Bell – HSE, Garry Burdett – HSL, Rachael Adams - MoD and Lee Brownsword – Liverpool City Council but Bill Baker was attending to represent local authority contaminated land officers.</p>	
2.	<p><u>PREVIOUS MINUTES</u></p> <p>It was agreed that most actions had been completed or would be addressed through the meeting.</p> <p>Outstanding Agenda Items CL:AIRE to prepare a draft press release for sign off. CL:AIRE had not completed this action as it was felt that a press release would be better to be issued when the final scope had been finalised and the programme agreed.</p>	CL:AIRE
3.	<p><u>CIRIA CLIENT'S GUIDE - PROJECT MANAGER'S UPDATE</u></p> <p>CIRIA provided an update on the preparation of their "Guide to managing and understanding the risks of asbestos in soil and in brownfield sites". Joanne Kwan (JK) explained that only five chapters of the report had been circulated in the summer. The next full draft will be available in mid October 2012. The next CIRIA project steering group (PSG) meeting is scheduled for the end of October. The next full draft will be circulated to the JIWG for their review and comment. JK acknowledged that very little time had been provided for reviewing of the previous draft chapters and the PSG meeting which makes it difficult to feedback constructively. Also some of the chapters indicated that they would be changing substantially which also did not give encourage review. The next draft will be a full report and she encouraged the JIWG to wait until this draft comes out to provide comments. The JIWG agreed to feedback to Steve Forster and he will provide and collate responses on the next full draft using the CIRIA feedback form. JK explained that the research contractor is required to provide two full working weeks review period prior to the PSG meeting to allow adequate time for review and feedback, and then an additional two weeks after the PSG meeting. The full project report is still on track to be delivered in late November/early December.</p> <p>There was discussion about the draft chapters that people has seen so far and there was concern that the approach being taken by CIRIA's research contractor LQM was very conservative and that there needs to be more realism and real life examples.</p> <p>There was also concern that the title of the report was ambiguous as it mentions "managing risk". It was believed that the report does not provide this as it currently stands. The lines of evidence that are needed to demonstrate managing is not evident. The report talks about what is current practice and identifies the issues and uncertainties and provides a lot of personal interpretation.</p>	JIWG & SF
4.	<p><u>UPDATE FROM HSE ON ASBESTOS-RELATED DOCUMENTS AND OTHER ACTIVITIES</u></p> <p>a. ACOP b. HSG248/CFM WG2</p> <p>SF explained that he and NH had met with the HSE and the EA the day before. He confirmed from discussions with HSE that there is a possibility that the two Asbestos Codes of Practice (ACOPs) will be merged and consolidated down to a slimmed version with a significant rewrite and update with the new regulations. There will be a consultation about this and the</p>	

	<p>JIWG were actively encouraged to feed into the consultation that there needs to be signposting to the JIWG work on asbestos in soil.</p> <p>HSG248 is currently being revised and the third meeting of Working Group 2 is due to meet on 10th October in Sheffield. HSL are applying a narrow definition in respect to worker protection only. It does propose to discuss site investigation and drilling of holes for example but in respect of worker protection only. HSE have committed to signposting to JIWG and CIRIA work.</p>	ALL
5.	<p><u>UPDATE FROM ENVIRONMENT AGENCY ON REVIEW OF WASTE CLASSIFICATION/REGULATION AND PERMITTING</u></p> <p>Tim Morris provided an update on the work that he has been carrying out in relation to waste classification, regulation and permitting. He confirmed that he is currently looking at the issue of what constitutes hazardous/non hazardous waste when asbestos is contained in material. What is deemed "identifiable". He is currently seeking advice from their legal team into case law where classification in process has been used. Unfortunately they are not aware of many situations at the moment. They need to look at reuse of material and if there is an environmental risk.</p> <p>It was discussed that there are a number of precedents already in place on projects where the EA has permitted material to be placed back on site that contain small amounts of asbestos.</p> <p>One main problem is that the waste regulations are hazard based but redevelopment is risk based.</p> <p>There were discussions on the difficulties also occurring with different regional staff within the EA who provide conflicting advice especially in relation to environmental permitting and when plant does or does not require a permit.</p> <p>It was agreed that the JIWG members should ask their organisations that they represent to feed into this debate and come back with a list of activities where permits may or may not be needed or have been required so clarification can be sought from the EA and then this could be fed into the Position Statement and ultimately provide clearer guidance.</p>	ALL
