

# UKATA

*An industry-leading association  
committed to improving the quality  
and standards of asbestos training  
across the UK and Globally.*

# Duty to Manage Asbestos

*Who holds the responsibility?*

**Graham O'Mahony BSc (HONS), CoCA**  
UKATA Chair



# What shall we look at today....?



What is a  
dutyholder?



What does the  
legislation say?



Who is the  
asbestos  
dutyholder?



Who then, is  
the appointed  
person?

# What is a duty holder?

First things first.....what is a duty holder

We hear the term used quite often in legislation....

Let's break it down.....

*duty* 'dju:ti'

*noun*

'a task or action that a person is bound to perform for moral or legal reasons'



# What is a duty holder?

Let's continue.....

*holder* 'hohl-der'

*noun*

*Law:*

'a person who has the legal right to enforce a negotiable instrument'



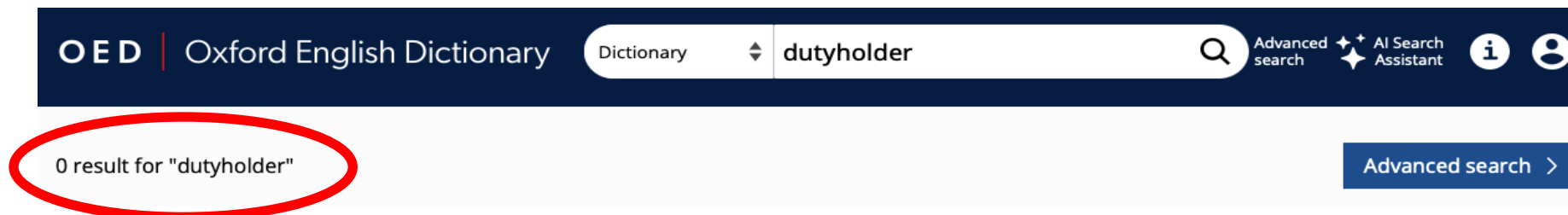
# What is a duty holder?

Together we get....

*dutyholder*

*Definition:*

\*No results found for dutyholder...!!!!



The screenshot shows the Oxford English Dictionary search interface. The search bar contains the text "dutyholder". Below the search bar, the text "0 result for 'dutyholder'" is circled in red. The interface also includes a search button, a "Dictionary" dropdown menu, and links for "Advanced search" and "AI Search Assistant".

OED | Oxford English Dictionary | Dictionary | dutyholder | Search | Advanced search | AI Search Assistant | Info | Profile

0 result for "dutyholder" | Advanced search >

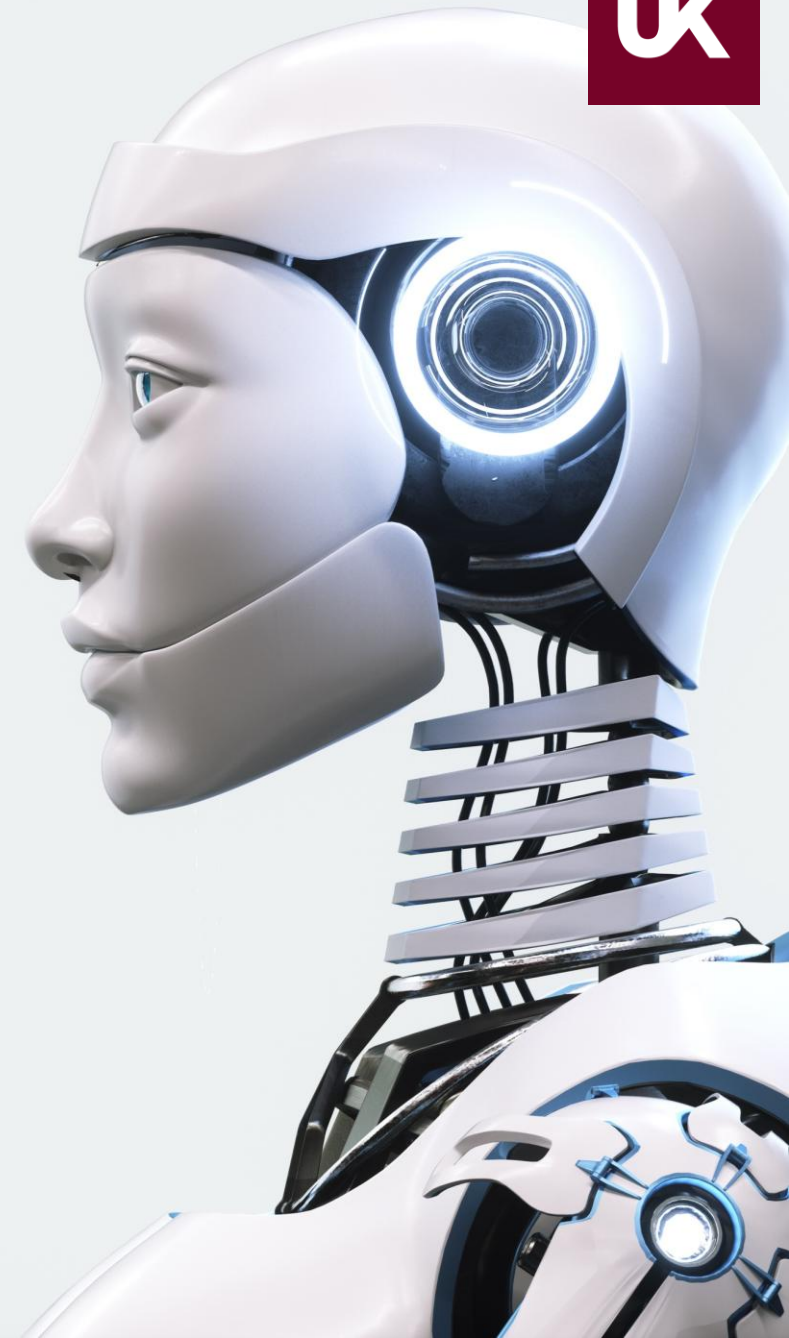
# What is a duty holder?

