

# From Site Inspections to Prosecutions: HSE's Approach to Managing Compliance



Delivered by

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Professional.

Credible.

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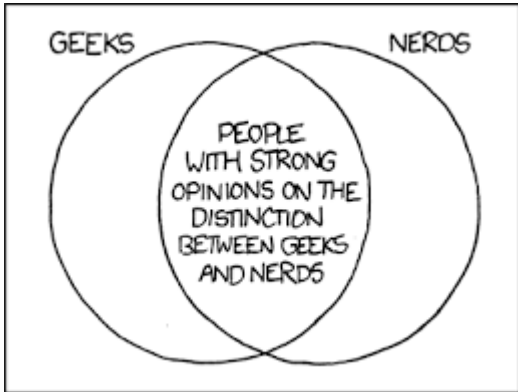
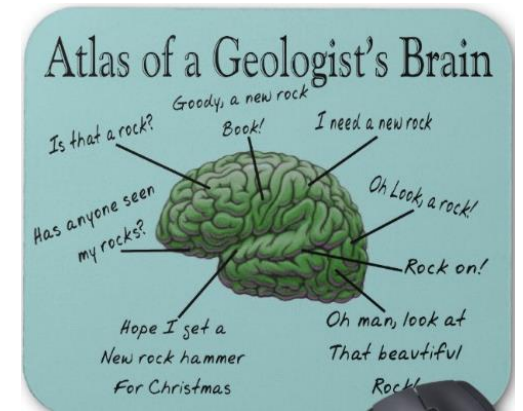
# Asbestos: Your duty

1. Why the focus on asbestos?
2. What will an inspector ask about?
3. Where can you and your business find guidance and support with asbestos duties?





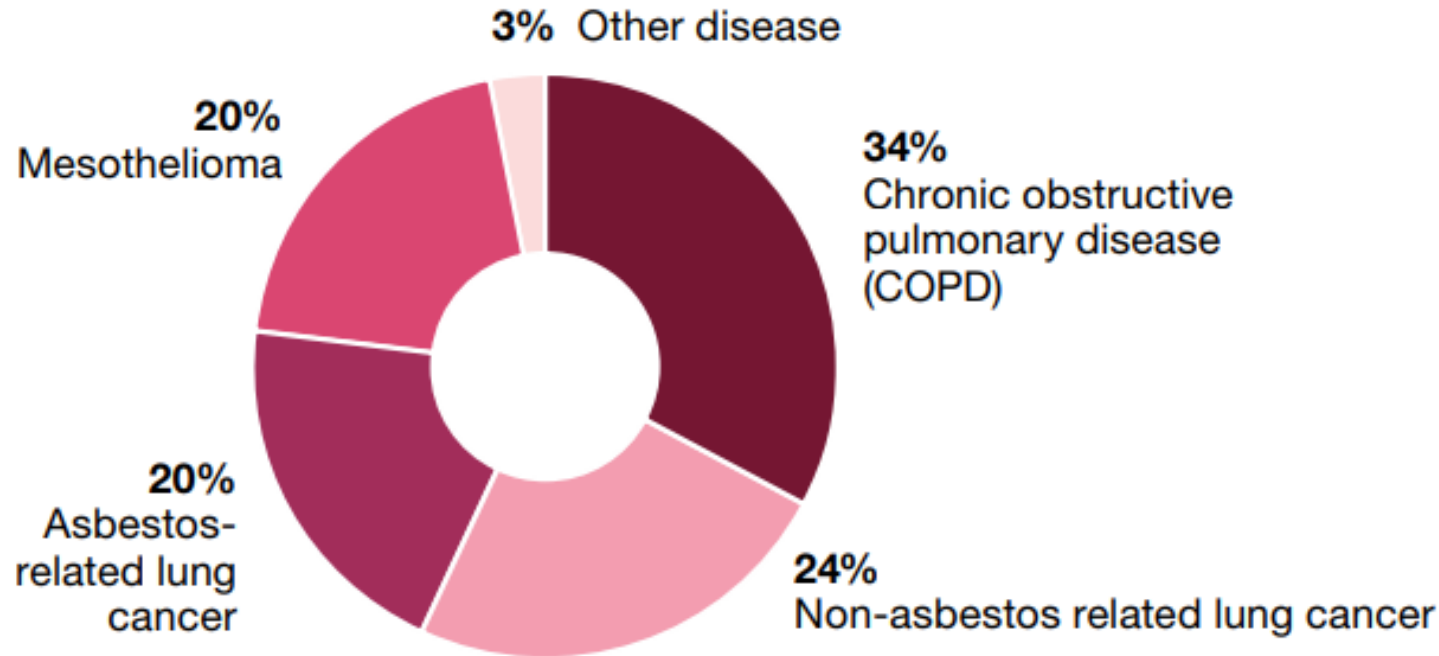
**About me:**  
Who am I and  
my 'why' for  
this session



