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# Real Estate Tip of the Week: Managing statutory compliance when selling or leasing

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Landlords and property investors have ongoing regulatory duties towards those that occupy their property. The extent of the obligations will vary depending on the terms of occupation and the relevant statutory framework.

Early disclosure in relation to asbestos and fire regulation at the property will help not only in relation to the due diligence exercise when selling or leasing, but it will also help buyers and tenants with their own regulatory duties where cooperation between owners and occupiers is critical.

## Asbestos

In broad terms the duty to manage asbestos falls on the 'duty holder'. This includes every person who has an obligation to maintain or repair non-domestic premises. There may be multiple duty holders within a single property (for example a landlord in relation to the common parts and a tenant in relation to its own demise). Where this is the case they must cooperate. The buyer or tenant does not become the duty holder until completion but they will want to establish early on in the due diligence process what their obligations will be.

A landlord should disclose a copy of its own asbestos assessment, a plan identifying actual/presumed asbestos together with a plan of action. This does not obviate the requirement for an occupier to meet its own obligations under the asbestos regulations or carry out its own survey or inspection.

## Fire

The obligation falls on the 'responsible person' who can be a number of entities depending on circumstances (e.g. property owner, occupier or mortgagee in possession).

A responsible person must carry out, amongst other things, a fire assessment risk proportionate to the size and type of the premises.

Early disclosure of information will help all the parties understand their respective obligations in relation to fire safety.

## Duty to update

Remember if information is disclosed as part of the due diligence process, and further information comes to light that changes the information that was previously disclosed, there is a duty to update the buyer or tenant before completion.

**If you have queries about how this might apply in practice, or generally about disclosure of information on due diligence please get in touch.**

## Authors



**Zoe Carpenter**

*Bristol*

+44(0)117 918 2228

[zcarpenter@dacbeachcroft.com](mailto:zcarpenter@dacbeachcroft.com)