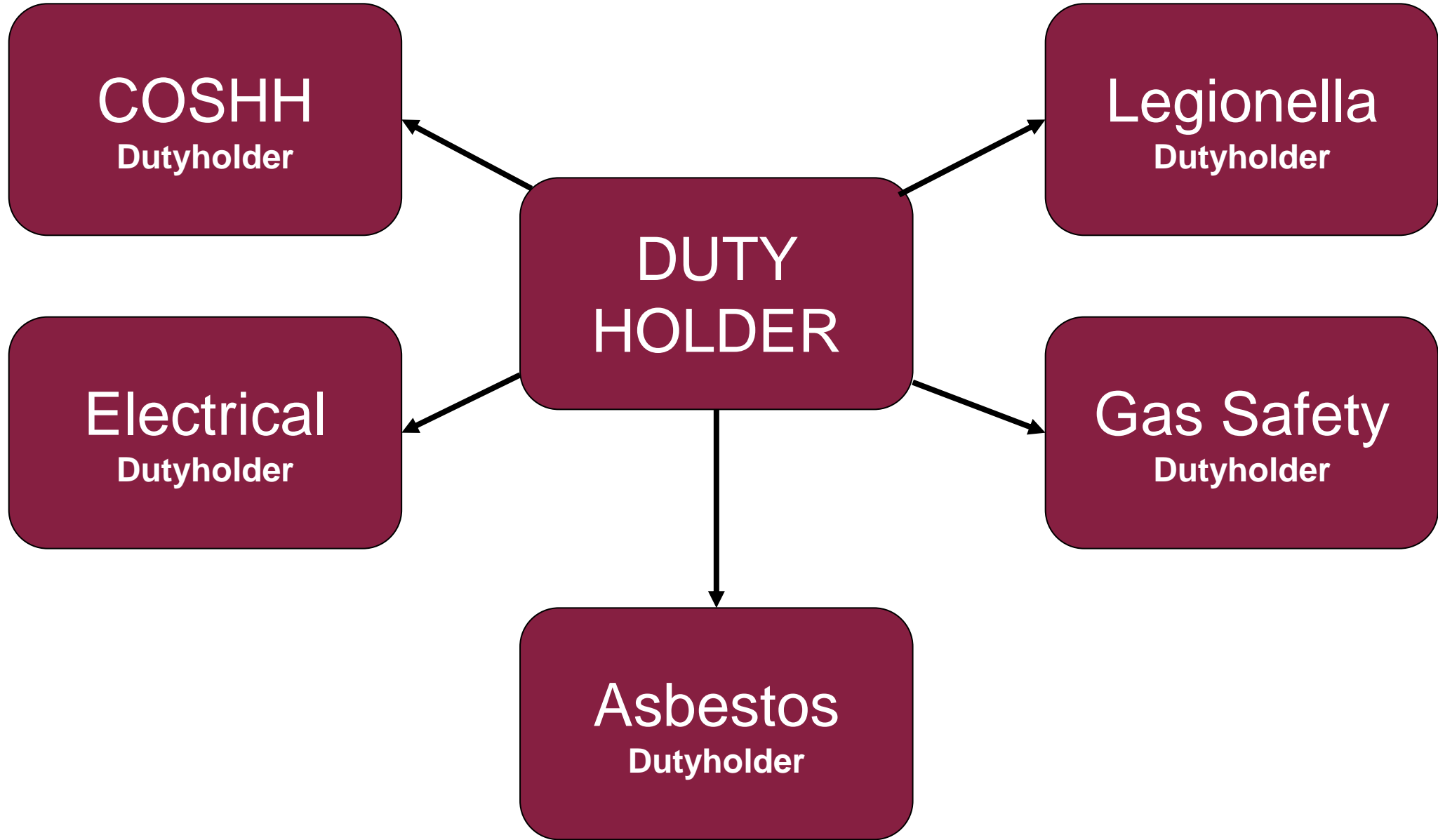
So, using the power of AI.... this is what we get.....

A **dutyholder** is an individual or organisation with **legal responsibility** for ensuring compliance with specific regulations, particularly in health and safety, construction, and property management.

**Dutyholders are accountable** for identifying risks, implementing safety measures, and ensuring compliance with relevant laws and standards. Their obligations vary based on the industry and jurisdiction.

\*Source: AI ChatGPT







# Asbestos Management – The History

This is not new!

First mentioned  
back in 1998...  
'employer'

Consulted on  
in 2000...'  
dutyholder'

Implemented  
2002 (CAWR  
2002)

Enforceable  
since 2004  
(CAWR 2002)

Revised in 2012  
(CAR 2012)