# 1. Why the focus on asbestos?

# Why the focus on asbestos?

Lung diseases contributing to estimated current annual deaths



Percentages shown have been rounded so do not sum to 100%



**12,000**

Lung disease deaths each year estimated to be linked to past exposures at work

Source: Counts from death certificates and estimates from epidemiological information



# Why the focus on asbestos?

**Over 5,000**

Asbestos-related disease deaths per year currently, including mesothelioma, lung cancer and asbestosis

 **2,268**

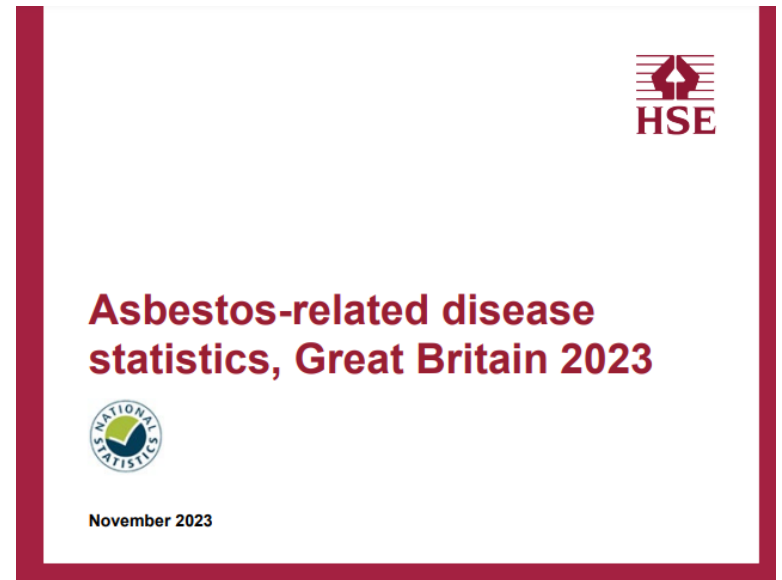
Mesothelioma deaths in 2021, with a similar number of lung cancer deaths linked to past exposures to asbestos

*Source: Counts from death certificates and estimates from epidemiological information*

**537**

Deaths in 2021 mentioning asbestosis on the death certificate\*

\*Excluding deaths that also mention mesothelioma



# Why the focus on asbestos?



**35.2 million**

Working days lost due to work-related ill health and non-fatal workplace injury in 2022/23

Source: Estimates based on self-reports from the Labour Force Survey

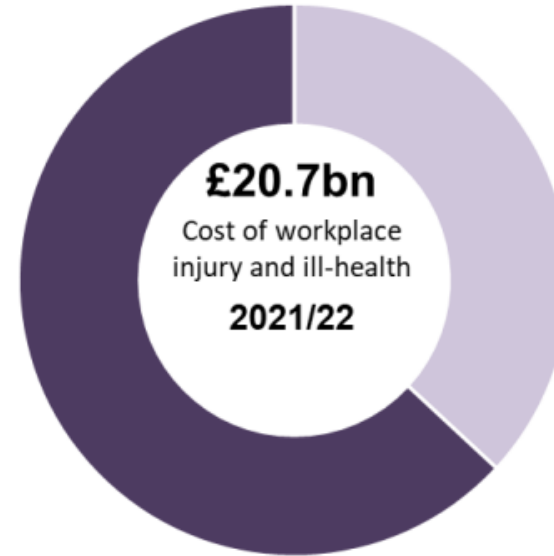
## 'Never Returns'

