

# Operational Policy

<b>Title:</b> Asbestos Safety Policy
<b>Originator:</b> Director of Safety and Compliance
<b>Approval body and date approved:</b> Executive Leadership Sponsor - 18 <sup>th</sup> June 2024
<b>Date for review:</b> June 2026

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## 2. Introduction

- 2.1 This policy forms part of Magenta Livings (ML) suite of compliance policies which explain our commitment in meeting our statutory/ regulatory and best practice standards in relation to asbestos safety.
- 2.2 This policy and its associated Management Plan (MP) outline our approach to asbestos safety as well as detailing the roles and responsibilities of those involved in the successful implementation, delivery, and management of this policy.
- 2.3 This policy should be read in conjunction with its Management Plan (MP) and other cross cutting compliance policies for completeness.

### Workstreams

- 2.4 This policy covers all elements as listed below which are contained within the MP. Please refer to the MP for specific details.
  - Non-Domestic and domestic assets / properties owned and or managed by Magenta Living.

### Key Activities

- 2.5 The MP has been developed in line with the list of key operational activities as detailed below. Please refer to the MP for further detail:
  - Whole organisational approach
  - Key Roles and responsibilities
  - Key Activities which incl.
    - Data Quality
    - Data Reconciliation
    - Additions/ Reductions to Stock
    - Surveys
    - Managing the Risk
    - Risk Assessments
    - Record Keeping
    - Acquisition of Properties (Built before 2000)
    - Empty Dwellings/ New Tenancies
    - Mutual Exchange
    - General Information & Communication
    - Quality Control
    - Approach to Works
    - Competency
    - Control of Contractors
    - Access & Enforcement

## Development of Policy

2.6 In developing this policy, information, guidance, and references have been taken from the following:

- The Control of Asbestos Regulations 2012 (CAR12)
- Health and Safety at Work etc. Act 1974
- The Management of Health and Safety at Work Regulations 1999
- The Workplace (Health Safety & Welfare) Regulations 1992
- Personal Protective Equipment at Work Regulations 1992 (as amended)
- Hazardous Waste (England & Wales) Regulations 2005 (as amended)
- Control of Substances Hazardous to Health (COSHH) Regulations 2002 (as amended)
- Construction, Design and Management Regulations 2015
- Defective Premises Act 1972
- Landlord and Tenant Act 1985
- Data Protection Act 2018 and GDPR (General Data Protection Regulation)
- RIDDOR 2013
- Housing Act 2004
- Housing Health and Safety Rating Systems (England) Regulations 2005
- Homes (Fitness for Habitation) Act 2018

### **3. Statement of Intent**

- 3.1 ML is responsible for asbestos safety and as such this policy and associated MP outlines our approach whilst safeguarding our customers/tenants, organisation, colleagues, contractors, and the public in and around our homes and properties.
- 3.2 This policy is applicable to all properties built or refurbished before the year 2000 and all properties constructed before this date will be included within the asbestos surveying programme and assumed to contain Asbestos Containing Materials (ACMs) until a survey has been completed and the presence or absence of asbestos has been confirmed.
- 3.3 Under The Control of Asbestos Regulations 2012 (CAR) and in conjunction with the Housing Act 2004 (HA) and the Health & Safety at Work etc. Act 1974 (HASAWA), ML is responsible for the management of ACMs across its entire property portfolio, both commercial and domestic.
- 3.4 The principal legislation in the development of this policy is:
- The Control of Asbestos Regulations (CAR12)
- 3.5 ML is regulated by the Regulator of Social Housing. Our Board, Chief Executive, and our Executive Leadership Team set and oversee our corporate strategy. Our Executive Sponsor/Team in adherence with the Governance Handbook will approve all compliance related policies and associated documents.

- 3.6 By adopting a wholly owned organisation approach, ML will ensure that all statutory/regulatory and best practice standards are met, and that robust programmes of inspection, testing and maintenance are implemented, monitored, and reported against.
- 3.7 We acknowledge that failure to discharge our responsibilities adequately and responsibly may lead to a range of sanctions including, but not limited to:
- Intervention by the Regulator of Social Housing.
  - Prosecution under the Health & Safety at Work Act 1974.
  - Prosecution under the Corporate Manslaughter and Corporate Homicide Act 2007.
  - Reputational damage.
  - Loss of confidence by customers/tenants and stakeholders in the organisation.
- 3.8 Failure to follow the formal policy and procedures for asbestos safety (in addition to wider policies developed to form the 'Big 7' i.e., Building Safety, Gas, Electrical, Legionella, Lifts and Fire) can also compromise ML's compliance with the Building Safety Act 2022. This is of upmost importance for all ML stock, however, includes increased concern for in-scope High Risk Buildings due to the additional obligations of the Act and formal reporting requirements established by the Building Safety Regulator.