# Asbestos Management – The history

Legislated for 23 years

Enforceable for 21 years



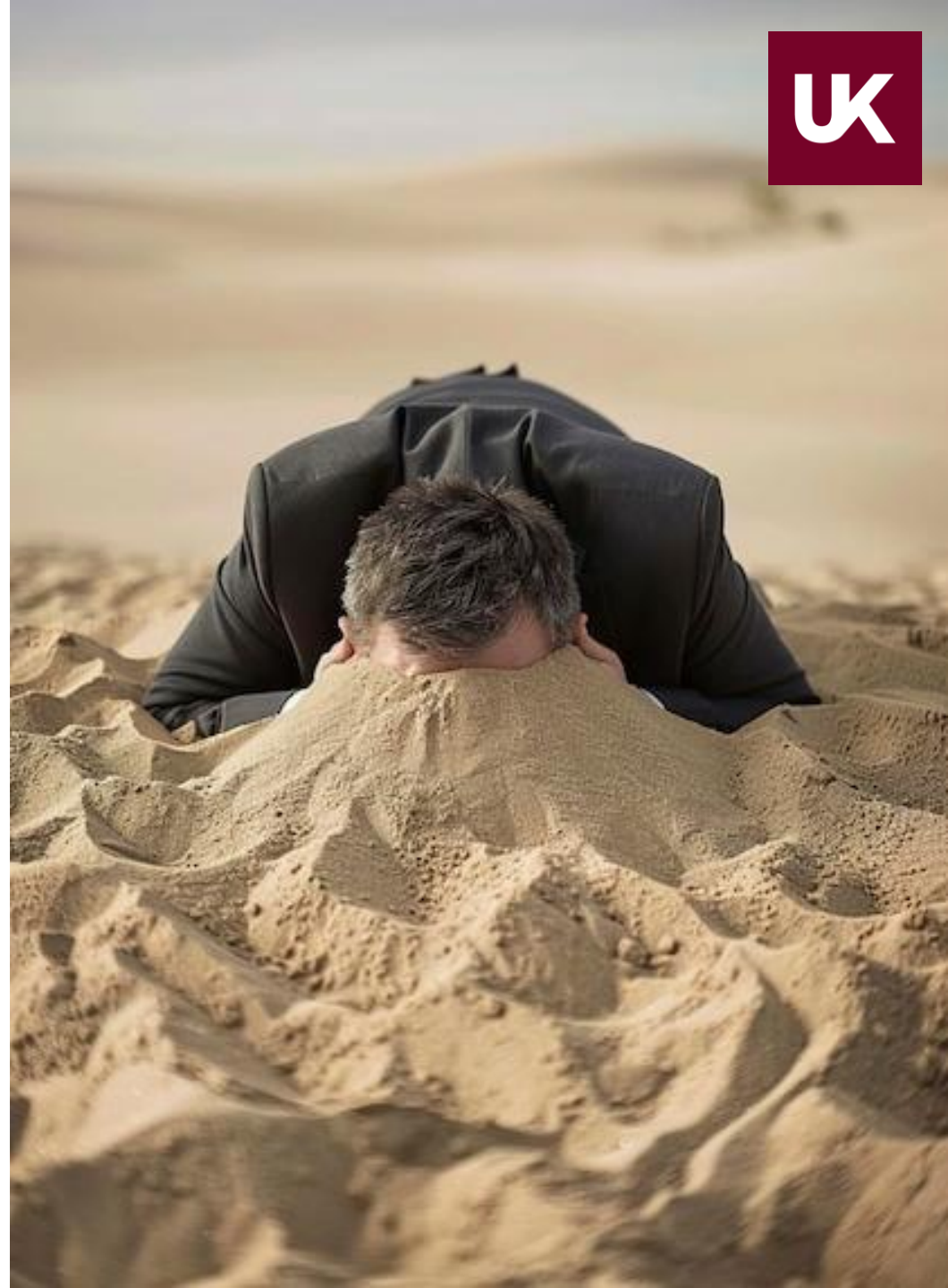
# So why am I doing this today.....

Confusion.....! **its not my job!!!!**

Nobody wants the job.....! **too difficult**

What if I get it wrong....? **prosecution**

**Somebody IS responsible**



# Identifying the Duty Holder

As documented in the latest CAR 2012, ACoP, L143, Second Edition, Regulation 4, states the Duty Holder is:

“... the person or organisation that has the main responsibility for maintenance or repair of non-domestic premises....”

Please note this does not extend to Domestic Premises.....but does cover common parts....

# The dutyholder may be



The owner.



The landlord for the premises.



Person or organisation with responsibility for maintenance or repair.



It may also be the tenant.



In some circumstances, it may be shared.

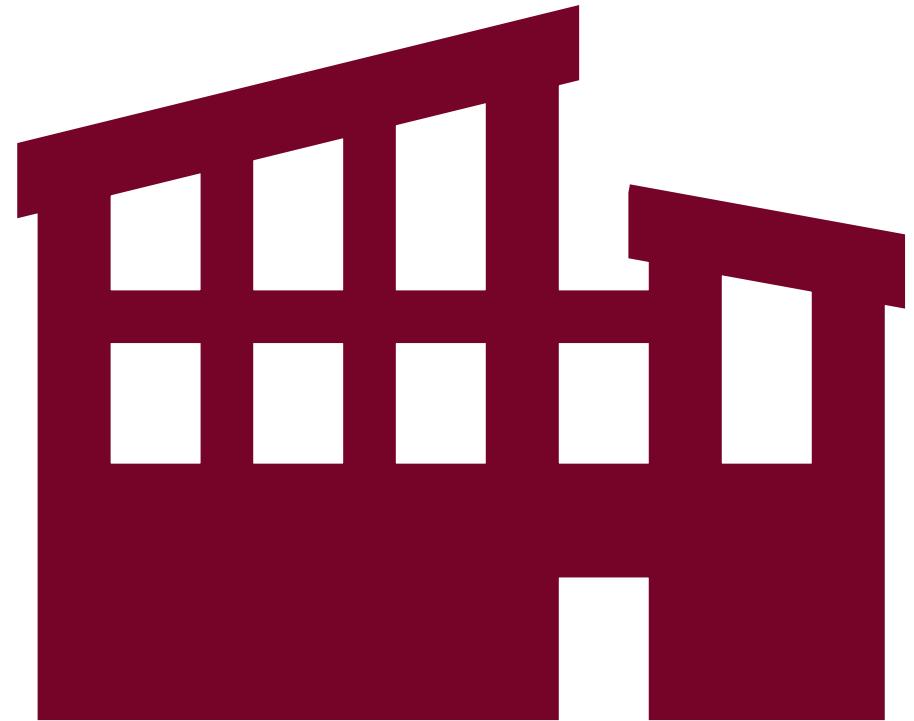
# Determining the duty holder

For simple arrangements determining the duty holder will be easy

For example:

- the owner occupies the workplace premises
- they are responsible for all maintenance and repairs in the premises.