- An estimated 18,700 workers withdraw permanently from the labour market annually as a result of a workplace injury or work-related ill health

Annual average 2008/09 to 2011/12, 2014/15 to 2022/23;

Source: Labour Force Survey

**£13.1bn**  
**Ill-health**  
(equivalent to unit cost of £19,300 per case)



**£7.7bn**  
**Injury**  
(equivalent to unit cost of £12,200 per case)

## Individuals bear the majority of costs



■ Individual ■ Employer ■ Government

# IOSH's three reasons:



- Moral
- Legal
- Financial





# ISO's reasons...

**Risk = Effect of uncertainty on objectives**



*'An effect is a deviation from the expected. It can be positive, negative or both, and can address, create or result in opportunities and threats'*



- e.g.
- Aleatory uncertainty
  - Epistemic uncertainty
  - Linguistic uncertainty
  - Decision uncertainty



*'Objectives can have different aspects and categories (financial, H&S, security etc.), and can be applied at different levels e.g. strategic, program, project, etc.'*

*'Risk is usually expressed in terms of risk sources, potential events, their consequences and their likelihood.'*

## **2. What will an inspector ask about?**

# What will an inspector ask about?

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Categories of Inspection re: asbestos

1. Management of asbestos in premises
2. Non-licensed asbestos work
3. Notifiable non-licensed asbestos work
4. Licensed asbestos removal work

# What will an inspector ask about?

Enforcement action (and health and safety law itself) is designed to be pro-active and to prevent harm from occurring.



HSE take a risk-based approach to enforcement action



# What will an inspector ask about?

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Exposure to asbestos can lead to a number of diseases, including asbestosis or fibrosis (scarring) of the lungs; lung cancer and mesothelioma.

These diseases are **irreversible, disabling and in most cases eventually fatal**, and therefore come into the descriptor '**serious health effect**'.



# What will an inspector ask about?

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Likelihood of developing the disease is affected by several factors –

- ? the type of asbestos fibre;
- ? age when a worker is first exposed;
- ? the quantity of fibres breathed in;
- ? duration and frequency of exposure.

# What will an inspector ask about?

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During site inspections Inspectors will need to identify evidence that asbestos containing materials (ACMs) have been:

- ✓ identified and removed or
- ✓ managed, where necessary, to prevent or reduce exposure

# What will an inspector ask about?

## Benchmarks:

- ✓ L143 – ACoP
- ✓ Asbestos essentials
- ✓ Training
- ✓ Duty to Manage
- ✓ Enforcement Guidance

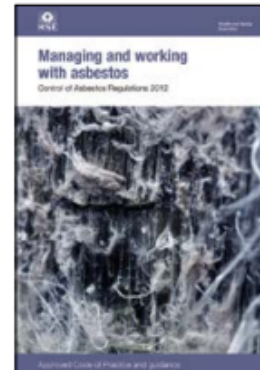


Health and Safety  
Executive

## Managing and working with asbestos

Control of Asbestos Regulations 2012

Approved Code of Practice and guidance



L143 (Second edition)  
Published 2013

This publication contains the Control of Asbestos Regulations 2012, the Approved Code of Practice (ACOP) and guidance text. Two ACOPs, L127 (*The management of asbestos in non-domestic premises*) and L143 (*Work with materials containing asbestos*) have been consolidated into this single revised ACOP. The presentation and language has been updated wherever possible. It provides guidance text for employers about work which disturbs, or is likely to disturb, asbestos, asbestos sampling and laboratory analysis. It also provides guidance on the specific duty to manage asbestos on the owners and/or those responsible for maintenance in non-domestic premises.

The Regulations set out your legal duties and the ACOP and guidance give practical advice on how to comply with those requirements. The Regulations give minimum standards for protecting employees from risks associated with exposure to asbestos.

