

No. 120/2018

27 February 2018

Our Ref: P8/18

HSE Public Consultation Document (CD285) on Proposed Amendments to the Control of Asbestos Regulations 2012 (CAR 2012) – CWU Response & HSE Decision & Results of The Consultation:

To: All Branches

Dear Colleagues,

Background:

As advised to Branches, Safety Forums and Safety Reps in LTB 574/17, the HSE conducted a public consultation on a proposal to amend the Control of Asbestos Regulations 2012 (CAR 2012).

The CWU responded strongly to the consultation on the proposed amendment to the Control of Asbestos Regulations 2012 (CAR 2012) as did the TUC and other Trade Unions.

In respect of the specific proposal to align the different frequencies for medical examinations for those doing licensable work and those doing notifiable work, the Unions rejected the proposal and stated that the HSE should be considering the option of harmonising **UP** rather than **DOWN**, lowering the frequency of medical examinations and so not reducing the amount of protection afforded to workers in the industry.

The CWU view was that reducing the frequency of tests would be totally irresponsible. The review, and consultation documents, stated that the aim of the tests is to "detect disease early and allow removal from further harm". Although that's one reason for the tests, it is not the only one. The tests also can also identify any other conditions that may put them at additional risk, or identify any problems with their PPE that prevents them wearing it properly. A medical test should also record any accidental exposure that may have happened. Frequent interaction with a medical practitioner reinforces the serious dangers to health that asbestos poses and also allows the doctor to highlight the need to change lifestyle if the person smokes. That was recognised in paragraph 57 of the consultation document, but it ignored this benefit.

Given the inability of the HSE to accept the health benefits of the tests, it's hardly surprising that they came up with no health and safety aspects. This was rejected by the CWU, TUC and Unions that responded as we did.

CWU did not accept that giving a medical examination every two years is an onerous "burden" on business. The cost of exposure of asbestos lies with the workers and they should be given every support, including regular health surveillance to ensure that they are protected.

Consultation Results:

The HSE has published a summary of the consultation results which have been considered by the HSE Board. In total, 38 responses to the consultation were received. Of these 23 (61%) did not agree with the substantive amendment to change the period between medical examinations for those undertaking licensable work with asbestos from two to three years on the basis that the proposal reduced protection for workers carrying out the most hazardous types of work involving asbestos (although HSE believes - and independent expert advice confirms - that there is no reduction in protection), and that asbestos medicals can be (and are) used as an opportunity to undertake 'fitness for work' medicals, giving opportunities for wider health issues (and impact on wearing PPE, etc.) to be considered which may be missed if the interval between examinations is increased.

HSE Board Conclusion:

As a result of the consultation HSE officials concluded that the overall response to the consultation means that HSE should not proceed with the proposed amendments to CAR 2012. However, the consultation responses have raised an issue regarding the wider opportunities and benefits of asbestos medicals which was not raised during the Post Implementation Review (PIR). It is therefore important to consider this further alongside HSE's wider review of the occupational health surveillance system as part of the Health and Work Strategy.

Based on the results of the consultation, the HSE Board decided not to proceed with the proposed amendment to Regulation 22 of the Control of Asbestos at Work Regulations 2012 at this time. Therefore, the period between medical examinations for asbestos workers who undertake licensed asbestos work remains at two years and will not be reduced to three years. Additionally, Asbestos medical examinations will in due course be considered further alongside HSE's wider review of the occupational health surveillance system as part of the Health and Work Strategy.

This news will be welcomed by Branches, Regional Health and Safety Forums and Health and Safety Reps.

Yours sincerely



Dave Joyce
National Health, Safety & Environment Officer