In such situations, the owner will be the dutyholder.

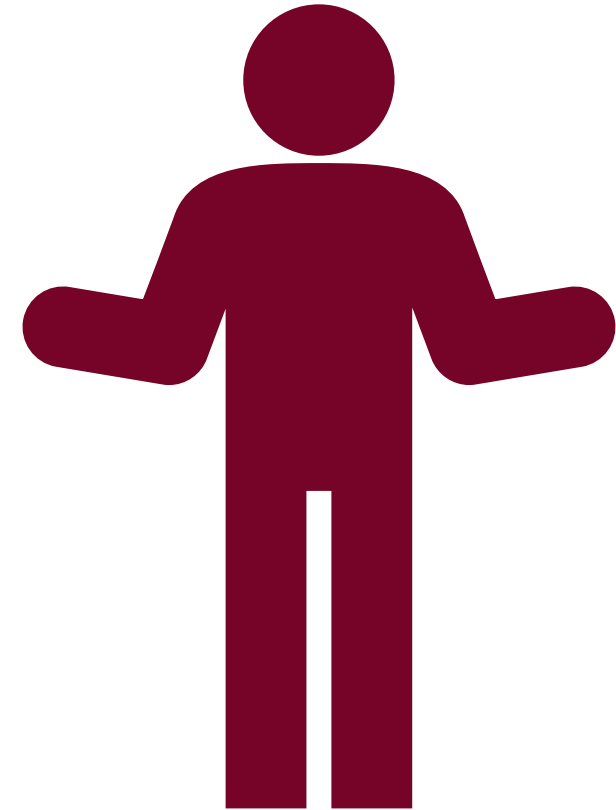


# Determining the duty holder

Another example,

- the owner rents out workplace premises
- the tenant is responsible for all maintenance and repairs in the premises.

In such situations, the tenant will be the dutyholder.



# Tenancy agreements

Where tenancy agreements are in place, to determine the DH, you will need to refer to who has the maintenance responsibility.

This could be the:

- Landlord
- Tenant
- Managing Agent\*

If it is not explicit, then who ever has control of the building will be responsible





# \*Managing Agents/Caretakers

There might be an agreement to pass all or some of the responsibilities to a managing agent.

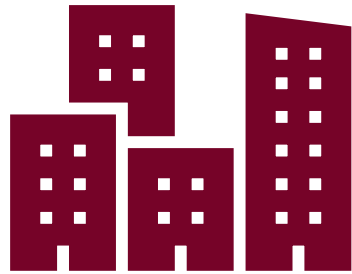
However, the legal obligation to comply with duty to manage regulation cannot be passed to a managing agent.

## Caretaker/Site Manager

They do not hold the legal responsibility for the duty to manage asbestos. They should be aware of any asbestos in the building.



# Public Buildings



In public buildings, who the dutyholder is dependent on who is responsible for maintenance.



For example, for most hospitals, LA buildings etc, the dutyholder will be the employer, therefore the CEO, COO.

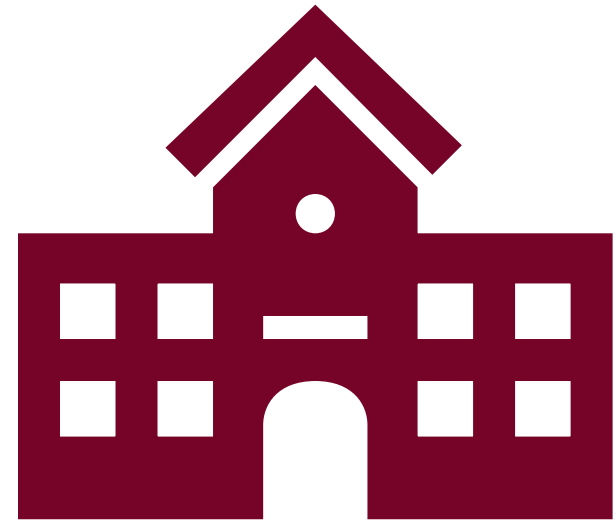
# Schools

Who the dutyholder is varies with the type of school.

Local authority managed schools, for example: community schools, the local authority is the employer.

Voluntary-aided and foundation schools, it will be the school governors.

For academy and free schools, the academy trust will be the dutyholder.