## 4. Our Policy

### Background

- 4.1 Magenta Living (ML), formally Wirral Partnership Homes was established in February 2005 following a stock transfer from Wirral Borough Council. We provide just under 13,000 homes and accommodation across Merseyside and Cheshire which include the likes of homes for rent, low-cost home ownership options, sheltered accommodation, extra care, and commercial assets.
- 4.2 We recognise the changing regulatory/ compliance environment further to the Grenfell Tower tragedy. Our failure to adopt, implement and follow our formal policy and procedures in addition to the wider suite of compliance policies such as asbestos, building safety, electrical, fire, gas, lifts / hoists, compromise our ability to meet the standards required.
- 4.3 Our belief is that our customers, whether tenants, employees, contractors, or the public, come first in our approach to managing asbestos safety.
- 4.4 Our aim is to deliver great services in a way that reflects our purpose, vision, and values in addition to being honest, positive, and ambitious whilst including our customers in the development of our services.
- Purpose: Empowering people is our purpose.
  - Vision: We believe in opening doors to homes full of love, communities full of life and a world full of possibilities
  - Values: 'Do the right thing' – by working together and doing the right thing, we will transform our culture, improve the customer experience, and build communities

4.5 Our focus remains on keeping customers' safe and secure in their homes and environment whilst building inclusive and supported communities.

Who and what does this policy apply to

4.6 This policy applies to all of ML including:

- Board Members
- Chief Executive
- Executive Leadership Team
- Senior Leadership Group
- Middle Leadership Team
- Managers
- Employees
- Customers/ tenants & leaseholders
- Contractors and other persons/ stakeholders who may work for, occupy, visit, or use its premises, or who may be affected by its activities or services.

Management Plan

4.7 ML will produce and maintain an Asbestos Safety Management Plan (MP) which shall:

- Provide clear lines of responsibility.
- Provide additional guidance on how the commitments outlined within this policy will be implemented.

4.8 All colleagues who have roles identified within the MP will receive appropriate training via our People Team to ensure they are able to meet their roles and responsibilities.

4.9 [Asbestos Management Plan](#)

Property Portfolio

4.10 The following assets/ premises fall within this policy. Our Housing Management system, NEC will contain the relevant properties/ assets by which appropriate work programmes will be developed.

- Non-Domestic assets owned or managed by ML including but not limited to:
  - Common parts
  - Blocks
  - Remote Plant
  - Offices/ Depots
  - Shops
  - Community Centres
  - Garages
- Domestic Assets owned or managed by ML including but not limited to:

- Domestic properties
- Sheltered schemes
- Specialist housing
- Extra Care accommodation
- House in multi-occupation

### Standards

- 4.11 The duty to manage asbestos is contained in regulation four of CARS 2012 in which it requires the person who has the duty (i.e. the 'duty holder') to:
- Take reasonable steps to find out if there are materials containing asbestos in ML owned or managed assets, and if so, its amount, where it is and what condition it is in.
  - Presume materials contain asbestos unless there is compelling evidence that they do not.
  - Make, and keep up to date, a record of the location and condition of the asbestos-containing materials - or materials which are presumed to contain asbestos.
  - Assess the risk of anyone being exposed to fibres from the materials identified.
  - Prepare a plan that sets out in detail how the risks from these materials will be managed.
  - Take the necessary steps to put the plan into action.
  - Periodically review and monitor the plan and the arrangements to act on it so that the plan remains relevant and up to date.
  - Provide information on the location and condition of the materials to anyone who is liable to work on or disturb them.
- 4.12 ML acknowledges and accepts its responsibilities under all applicable legislation and will comply with its legal duty and obligations. ML will allocate appropriate resources and funding to:
- Provide accredited asbestos awareness training to those employees and contractors whose work could foreseeably expose them to asbestos fibres.
  - Implement and maintain an effective electronic asbestos register, which holds accurate records for every relevant property it manages or has responsibility for.
  - Make available, accurate asbestos information to all those undertaking works for or on behalf of ML in a timely manner.
  - Undertake suitable asbestos surveys in line with HSG264 to all dwellings and premises through the appointment of competent assessors.