The Regulations came into force on 6 April 2012, updating and replacing the previous 2006 law. They contain new requirements for certain types of non-licensable work with asbestos on notification of work; designating areas where you are working on asbestos; medical surveillance and record keeping.

# What will an inspector ask about?

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The Law requires the prevention of exposure to asbestos,

but where it is not reasonably practicable to prevent exposure, exposure has to be reduced to the lowest level reasonably practicable.

# What will an inspector ask about?

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The employer must choose the most effective methods or combination of methods that minimise fibre release **and** thereby reduce exposure to below the control limit;

in addition, suitable RPE must be worn.

The RPE must reduce exposure as low as reasonably practicable below the control limit.



# What will an inspector ask about?

For most asbestos related work, the benchmark should be a 'nil or negligible' likelihood of serious personal injury.

This is based on all necessary control measures being in place and working

For example:

- ✓ suitable enclosure;
- ✓ correct equipment - cleaned and in good working order;
- ✓ most appropriate techniques e.g. well planned and executed wet removal;
- ✓ employees wearing suitable RPE which has been properly selected including face fitting;
- ✓ adequate information, instruction, training and supervision; and
- ✓ suitable decontamination procedures in use to prevent spread etc

# What will an inspector ask about?

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Inspectors should consider at site visits whether there are:

➖ risks normally requiring immediate formal enforcement action (MECs)

or

! other risks present that could lead to multiple fatalities or multiple causes of ill-health (MPMCs)

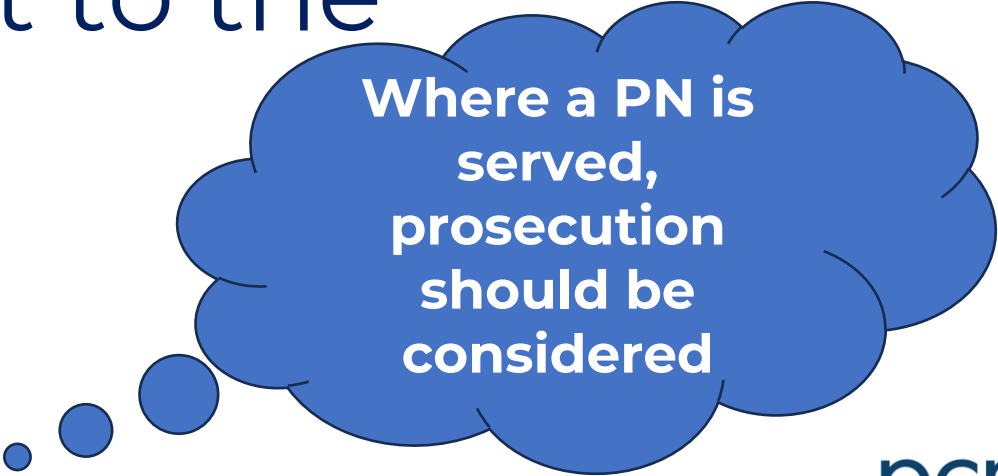
and, if so, take appropriate action.

# What will an inspector ask about?

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## Matters of Evident Concern

risks that create a risk of **serious personal injury or ill-health** and which are observed (i.e. self-evident) or brought to the attention of inspectors.



Where a PN is served, prosecution should be considered

# What will an inspector ask about?

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## Matters of Potential Major Concern

risks that have a realistic potential to cause either multiple fatalities or multiple cases of acute or chronic ill-health.