# Schools

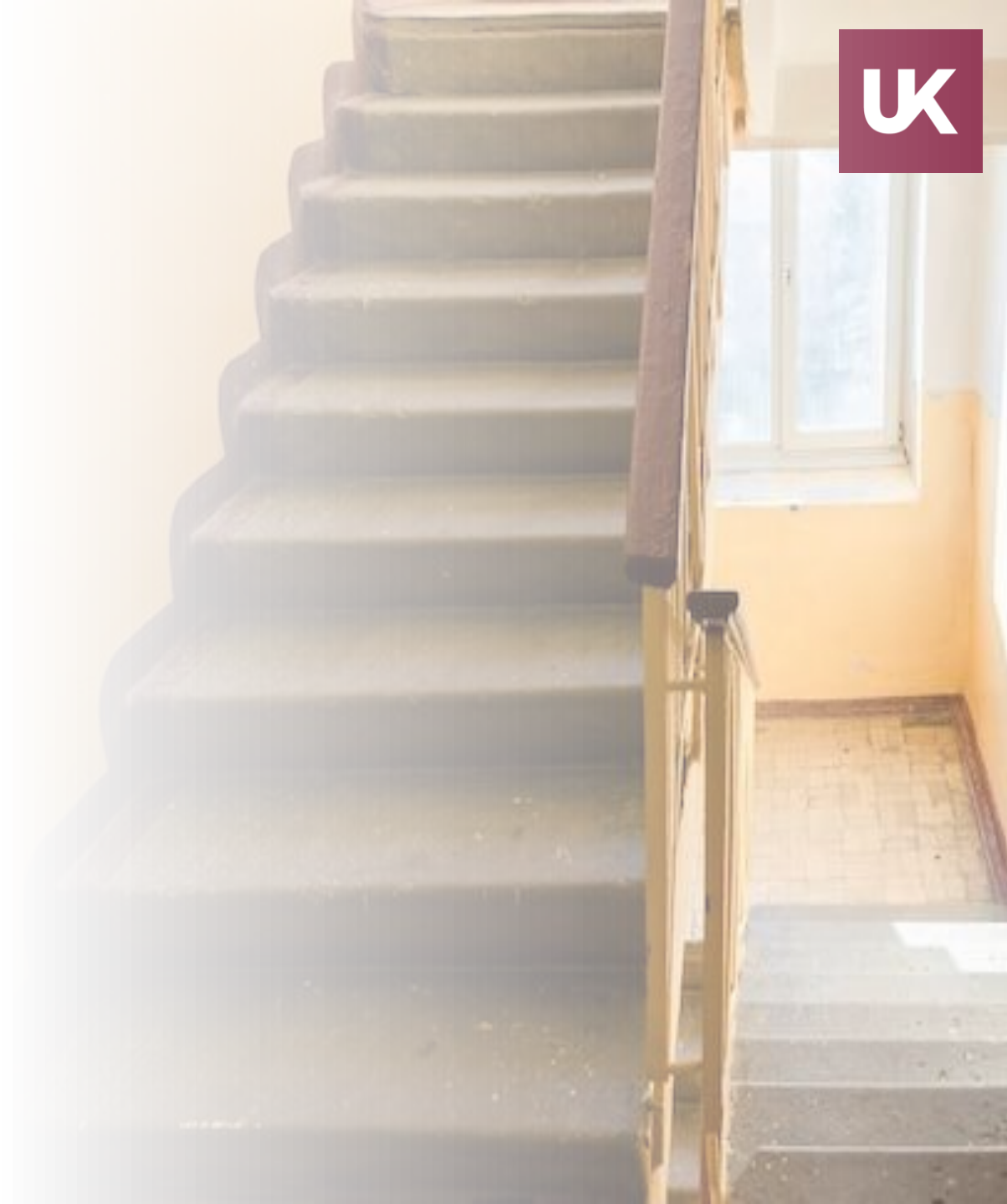
Who the dutyholder is varies with the type of school.

For independent and fee-paying schools, it may be the proprietor, governors or trustees.

The local authority sometimes delegates budgets for maintenance to the school. In such cases, the duty to manage asbestos is **shared** between schools and the local authority.

# Common parts in domestic premises

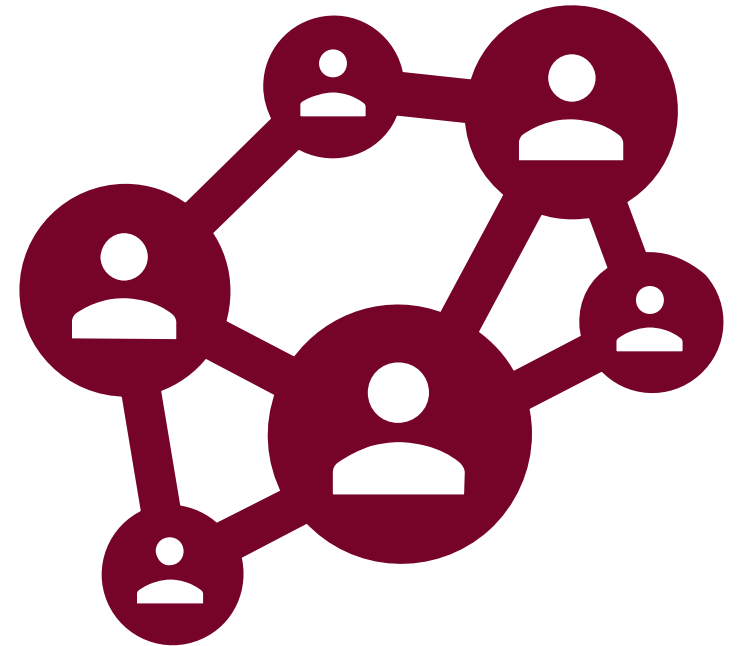
In common parts of domestic premises, the person responsible for those areas, such as the landlord of rented accommodation, is responsible for managing asbestos.



# Duty to co-operate

Anyone who is not a dutyholder, but has information on or control of the premises, must help the dutyholder, as far as necessary, to comply with the duty.

But this does not extend to paying for or sharing the costs of any actions the dutyholder takes to manage these risks.



# Case Study



A tenant rented a premises from a landlord (2018), under the terms of the tenancy the tenant was responsible for cleaning/maintenance of the premises, however the explicit term used in the lease stated, “**the tenant is responsible for all statutory obligations**”. DTM?????



The landlord undertook the survey (2004, 2014), held the register, reinspected annually and held this information for access, but requested any works would require approval from the landlord (RAMS).



Who is the Duty Holder in this scenario...?

# Case Study



The tenant undertook some cleaning, approved by the landlord, (pressure washing), and disturbed some asbestos, creating contamination, with a damages claim in the region of £250k.



The argument from the landlord, was that the tenant was responsible and was the DH under the agreement. The tenant disagreed.



The survey (2014) showed that there was asbestos in the area where the cleaning was undertaken, prior to the cleaning being undertaken.....how did this happen...?