- In relation to non-domestic properties, arrange annual periodic re-inspections to assess the ongoing condition of the ACM's and to update, where necessary, the asbestos register.
- Regarding domestic dwellings, arrange periodic re-inspections, no longer than 2 years to assess the ongoing condition of the ACM's and to update, where necessary, the asbestos register.
- Consult with contractors to be satisfied of their competence to undertake asbestos related works and to agree plans of works, method statements and risk assessments and ensure that only those with a recognised and current qualification (e.g. BOHS, UKATA) undertake this type of work.

4.13 There is also a requirement on others to co-operate as far as is necessary to allow the duty holder to comply with the above requirements.

4.14 In addition to the above:

- The HASWA 1974, Section 2, states that "It shall be the duty of every employer to ensure, so far as is reasonably practicable, the health, safety and welfare at work of all his/her employees".
- The HASWA 1974, Section 4 defines a duty of occupiers of premises, for example commercial landlords, managers of serviced office accommodation, and maintenance contractors, towards people who use those premises for work. Those premises, and the means of entry and exit, must be, as far as reasonably practicable, safe and without risks to health.
- The Management of Health and Safety at Work Regulations 1999 require employers and self-employed people to assess the risks of the health and safety of themselves, employees and people not in their employment, arising out of or in connection with the conduct of their business – and to make appropriate arrangements for protecting those people's health and safety.
- The Workplace (Health, Safety and Welfare) Regulations 1992 which require employers to maintain workplace buildings to protect occupants and worker.
- The CDM regulations require clients to pass on information about the state or condition of any premises (including the presence of hazardous materials such as asbestos) to the CDM Co-ordinator before any work begins and to ensure that the health and safety file is available for inspection by any person who needs the information.
- Section 4 of The Defective Premises Act 1972 Act provides that where premises are let under a tenancy which provides repairing or maintenance obligations on the landlord, the landlord owes a duty to all persons to take such care as is reasonable to see that they are safe from a 'relevant defect' that the landlord knew of or ought to have known of.

## 5 Implementation

- 5.1 This policy will be effective from May 2024.
- 5.2 This policy and MP, once approved, will be uploaded to ML's intranet, and communicated/ promoted on the likes of Viva Engage, Insite etc.
- 5.1 The overarching Compliance and Building Safety Strategy will be placed on the Magenta Living website. This associated policy will be available to our customers upon request.
- 5.3 This policy should be read in conjunction with other cross cutting compliance policies and associated documents including:
- Building Safety
  - Electrical Safety
  - Fire Safety
  - Gas & Heating Safety
  - Lifts & Hoists
  - Water Safety

## 6 Consultation

- 6.1 Due to the nature of the legislation being prescriptive in what we need to undertake as an organisation, any deviation is not permissible. Therefore, limited consultation has been undertaken.
- 6.2 However, this policy and associated MP has been shared for review with key stakeholders including:
- Executive Leadership Team
  - Senior Leadership Group
  - Middle Leadership Team
  - Health & Safety Team
  - Key Operational Colleagues
  - External review via our Compliance Consultant Savills

## 7 Equality Analysis (EA)

- 7.1 Magenta Living is committed as an employer and provider of housing services to equality of opportunity for all. In addition to this statutory duty under the Equality Act 2010, it is further committed to developing a culture which recognises wider social diversity in its communities and therefore respects and recognises the values and needs of individuals regardless of whether they belong to a particular section of society or group provided for by legislation.
- 7.2 We believe all people should be treated with dignity and respect regardless of their age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race (including, nationality, ethnic or national origins), religion, belief or non-belief, sex, or

sexuality or by association with someone with any of these characteristics or perception of having any of these characteristics.

7.3 The ability to consider the impact this policy and its associated Management plan has on our customers and/or protected groups whilst adhering and implement prescriptive legal obligations will always pose a challenge and be open to different interpretations. Our policy and MP focus on our legal responsibilities in providing clarity of our undertakings. Therefore, the provision of an EA is not deemed a prerequisite for the approval of this policy.

## 8 Data Protection

8.1 All parties referred to in this policy must abide by the principles of the General Data Protection Regulations as detailed below:

- Lawfulness, fairness, and transparency
- Purpose limitations
- Data minimisation
- Accuracy
- Storage limitations
- Integrity and confidentiality (Security)
- Accountability

8.2 In addition, data sharing agreements/ arrangements shall be entered into with appropriate providers in line with the General Data Protection Regulation.

## 9 Monitoring Performance

9.1 This policy’s effectiveness will be measured using the following key performance indicators which will be reported monthly (Table 1) In addition the Contracts Manager – Asbestos Safety will also record a series of operational data performance measures (Table 2).

