



Submission Template | Asbestos Safety Training Options for Workers Entering Trades

Submission from: Australian Manufacturing Workers' Union

Responses to questions posed:

1. Do you agree that asbestos awareness training is required *before* apprentices are at any risk of asbestos exposure? If so, what training do apprentices need?

The AMWU agrees that asbestos awareness training is required *before* apprentices are put at any risk of asbestos exposure. It is estimated that asbestos-related diseases contribute to approximately 4,000 deaths in Australia each year. The World Health Organization considers there is no safe level of exposure that can protect a person from developing an asbestos-related disease and that 'all forms of asbestos should be considered as silent killers as health disorders may appear several decades after an exposure, even after only a short exposure time'. This means it is important to prevent *every* exposure.

In the Safe Work Australia (SWA) Asbestos Exposure and Compliance Study of Construction and Maintenance Workers: Follow-up Report June¹, the following key recommendations were made.

Policy implications and recommendations

*The findings of this report, in conjunction with the initial descriptive research report, provide useful insight into attitudes, awareness, knowledge and behaviour of construction and maintenance workers towards working with asbestos containing materials. Overall, the Asbestos Study found that workers had a basic general knowledge regarding the risk of asbestos. However, many felt that the risk of exposure to asbestos was unlikely. Many workers also lacked detailed knowledge on identifying and safe working with ACMs. Shortfalls in safety precautions when working with ACMs, as well as appropriate disposal of asbestos waste, were identified. Differences in trades in terms of risk perception and safety practices were also observed. A number of suggestions were put forward in the initial report and these include increasing skills for identifying ACMs, development of more practical options for asbestos disposal, **inclusion of trade specific asbestos training in future trade apprentice training** and incorporating practical examples in future codes and guidance so that the information may be more directly applied to workplaces.*

Unfortunately, like most reports which furnish recommendation to better secure workers health and safety few if any of these recommendations were ever adopted. Of equal concern is that the timing of this report and the qualitative and quantitative research, which was done to inform it, was in the years shortly post the James Hardie asbestos victims campaign. This union campaign had the effect of



bringing the issue into our loungerooms and educating the Australian population regarding the hazards of asbestos. We hypothesise that if this research were to be repeated today, more than a decade on, that workers knowledge regarding the hazards of asbestos and where it can be found would likely be diminished.

TRAINING NEEDS

Apprentices need to be educated about the health risks of asbestos, how to identify likely asbestos containing materials (ACM), to understand the difference between bonded and friable asbestos and ACM, the historical use of asbestos in common products (found in or incidental to their industry). Training how to read and interpret an asbestos register and an asbestos management plan.

Apprentices must be provided training as to what their rights are regarding:

- when they suspect ACM (what to do),
- the duty of the PCBU to identify any hazard, assess risks, eliminate or control the risk, monitor the effectiveness of the controls and maintenance and review controls, with regards to asbestos,
- the duty of the PCBU to consult,
- provision of information, training and instruction
 - before commencing work i.e., safe work procedures
 - the duty of the PCBU to training workers who may be involved in asbestos removal work in the workplace or the carrying out of asbestos-related work,
- where there is uncertainty as to whether asbestos is present in any part of a structure or plant, the person with management or control of the workplace can either assume asbestos is present and treat it with appropriate caution based on the level of risk or have a sample analysed. The person cannot assume it is not asbestos and direct normal work,
- being provided an copy or opportunity to read an asbestos register and asbestos management plan before work commences,
- representation (HSRs & Union),
- refusing work where a worker has reasonable belief such work will put them at imminent or immediate risk of harm (exposure),
- discrimination, misrepresentation and coercion (protection from).
- all asbestos or ACM identified at the workplace being clearly indicated, and all asbestos or ACM assumed to be at the workplace, including where the asbestos is inaccessible, being clearly indicated,
- workplace exposure monitoring and health monitoring.

Apprentices need to be provided advice regarding getting help or further assistance (ASEA, WHS Regulators, Union).



2. While all WHS laws impose duties on PCBUs (or equivalents) to provide training, they are not prescriptive about what training needs to be undertaken or who can provide that training, apart from the ACT. Do these laws provide adequate protection to workers at risk of being exposed to asbestos? If not, how could they be improved?

Clause 39 of the model WHS Regulation is intentionally broad so as not to facilitate loopholes to which PCBUs could hide. This puts the onus on the PCBU to then ensure that the training it provides is fit for purpose and adequate to protect workers health.

A PCBU must ensure that information, training and instruction provided to a worker is suitable and adequate, having regard to: – the nature of the work carried out by the worker – the nature of the risks associated with the work at the time the information, training or instruction is provided, and – the control measures implemented. The PCBU must ensure, so far as is reasonably practicable, ensure the information, training and instruction is provided in a way that is readily understandable by any person to whom it is provided.

Clause 445 of the model WHS Regulation then specifies particular requirements for training with regards to asbestos and a requirement to keep records of such training.

A PCBU must ensure workers who they reasonably believe may be involved in asbestos removal work in the workplace or the carrying out of asbestos-related work are trained in the identification, safe handling and suitable control measures for asbestos and ACM.