# Case Study



The 2014 survey showed there was asbestos, however when the survey was provided to the tenant to assess the work, the survey from 2004, did NOT show any asbestos.



Therefore, the landlord did not pass on the correct information, hence the damage.

# Case Study



The question still stands...who is the DH...??



Under the tenancy agreement the tenant would be the DH, as they were responsible for all statutory obligations.



However all that was required to manage the asbestos was being undertaken by the landlord, who shared all this with the tenant...or so they thought.



The landlord was acting as the DH, doing all the work, so they were by default the DH.

# Case Study



However, the landlord did not share the correct information at the time and therefore would be liable for a failure to provide the accurate information at the time.



The determination of the DH, was never finalised, but as the landlord was acting as the DH, approving work, managing the asbestos, the assumption going forward was that the landlord in this case was the DH.



However, legally, that could be challenged....

# Appointed Person?

So... that's the DH sorted, what is an appointed person?

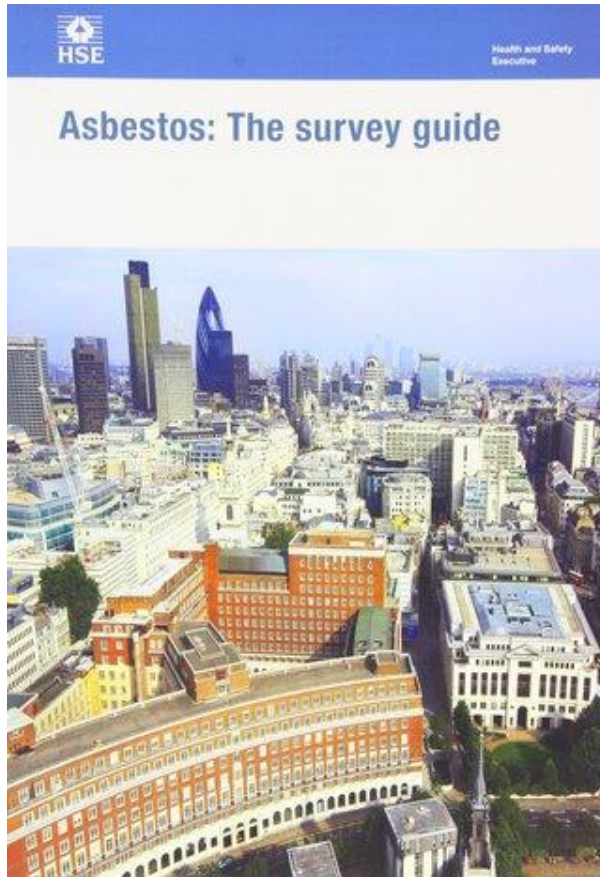
CAR 2012 states: The dutyholder's legal responsibilities cannot be delegated, but dutyholders can **nominate others** to do all or part of the work to assist in complying with the duties.

Anyone or any organisation who is nominated to do some work as a result of this regulation must know what it is they have to do and be able to do it safely.

They should be **competent** to do this work”.



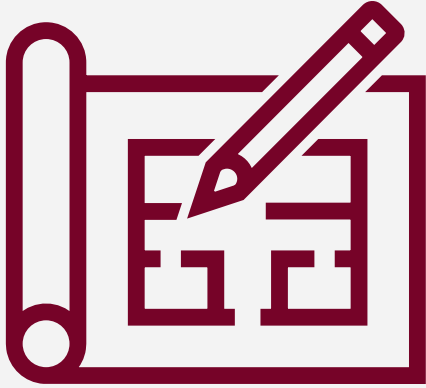
# The Appointed Person (AP)



Asbestos: The Survey Guide (HSG 264).

To help comply with the legal requirements, dutyholders should identify a person who will be responsible for that management.

An **appointed person** will be essential where the dutyholder has a large or complex building portfolio. Part of their responsibilities will include managing the survey, including contractual and reporting arrangements, quality and subsequent use of the data.



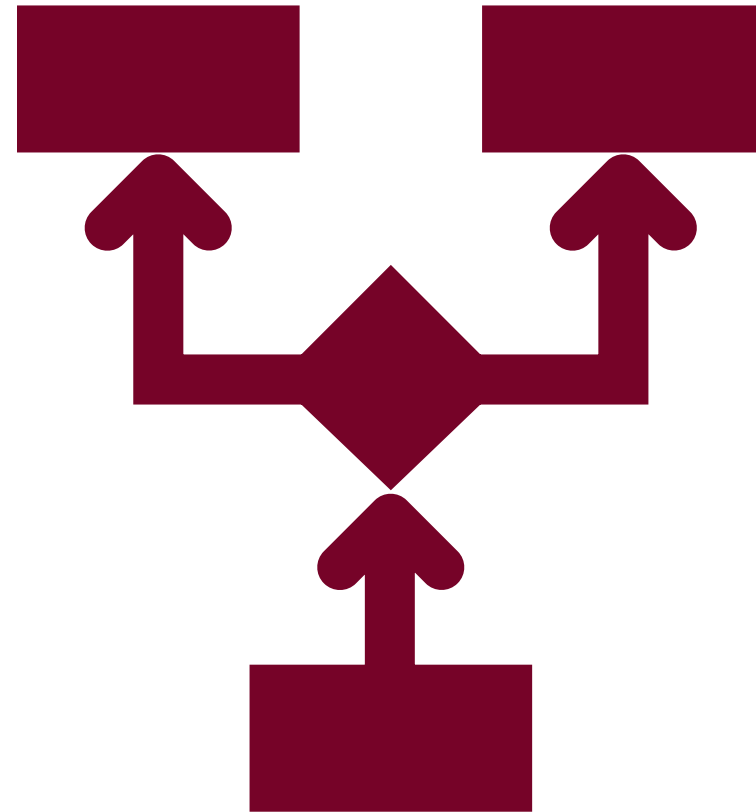
## The Appointed Person (AP)

The survey data and information will be used to complete an asbestos register and building diagram(s) showing the ACM locations. It will also feed into the risk assessment, which will be used to develop the management plan. The dutyholder needs to establish clear lines of responsibility for asbestos management and implementation of the plan.