Table 1 – Key Performance Indicators (Based on our legal requirement)

Ref	Element	KPI
1	Asbestos Inspections (Communal)	% of Block / Communal / Commercial (non-domestic) assets with an in date asbestos survey or re-inspection survey
2	Asbestos Inspections/ Surveys (Communal)	% of Quality Insurance checks completed by ML.

Table 2 – Operational Performance

Ref	Operational Performance
1	Total number/ percentage of domestic properties-built Pre 2000.
2	Total number/ percentage of domestic properties (Pre 2000) with a current asbestos survey against.
3	Total number/ percentage of domestic properties (Pre 2000) with no asbestos survey against.
4	Number of properties/ percentages containing ACM & the type of ACM.
5	Number of properties/ percentages which are asbestos free.
6	Number/percentage of remedial actions outstanding
7	Number of reportable incidents (RIDDOR) regarding asbestos work
8	Audit checks undertaken in relation to asbestos survey and works undertaken on a minimum of 10% sample

9.2 In addition, we will also:

- Undertake an internal audit of which one of the current seven compliance areas will be reviewed annually. The findings of the report will be shared with the Audit & Risk Committee.
- A monthly Property Compliance Report of which asbestos safety forms part of will be presented to the relevant Board, committees, and leadership teams at the agreed frequency to provide assurance, updates, and any areas of concern/non-compliance.
- On a monthly basis our Performance & Data Team will lead on a Property Compliance Asset Audit which will validate and ensure our asset register is accurate. In addition, the audit will also look at any changes in compliance data from the previous month. Any anomalies will be reviewed by the Contracts Manager who will correct if found to be inaccurate.
- The Performance & Data team will from time to time review the KPI's to ensure they are appropriate and fit for purpose.
- Where a customer is dissatisfied with any aspect of ML's service or implementation of this policy, they will have the right to have their complaint addressed under our Complaints Policy. Where learning has taken place and would improve the policy, updates will be made as appropriate.

## Quality Assurance

9.3 The Contract Manager and their team will undertake:

### Non-Domestic Assets

- 100% Desktop QA review on all non-domestic asbestos surveys/ re-inspections.
- 100% On site post inspection of all completed non-domestic asbestos removal works.

### Domestic Assets

- 100% Desktop review of all new domestic asbestos surveys
- 50% Desktop review of all domestic re-inspection surveys
- 25% On site post inspection of all void property asbestos removal works.
- 25% On site inspection of all tenanted property asbestos removal works.

9.4 In addition, the incumbent contractor will undertake a 10% of all surveys works in line with their UKAS Accreditation.

9.5 Where appropriate, our Health & Safety Team may undertake on site audits utilising the recording and reporting mechanism within the E20 system.

## **10 Scheme of Delegation**

10.1 The responsible authority for approving this policy is our Executive Leadership Sponsor/ team and was approved on 18<sup>th</sup> June 2024.

10.2 The Responsible Director for formulating this policy and ensuring its effective implementation is the Director of Safety & Compliance.

## **11 Policy Review**

11.1 The policy will be reviewed every 24 months or earlier if in the event of a change in legislation.

### Strategic review

11.2 Asbestos safety is a high-risk specialised area and as such it is imperative that ML has in place a fit for purpose policy and management plan. Therefore, if suitable changes to legislation take place which changes the way in which ML manage this compliance responsibility, an independent, third-party specialist will be engaged to review and provide assurance that any revision meets the needs of the business and legislation.

## 12 Amendment Log

<b>Date of revision:</b>	<b>Record of amendments:</b>	<b>Reason for revision:</b>
March 2019	Rewritten	Compliance Review
March 2020	None	Annual Review
April 2021	<i>Removed June 2021 date from delivery, as this has now been met since last year. Added in HSG107 into PAT testing section. Amended date in section 4 and 8 to May 2021.</i>	Annual Review
March - October 2023	<i>Refined list of legislation. Updated list of Roles &amp; Responsibilities and moved to Management Plan. Data section expanded and moved to Management Plan. Revised Assurance section. Competence section moved to Management Plan Included new section on “Key Activities to Manage Risk” – cross refers to MP. .</i>	<i>Building Safety agenda triggered review of Big 6 Policies</i>
Oct - May 2024	<i>Review by ELT, SLG, MLT, H&amp;S &amp; Operational Managers.</i>	<i>Internal review of policy &amp; MP</i>