The Code of Practice How to Manage and Control Asbestos suggests general training which may include the following topics:

- purpose of the training
- health risks of asbestos
- types, uses and likely presence of asbestos in the workplace
- the PCBU's and the worker's roles and responsibilities under the asbestos management plan
- where the asbestos register is located, how it can be accessed and how to understand the information contained in it
- processes and safe work procedures to be followed to prevent exposure, including exposure from any accidental release of airborne asbestos
- where applicable, the correct use of PPE including respiratory protective equipment (RPE)
- the implementation of control measures and safe work methods to eliminate or minimise the risks associated with asbestos to limit the exposure to workers and other persons, for example the use of safe work practices for minor work that workers may carry out
- exposure standard and control levels for asbestos, and
- purpose of any exposure monitoring or health monitoring that may occur.

The barrier is that the Code of Practice is not a compliance document, it is not mandatory and is only of guidance status (with the noted exception of Queensland). The legislation is also silent on who is providing the training, creating a risk of poor or incorrect behaviours being passed on.



An effective way to safeguard asbestos safety trainings integrity in relation to the material delivered and the process of assessing competency is for it to be managed in a similar way to the licencing of high-risk work. Given this training is currently only mandated for workers who may be involved in asbestos removal work in the workplace or the carrying out of asbestos-related work, it would be with indifference to consider these workers as engaged in anything less than high-risk work. This would ensure that the training and assessment is with the development and review oversight of SafeWork Australia, and training only delivered by those to which a regulator approval (accredited assessor), ensuring a level of national consistency, competency and experience. This could be achieved by adding asbestos removal work and asbestos-related work to schedule 3 of the model Regulation and would require the development of a VET course to be added under schedule 4 of the model Regulation.

Whilst this remedy would best ensure capture of the current cohort of workers requiring training under the WHS regulation, it does not deal with capturing workers entering at risk trades.

3. In your state or territory do the current asbestos training provisions in WHS regulations and codes provide enough information to determine what 'suitable and adequate' training means for asbestos related jobs?

The model Work Health and Safety Regulation and the Code of Practice on How to Manage and Control Asbestos in the Workplace fails to provide enough information to determine what 'suitable and adequate' training means for asbestos related work. The determination of what is suitable and adequate training given the circumstances, is left with the PCBU who often is ignorant of training requirements and not greatly assisted by the CoP which is soft in its language.

A further barrier is that specific asbestos training is limited to those workers involved in asbestos removal work or asbestos related work (c445). The definition of the latter being, ***asbestos-related work means work involving asbestos (other than asbestos removal work to which Part 8.7 applies) that is permitted under the exceptions set out in clause 419(3), (4) and (5).***

For these groups our recommendation as found in question 2 would likely remedy this issue. What also needs consideration is what the legislation should achieve to secure the health of workers exposed to asbestos outside of those 2 groupings.

The AMWU's experience is that many of our members who are exposed to asbestos within their occupation were never advised of the presence of the asbestos, were not engaged to remove asbestos or work permitted under the exceptions set out in clause 419, and in almost all cases have received no training with regards to asbestos because strictly speaking they are unlikely to meet the criteria set out in the WHS Regulation.



4. If further prescription about training is desirable, are there particular occupations which should be targeted (see for example the list at Appendix 1 setting out the occupations listed under the ACT legislative scheme).

There is likely benefit to looking at an occupational basis to determine who should receive the asbestos training. We are unsure how the ACT list was created but suggest the list could be built upon with a targeted approach by looking at asbestos disease compensation claims, and notification data collected by regulators in accordance with Part 3 of the model WHS Act by trade or occupation. We note that many of our members who are exposed to asbestos work outside of the construction industry with other repeat offending industries being the automotive, heavy plant maintenance, shutdown, building and equipment maintenance and public/freight transport (trains).

5. Is nationally recognised training generally preferable to non-accredited courses to meet PCBU duties for workers entering trades who may be exposed to asbestos? Why?

Nationally recognised training is the best way to ensure there can be confidence in the training provided to workers, nationally recognised training not only ensures consistency in the learning outcomes but also ensures a level of rigor in the assessment of competency.

When raising nationally recognised training within the boundaries of apprentices training, to provide non-accredited courses would be to undermine the very fabric of the apprenticeship, for the first time, making training provided to an apprentice not transferable, the AMWU will strongly resist any attempt to weaken our trades.

Australian industry and Australian workers have been beneficiaries of the institution built around our trades. Workers having transferrable skills and employers having a level of confidence in training, has meant that those employers have not had to reinvest in trades skills training every time there is a turnover in worker/s or an upswing in labour requirement.

Non-accredited courses offer no solution to the problem presented by the vacuum in education currently on offer to trade workers.

6. Do some PCBUs find choosing asbestos training difficult given the range of choice and the need to ensure training meets duties under WHS laws? Why? Do small businesses face any particular challenges in this regard?

The key asbestos training issue the AMWU finds with PCBUs impacting on our members, relates is the PCBUs general and broad obliviousness of their duties related to asbestos. This includes in many cases PCBUs not asking if there is an asbestos register before commencing work (particularly if at a hosts site) or if the PCBU is aware of asbestos, putting in place safeguards to protect workers including the development of an asbestos management plan.