6.	<p><u>JIWG MEMBERSHIP UPDATE</u></p> <p>Nicola Harries (NH) reported that she had committed to keep the devolved administrations up to speed with the work of the Asbestos in Soil work through the Land Forum. She had also contacted the Planning Officers Society and Royal Town Planning Institute to ask if they would like to engage with the JIWG. As yet she has not heard back.</p> <p>It was raised, that with Royal Institute of Chartered Surveyors (RICS) should be invited to engage with the JIWG as they are responsible for valuing and assessing land especially buildings that have asbestos in. Rob Blackburn offered to speak to John Richards who is a RICS member and asbestos management surveyor to raise it with RICS.</p>	Rob Blackburn
7.	<p><u>FUNDING UPDATE</u></p> <p>NH confirmed that they have secured £95k in committed funding. CL:AIRE will continue seeking further funding to try and meet the £160k target. A large part of the remaining funding will be met by in kind contributions of time from</p>	

	<p>individuals who have already committed substantial contributions. CL:AIRE is still keen for professional groups who are members of JIWG to come together and commit financial contributions through their members. A little funding from a number of members adds up. It was requested that JIWG members who are representing membership organisations to circulate a request of funding to support the development of the Asbestos in Soil Code of Practice.</p>	<p>JIWG Membership Organisations</p>
8.	<p><u>REVISED PROJECT PROGRAMME</u></p> <p>SF provided an updated programme and explained how it is important to interlock the production of the JIWG Asbestos in Soil Code of Practice with all other pieces of guidance that are currently being worked on. As we had committed to work alongside the production of the CIRIA and the uncertainty of when the CIRIA report will be produced, it was agreed to slide the programme back slightly with the main work of the Asbestos Code of Practice starting in January 2013. It is therefore envisaged that the Asbestos in Soil Code of Practice will be produced in draft for the end of 2013, early 2014 which will tie up with the updating of the HSE guidance in Autumn 2013.</p> <p>Therefore in summary there is a 3 month delay in awarding the contracts, and therefore preparation of the document. This allows for continued dialogue with the EA & HSE to hopefully help steer a way through the regulatory issues that needs to be resolved.</p> <p>The JIWG agreed that the route being taken is a sensible one.</p>	
9.	<p><u>JIWG CODE OF PRACTICE – SCOPE AND FRAMEWORK</u></p> <ol style="list-style-type: none"> Key regulatory review Development Industry Definition of Waste Code of Practice Comments on existing structure and thoughts on development <p>SF led the discussion about the scope and the framework of the proposed Asbestos in Soil Code of Practice. CIRIA had previously raised the point that the headings in the draft scope of the JIWG Code of Practice were very similar to the CIRIA Guide. This was acknowledged as the issues are going to be similar but it is envisaged that the way the information is presented will be quite different. SF explained that he thought that the JIWG Code of Practice was going to look more like the HSE Asbestos Code of Practice or CL:AIRE Definition of Waste Code of Practice, but it is up to the JIWG as to what they were seeking.</p> <p>It was agreed that the Asbestos in Soil Code of Practice must be easy to use and practical so that it is then always used. It was felt that signposting to relevant legislation or guidance, what the minimum legal requirements and then watch points would be really useful.</p> <p>It is important that all JIWG members and the member organisations that they represent identify the key issues that need to be addressed by the Asbestos in Soil Code of Practice. All were requested to canvas their members and report back by the 31st October 2012 to focus group leaders.</p> <p>It was suggested that focus groups are set up to review the key issues that people felt needed to be addressed under the following headings. Each member of the JIWG to feed into the different sections that are being led by JIWG members and to canvas their members as well to ensure it is as cross sector as possible:</p>	<p>All</p>