The appointed person will need the resources, skills, training and authority to ensure that the ACMs are managed effectively.

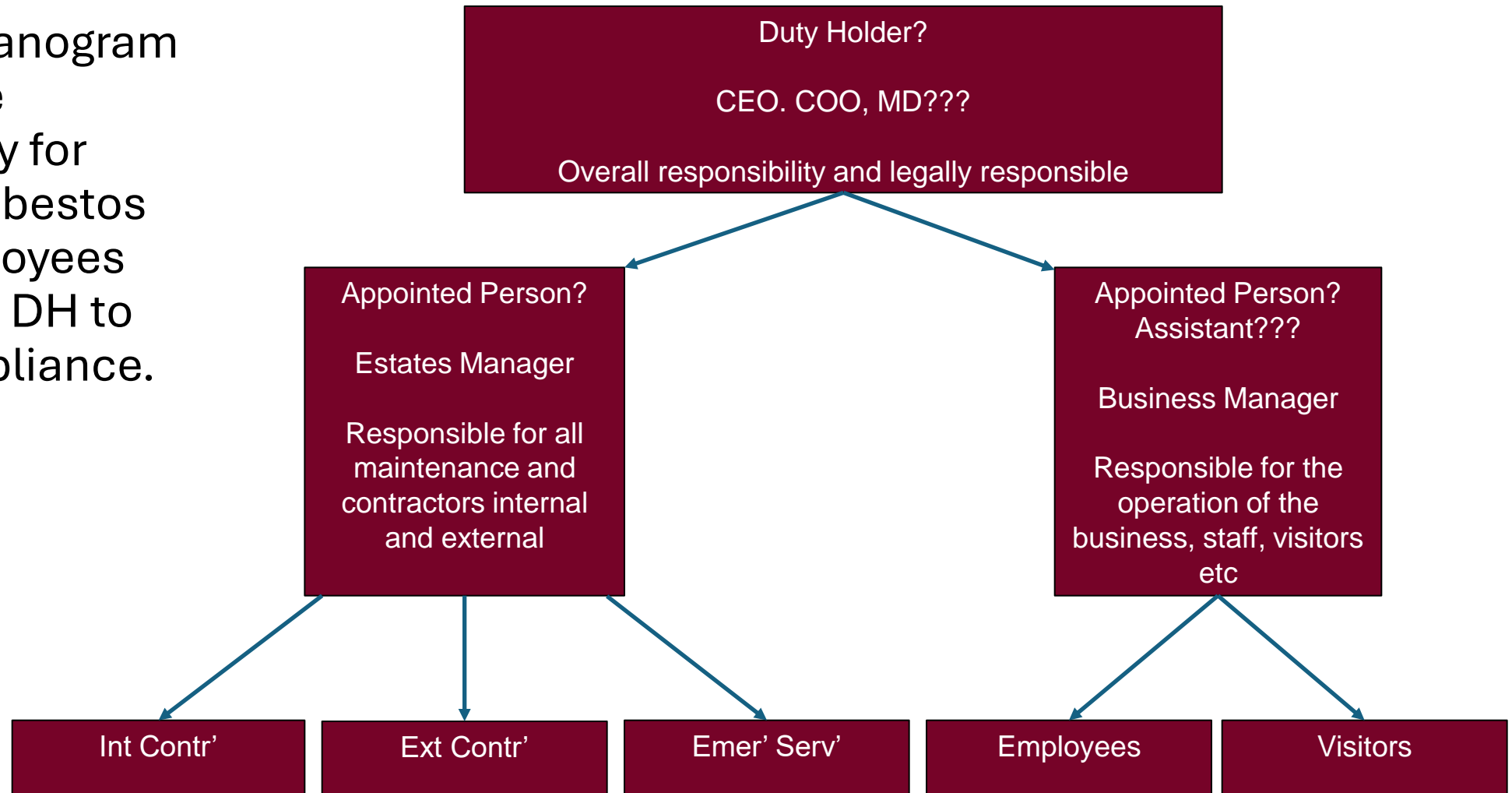
# The reverse organogram method

Due to the complexities in some larger organisations, the determination of the DH or AP can sometimes be difficult to ascertain, therefore reversing the organogram and looking at the people at risk initially and who is responsible for them, then move up the chain to determine who is ultimately responsible.



# The reverse organogram method

Possible organogram to determine responsibility for managing asbestos and for employees assisting the DH to ensure compliance.







## Duty to Manage Asbestos (Overview)

Issue Date: 01/02/2025 | Version: 1

AA: Asbestos Awareness

NL: Non-Licensed

LW: Licensed Work

✓ DTM: Duty to Manage

AM: Asbestos Management

AS: Analyst/Surveyor

RP: RPE/PPE

SMG: Soil & Made Ground

OH: Occupational Hazards



UKATA is a leading non-profit association dedicated to improving the quality and standards of asbestos, silica and dust control training.

For those assisting DH/ AP  
Landlords and Managing Agents

The purpose of this training is to provide learners with the responsibilities and legislative requirements outlined in the Control of Asbestos Regulations 2012, Regulation 4, concerning the management of asbestos in non-domestic premises. This training aims to provide learners with an understanding of the duties of asbestos duty holders, the types of asbestos surveys required, and the practical application of findings in an asbestos management plan.