As stated previously, given that most of our members are not engaged specifically for asbestos removal work or asbestos-related work there is no automatic requirement under the legislation to provide them training leaving them defenceless.

We acknowledge that the lack of prescription regarding asbestos training is a current legislative barrier for PCBUs to be able to achieve compliance more easily with the WHS laws. This barrier is heightened the smaller the business due to less resources been available to advise on what compliance looks like and how the PCBU can best achieve it.

7. Which of the options at 6.1 – 6.5, if any, do you support or not support and why? (You may wish to rank the options in order of preference).

The AMWU has provided the following rankings in order of preference:

1. 6.5 Adoption of mandatory asbestos safety training requirements

The AMWU's preferred option is legislative amendment in all jurisdictions to enable WHS Ministers to approve specific awareness courses that must be completed by workers for a PCBU to comply with their WHS training duties. This training must apply to any worker whom the PCBU reasonably believes will work with asbestos or ACM as well as prescribed occupations, in doing this the current hole excluding many at risk AMWU members would be closed. It is logical and will create ease for PCBUs in meeting their compliance, if workers gain qualifications in their various trades and have completion of this course count toward their qualification.

The AMWU's preference under this option would be not to have jurisdictions develop their own accredited courses, but rather there being one course, whether that be the ACT course (if found to be suitable) or developed via SWA, as is the case with high-risk licences training, thus delivering consistency and an opportunity for stakeholder input.

2. 6.4 WHS regulators to approve asbestos awareness courses and training providers

The current approach of training Health and Safety Representatives under the model WHS Act is an interesting concept for hazard-based training. This option does not necessarily mean that there is a lack of consistency based on jurisdictional divides as is the case with WHS Entry Permit Holder Training, which was developed by the ACTU based on the training requirements established under clause 25 of the WHS Regulation, agreed by SWA and then adopted by all Regulators as their approved training. The weakness of this example has been the failing of the model legislation to reflect, as was done by the Commonwealth, recognition of an Entry Permits from other jurisdictions. If this was done this could give effect to this asbestos training being nationally recognisable.

For this proposal to have currency the WHS legislation will need to impose a trigger and unlike the example provided in the discussion paper with HSR training, where it is incumbent on the HSR to make a request of the PCBU. Training would need to be automated, most likely around a date or



milestone i.e., within 6 months of commencing an apprenticeship, prior to the completion of an apprentices second year etc.

Similar to the obligations of a PCBU to a HSR under section 70, training for these workers would need to be obligation of the PCBU to these workers with a penalty provision.

3. 6.2 Work with industry to add a core unit of competency for asbestos safety awareness

The union is attracted to this proposal but is concerned about the lack of content control described within the discussion paper. An asbestos awareness course, like all health and safety training, needs to be developed, approved, monitored and reviewed by those who have an interest and knowledge of the issue.

We are also concerned by the suggestion that there will be lengthy delays and would need to be progressed by the Construction, Plumbing and Services Industry Reference Committee. We note that most of our trades exposed to asbestos are not covered by this stream potentially meaning this process will have to be replicated numerous times, a greater problem in that unions are not resourced or supported to be able to advocate through Industry Reference Committees.

4. 6.3 Increased encouragement from WHS regulators to choose specific training

It is arguable this proposal would not align with the functions set within the model WHS Act for the regulator, such as the monitoring and oversight of the recommended courses which are not established under the legislation. It also opens the door to a perception of inappropriate conduct of a regulator or potential capture.

This option does not deliver a guarantee of workers needing asbestos training being trained and does nothing to ensure or guarantee the quality of the training. It does ensure the ongoing inconsistency that industry currently suffers.

5. 6.1 Maintain the status quo

This option delivers no change and would be only suitable if there was no problem. It would see a continuation of PCBUs being unclear about what their duties are or how they can comply with them and leave workers continuing to be burdened with unnecessary exposure to asbestos.

Regulators currently don't assess if training provided by PCBU's complies with their duties and is suitable and adequate, maintaining the status quo provides an ongoing perverse incentive to do nothing.

8. Are there other levers which could be used to ensure all workers entering trades who may be exposed to asbestos receive adequate asbestos safety training?



9. Are there any other issues you would like to comment on regarding the adequacy of asbestos safety training especially for workers entering trades where they may be exposed to asbestos?

The AMWU appreciates the opportunity to make this submission on behalf of its members but notes with caution that current members will not be provided further health and safety security from asbestos, if our preferred option was to be adopted, and the training is only linked with an apprenticeship. For those workers whom the PCBU reasonably believes will work with asbestos or ACM as well as prescribed occupations and are outside of their apprenticeship, consideration needs to be made as to how they will access this training. An option (for this group only) may be via a transitional arrangement over a number of years. Following this time regulators should commence a compliance blitz across high-risk industries to ensure compliance.

https://www.safeworkaustralia.gov.au/system/files/documents/1702/asbestos_exposure_compliance_study_construction_maintenance_workers_followup_report.pdf