	<p>A. Investigation & Monitoring – Seamus Lefroy-Brookes</p> <p>B. Laboratory Analysis – Rob Blackburn</p> <p>C. Human Health Risk Assessment – Simon Cole</p> <p>D. Waste Management – Barry Menzies</p> <p>E. CAR 2012 & EPR 2010 – Lee Brownsword</p> <p>The Focus Groups need to identify the issues, why they are issues and then suggest ways that the issues can be resolved.</p> <p>It was also requested that the focus groups review different work categories that are undertaken as part of people's everyday work and list them under "Licensed Work Activity, Notifiable Non-Licensed Work activities and non licensed work activities". It was confirmed that there were some activities that were ambiguous and needed clarification from the HSE. This would help the JIWG Asbestos in Soil Code of Practice focus on areas that needed clarification.</p> <p>Again it was asked that all members of the JIWG could ask their member organisations and feed into the focus group leaders by 31st October 2012.</p> <p>NH to circulate templates to be used and the JIWG contact details.</p> <p>BOHS explained that they are currently developing further curricula to include asbestos in soil. It was unsure at this stage what the full scope of the courses will cover. It was discussed that it is important that these need to tie up with what the whole industry who work with asbestos in soil. It was agreed that people will need training to an appropriate level in identifying asbestos in soil but this needs to be undertaken with industry identifying the key competencies that are required, which are very broad.</p>	<p>All</p> <p>All</p> <p>NH</p>
10.	<p><u>EXPRESSIONS OF INTEREST</u></p> <p>NH confirmed that an Expressions of Interest form was circulated to industry in August to gather together interested parties to help author the Asbestos in Soil Code of Practice. Closing date for interested parties is 19th October 2012. NH agreed to circulate the link to the JIWG who were asked to circulate to their member organisations and encourage submissions.</p>	<p>NH</p>
11.	<p><u>CRITIQUE OF CIRIA CLIENT'S GUIDE – CHAPTERS 2, 11, 12, 13 & 14</u></p> <p>SF confirmed that JIWG are keen to ensure that the two asbestos projects (CIRIA and JIWG) are as integrated as possible. He confirmed that he had spent considerable time reviewing the previous legislation chapter and other JIWG members had reviewed specific chapters in the short time provided and fed this back to SF to feed into CIRIA.</p> <p>When the next full version of the CIRIA document is made available, the JIWG will endeavour to review and provide comment providing adequate review time is provided. CIRIA confirmed that every comment that is made on a report during drafting is reviewed and a comment is provided back by the research contractor, either accepting the comment or rejecting with a reason. This ensures all comments are addressed and there is a transparent review process.</p> <p>It was agreed that it was important to capture what is not being covered by the CIRIA guide that needs to be covered by the JIWG Asbestos in Soil Code of Practice. The CIRIA document as it stands was described as woolly and</p>	

	<p>too generic. It needs to be more practical and specific.</p> <p>It was agreed that the CIRIA guide and the JIWG Asbestos in Soil Code of Practice should complement each other and the CIRIA guide should highlight areas that it can't answer. It was agreed that there is an inevitability that there will be repetition which the JIWG agreed may not be a bad thing, but it is important that they do not contradict each other which is very unhelpful for the industry.</p> <p>As the full CIRIA report is not yet available in draft as expected, a full critique cannot be performed.</p>	
12.	<p><u>AOB</u></p> <ul style="list-style-type: none"> a. AGS INTERIM GUIDANCE b. DoT/VOSA (CDG/ADR) <p>AGS confirmed that they had recently developed "interim guidance for geotechnical site investigations & geotechnical laboratories in relation to asbestos in soil and is downloadable free of charge. This was a welcome addition and hopefully much of this documentation will be able to be used in the JIWG work.</p> <p><u>DoT/VOSA</u></p> <p>SF confirmed that transportation of asbestos is regulated by DoT/VOSA and he is currently trying to ascertain to what extent this is enforced. We need to ascertain how this should be addressed by the Asbestos in Soil Code of Practice.</p>	
13.	<p><u>NEXT MEETING</u></p> <p>It was agreed that the next meeting should be in January 2013. NH will circulate some suggested dates using Doodle.</p>	NH