



## CORPORATE HEALTH AND SAFETY COMMITTEE – 23RD MAY 2011

**SUBJECT: RECENT HSE UPDATES**

**REPORT BY: DEPUTY CHIEF EXECUTIVE**

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### **1. PURPOSE OF REPORT**

- 1.1 The purpose of this report is to inform Members, Management and Trade Union Safety Representatives of recent updates in Health and Safety information, advice and guidance.

### **SUMMARY**

- 2.1 No new health and safety legislation came into force on the 'common commencement date' of April 6th 2011.
- 2.2 The Supreme Court has awarded ground-breaking claims for compensation relating to low level exposure to asbestos ruled to have caused malignant mesothelioma (a rare form of cancer caused mainly by inhaling asbestos fibres).

One claimant was exposed to asbestos while a school pupil, and is the first to receive compensation relating to asbestos exposure while a school pupil. She died the day after a judge at the Court of Appeal ruled she was entitled to £240,000 compensation.

The award, made against Knowsley Council for negligently exposing her to asbestos fibres, was frozen until March 2011 while the authority appealed against the decision to the Supreme Court, arguing they could only be held liable if it could be proved they were responsible for causing exposure to asbestos that had at least "doubled the risk" of mesothelioma. But seven Supreme Court justices unanimously rejected the argument, ruling there was no requirement for a claimant to show a doubling of risk. They ruled that whether exposure was too insignificant to be taken into account was a matter for the trial judge on the facts of each particular case.

The rulings have potentially serious implications for local authorities trying to defend claims for asbestos exposure as the claimant is not required to prove exposure from a local authority premises presented any greater risk than elsewhere, and re-ignites the 'one asbestos fibre can kill' argument.

- 2.3 Caerphilly Council are currently in the process of reviewing asbestos management arrangements to ensure that we meet current legal requirements and are able to robustly defend future civil claims.

### **3. RECOMMENDATION**

- 3.1 That the contents of the report be noted.

Author: Andrew Wigley, Health and Safety Officer

Consultees: Nigel Barnett, Deputy Chief Executive

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Councillor Allan Pritchard, Cabinet Member for Human Resources, Legal, Policy and Governance

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