6 Learning Hours



### Duty to Manage Asbestos for the Housing Sector

Issue Date: 01/02/2025 | Version: 1

AA: Asbestos Awareness

NL: Non-Licensed

LW: Licensed Work

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AS: Analyst/Surveyor

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For those assisting DH/ AP  
Landlords and Managing Agents

The purpose of this training is to equip learners from the housing sector with a thorough understanding of the legislative requirements outlined in the Control of Asbestos Regulations 2012 (CAR 2012). Emphasising the identification of the Duty Holder's role and responsibilities, the various types of asbestos surveys, expectations from these assessments, and the essential components of an effective asbestos management plan.

6 Learning Hours

## Duty to Manage Asbestos: Duty Holder

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### For Duty Holders

The purpose of this training is to equip duty holders with the essential theoretical knowledge and practical skills required to effectively manage asbestos-containing materials (ACMs) in buildings under their control, as stipulated by the Control of Asbestos Regulations 2012 (CAR 2012). This course aims to deepen understanding of legal obligations, enhance proficiency in assessing and managing asbestos risks, and ensure compliance with all relevant health and safety regulations.

### 15 Learning Hours



## Duty to Manage Asbestos: Appointed Person

Issue Date: 01/02/2025 | Version: 1

AA: Asbestos Awareness

NL: Non-Licensed

LW: Licensed Work

✓ DTM: Duty to Manage

AM: Asbestos Management

AS: Analyst/Surveyor

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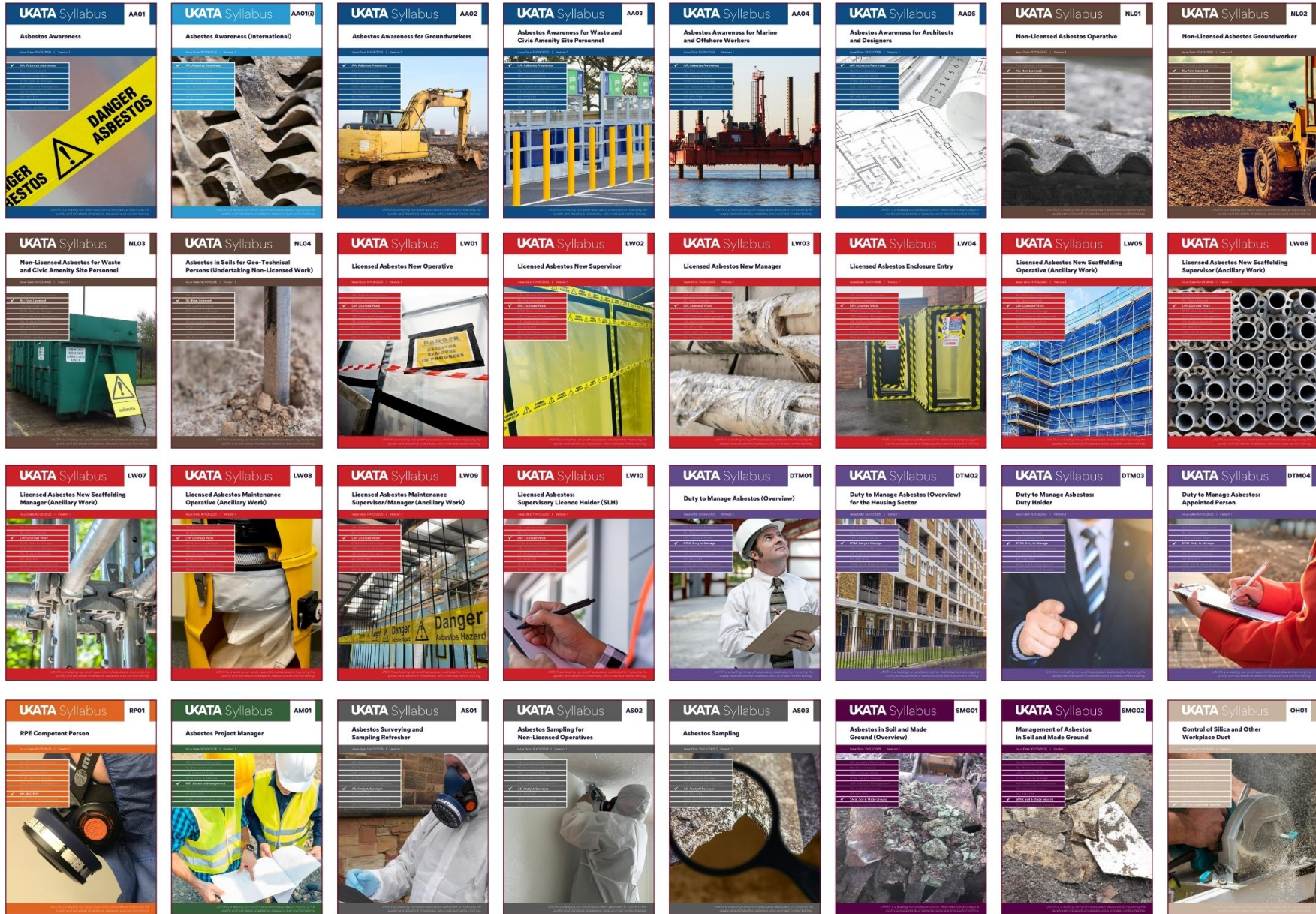
## For the Appointed Person

The purpose of this training is to equip appointed persons with the essential theoretical knowledge and practical skills necessary to manage asbestos-containing materials (ACMs) on behalf of duty holders. This course is designed to ensure appointed persons are thoroughly prepared to undertake responsibilities as stipulated by the Control of Asbestos Regulations 2012 (CAR 2012), enhancing their understanding of legal obligations and improving proficiency in assessing and managing asbestos risks in the buildings they oversee.

## 15 Learning Hours



# UKATA TRAINING PORTFOLIO



**Thank you for your time.**

**Any EASY questions??**



# UKATA

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