# What will an inspector ask about?

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Examples of MECs **on site** (non-licensed contractors):

\*potential for significant fibre release\*

- x Survey related - no evidence of refurbishment & demolition survey available on site when work is likely to disturb the fabric of the building and building constructed pre-2000



# What will an inspector ask about?

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Examples of MECs **on site** (non-licensed contractors):

\*potential for significant fibre release\*

- ✘ Work related - unsuitable methods of work, inadequate or incomplete survey, work may disturb ACMs

# What will an inspector ask about?

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Examples of MECs **on site** (non-licensed contractors):

\*potential for significant fibre release\*

- ✘ Spread related – ACM with potential for significant fibre release has or is likely to have been spread and there is a need to prevent access to an area

# What will an inspector ask about?

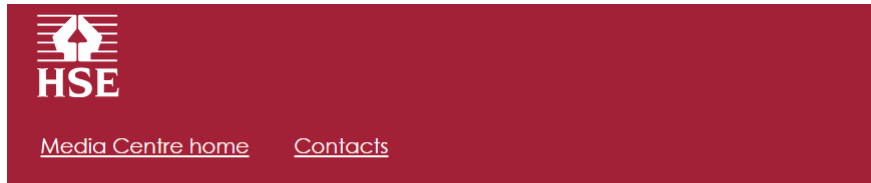
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Examples of MPMCs **on site** (non-licensed contractors):

- ✘ Training related – adequate information, instruction and training about risks and precautions for working with ACMs

# What will an inspector ask about?

## Example prosecution



Search Results for: asbestos

[M&S on board for the latest HSE podcast on asbestos](#)

14th May 2024

[Company and director fined after workers exposed to asbestos](#)

25th April 2024

[Fine issued after workers exposed to asbestos during hotel demolition](#)

24th April 2024

[Company fined £30,000 for unsafe removal of asbestos](#)

14th April 2024

Inspectors from the Health and Safety Executive (HSE) visited <company> site in Stretford, Manchester, and **found an uncontrolled spread of asbestos containing materials around the premises.**

# What will an inspector ask about?

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HSE attended the premises on <location> in April 2019 after concerns were raised over workers unsafely working at height during the **demolition** of a number of units and construction of eight new residential houses.



# What will an inspector ask about?

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HSE found **significant amounts** ACMs across the site, mostly large amounts of **debris** associated with the **breakage** of ACM roof sheets from the demolished units. One unit taken down was estimated to contain 100 square metres of asbestos insulation board, 70% of which was **demolished by hand and machinery**.

# What will an inspector ask about?

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Subsequent HSE investigation found the asbestos removal work was carried out under the **direct control and instruction** of **<company> director** who was **fully aware of the potential dangers of asbestos**.

**<name>** had some months earlier instructed a suitably qualified asbestos surveyor to carry out an **asbestos demolition survey** which had identified in detail the presence of both licensed and unlicensed materials throughout the site.

# What will an inspector ask about?

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<name> was therefore **fully aware of the risks** the site posed from the presence of asbestos materials on his site prior to any demolition work taking place.

The **company** was fined £20,000 and ordered to pay £18,783.61 in costs

**Company director** received a custodial sentence of 20 weeks, suspended for 12 months. He was also fined £75,000 and ordered to pay costs of £18,783.61.

# What will an inspector ask about?

“This case highlights how such behaviour **will not be tolerated** under any circumstances. Lives were deliberately put at risk as profits were prioritised over safety during the uncontrolled demolition and removal of asbestos containing materials. <company> and its director showed a **total disregard** for the health, safety and welfare of workers working under their control.”

Consider:

- ! Company fine proportionate to **turnover**
- ! Individual fine proportionate to **weekly income**
- ! Also consider **FFI bill** during site visit(s) and investigation (£174pph)

# **3. Where can you and your business find guidance and support with asbestos duties?**

# Where can you and your business find guidance and support with asbestos duties?

## ACOP L143

<https://www.hse.gov.uk/pubns/priced/l143.pdf>

## Enforcement Guidance

<https://www.hse.gov.uk/foi/internalops/ocs/200-299/oc265-50.pdf>

## Asbestos Essentials

<https://www.hse.gov.uk/asbestos/essentials/index.htm>

## Training

<https://www.hse.gov.uk/asbestos/training.htm>



# Where can you and your business find guidance and support with asbestos duties?

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## Duty to Manage

<https://www.hse.gov.uk/asbestos/duty/index.htm>

## Licensable work with asbestos

<https://www.hse.gov.uk/asbestos/licensing/licensed-contractor.htm>

## Locations and images of asbestos

<https://www.hse.gov.uk/asbestos/location-materials.htm>

# Where can you and your business find guidance and support with asbestos duties?

## 💡 HSE campaign site and resources

<https://workright.campaign.gov.uk/campaigns/asbestos/>

<https://workright.campaign.gov.uk/campaigns/asbestos-your-duty-campaign-assets/>



### Example asbestos register and site plan

The engineering company owns a 2-story building built in the 1960s. An asbestos management survey has been completed and the information including no access areas incorporated into an asbestos register and site plan. In using this example, it is important that you follow the guidance at [www.hse.gov.uk/asbestos/duty/register-and-assess-risk.htm](http://www.hse.gov.uk/asbestos/duty/register-and-assess-risk.htm).

The HSE website has a template to help you produce your own register or review an existing one.

Location	Product and asbestos type	Extent	Condition	Surface treatment	Sampled/ Presumed/ Strongly presumed	Potential to release fibres – material assessment score	Potential for disturbance – priority assessment score	Risk assessment – total score	Action and due date	Action comment and completion date	Other management actions
Store Room 2 BC408  Ceiling	AIB/ amosite	Whole ceiling 21m <sup>2</sup>	Good	Painted only on side facing room	Sampled Ref. 1/000	5	4	9	Check every July	Checked – no change 13/7/23	If accessing the ceiling void or disturbing ceiling tiles, assess the risk, produce a plan of work and use suitably trained workers  Removal must be by an HSE licensed contractor



### Asbestos management plan – a template

Your asbestos management plan will depend on the complexity of your organisation but there are some details that should be included in line with the Control of Asbestos Regulations.

This template includes instructions that will help you create your own asbestos management plan.

The information from any asbestos survey reports should be used to form your asbestos register, which is a key part of your asbestos management plan.

You can add relevant documents, including the asbestos register and site plans, at the end of the management plan.

In using the template, it is important that you follow the guidance at: [www.hse.gov.uk/asbestos/duty/asbestos-management-plan.htm](http://www.hse.gov.uk/asbestos/duty/asbestos-management-plan.htm)

The HSE guidance also includes:

- an example asbestos management plan
- an example register and site plan
- an asbestos register template

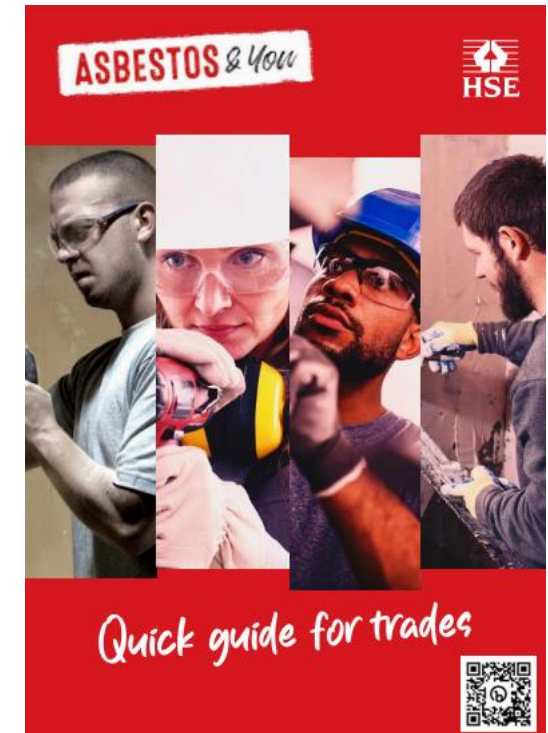
Asbestos management plan for [name of business/organisation]

**Overview**

This section can be used to:

- set out the purpose and scope of the document
- signpost to any other policy and procedure documents

It can also be helpful to include important information regarding incidents and contact details



# Reflection

## Time to think ... Take 1 minute

What have you learned from this presentation that you would like to bring back to your colleagues?

Have you identified any areas for further exploration?

**Tip\*** If you have been feeling there is something you wanted to change or challenge on site, write it down – it may help you decide your personal commitments on your return to work.



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