

INTERNAL AUDIT REPORT

FROM: Audit and Risk Manager **SUBJECT:** Gas and Electrical Safety Checks

TO: Deputy Chief Executive **DATE:** 26 May 2022

C.C. Chief Executive
Head of Finance
Asset Manager
Compliance Manager
Portfolio Holders (Cllrs Day & Matecki)

1 Introduction

- 1.1 In accordance with the Audit Plan for 2022/23, an examination of the above subject area has recently been completed by Emma Walker, Internal Auditor, and this report presents the findings and conclusions for information and, where appropriate, action.
- 1.2 Wherever possible, findings have been discussed with the staff involved in the procedures examined and their views are incorporated, where appropriate, into the report. My thanks are extended to all concerned for the help and cooperation received during the audit.

2 Background

- 2.1 The need for gas safety checks is set out in the Gas Safety (Installation and Use) Regulations 1998. The regulations stipulate that the checks need to be undertaken on an annual basis.
- 2.2 Under the Landlord and Tenants Act (1985) landlords must ensure that the electrical installation in a rented property is maintained safely throughout a tenancy.
- 2.3 The applicable British Standard (BS7671) suggests that checks should be performed every five years (or at change of tenancy) for rented properties, although it also suggests that domestic properties (for homeowners) are checked every ten years. The Electrical Installation Condition Reports (EICR) produced are valid for ten years.
- 2.4 The checks are undertaken by contractors on behalf of the Council (gas checks by D&K Heating Servicing Ltd and electrical checks by Dodds Group (Midland) Ltd). The management of these contracts is undertaken by the Compliance Team within Assets.

3 Scope and Objectives of the Audit

- 3.1 The management and financial controls in place have been assessed to provide assurance that the risks are being managed effectively. The findings detailed in the following sections confirm whether the risks are being appropriately controlled or whether there have been issues identified that need to be addressed.
- 3.2 In terms of scope, the audit covered the following risks:
1. Non-compliance of legislation could result in potential fines and claims from tenants.
 2. Insurance costs if issues occur.
 3. Payments are made to contractors for checks that have not been completed.
 4. Non-compliance with applicable legislation: The Gas Safety (Installation and Use) Regulations 1998, The Landlord and Tenant Act 1985 and 'Part P' of Building Regulations.
 5. Council considered to be a bad landlord if legislation is not complied with/service is poor.
 6. The Council retain the liability for un-performed checks if action taken to address these is not effective.
 7. Risk to tenant's health from unsafe appliances, if not checked thoroughly/repairs are not undertaken following the identification of issues. (The contractors bear the risk of health and safety of their staff when undertaking the visits to properties).
 8. Unable to evidence that checks have been performed as a result of contractors not providing/uploading certificates or the system being unavailable.
 9. Checks are not undertaken at all relevant properties as a result of the Active H system not being updated (e.g., new properties not included on the system, dates incorrectly input leading to delayed checks etc.)
 10. Underperformance of contractors/failure of contractors to deliver services.
 11. Breakdown of relationship with contractor.
- 3.3 Checks of corporate properties are excluded from the scope of this audit as a separate audit of Health & Safety Compliance of Council Buildings is scheduled to be undertaken.
- 3.4 A 'risk-based audit' approach has been adopted, whereby key risks have been identified during discussions between the Internal Auditor and key departmental staff. The Significant Business Risk Register has also been reviewed.
- 3.5 These risks, if realised, would be detrimental to the Council with regards to meeting the following corporate objectives:
- The work in this area helps the Council to achieve the external People aims of the Fit for the Future (FFF) Strategy with regards to meeting the housing needs of its tenants.

4 Findings

4.1 Recommendations from Previous Reports

4.1.1 The current position in respect of the recommendations from the audit reported in August 2019 is as follows:

Recommendation	Management Response	Current Status
1 The contractor should be reminded of the terms of the contract, with performance being reviewed accordingly to ensure that this is adhered to.	This will be raised with the contractor (Dodds) at the next contract meeting.	This issue was raised with Dodds Group and there is now an opportunity to review contract performance as a standard agenda item in progress meetings.
2 The prices being charged by the contractors should be reviewed to ensure that they are correct.	This will be discussed with the contractors at the next contract meeting.	This issue was also raised with Dodds and they have agreed to consider inflationary costs within their prices. As a result of the contract being a 10-year deal, there was previously no scope for annual review of this. The D&K contract, by virtue of the fact that it is a 'price per property' contract, can be reviewed if significant issues arise. It has been agreed that the prices being charged by the contractor will work in tandem with the property portfolio i.e. if the property portfolio increases then the price per property will rise accordingly.
3 The scope for varying the contract should be ascertained to take into account fluctuations in the number of properties.	This will be raised with the contractor (D&K) at the next contract meeting.	D&K have taken the inflationary costs into consideration. The cost of boilers/copper piping etc. has grown exponentially and this has been considered in the pricing structure. D&K also agreed to implement an annual price review. The Compliance Manager has received a proposal from D&K to look at variation of contract extension over the coming months.

4.2 **Financial Risks**

4.2.1 **Non-compliance of legislation could result in potential fines and claims from tenants.**

Under the last audit conducted in 2019 it was identified that there were no written procedure notes in place to advise staff on the relevant processes. The Compliance Manager (CM) advised that there is no need for written guidance regarding the Active H system as the system automatically populates data. The attribute details browser evidences that the checks are automatically generated by the system at the point of the last site inspection.

The only manual input required is the creation of a planned programme of works which is sent directly to the relevant contractors. Whilst new starters are shown how to raise works orders and how to create a planned programme of works, there are currently no basic tutorial notes for this, although these have been provided in the past.

Advisory

Consideration should be given to formally compiling tutorial notes/guidance for training purposes.

Despite there being no written procedural guidance in place, the Active H system clearly outlines the processes used. This includes checking when a gas service is due, cancelling inspections, creating jobs for contractors, and checking if an EICR is valid.

4.2.2 **Insurance costs if issues occur.**

The Risk & Insurance Officer confirmed that there is nothing in the Council's insurance policy that specifically relates to EICR or gas safety certificates.

In the unlikely event that a claim arises from a gas or electrical fault, where the certificate is found to be out of date, a reason must be cited as to why the checks have not been completed. The contractors are also required to evidence that a planned programme of works exists regarding the property in question. Whilst there are no specific asset-related insurance policies in place, it is a contractual obligation that issues are dealt with by the contractor. This is highlighted in both the Dodds and the D&K contract. There are currently no major issues with the insurance cover, and it should be noted that in the case of the latest flat fire in Friars Street, Warwick, the rigidity of the Compliance Team's Document Management System (DMS) ensured that safety certificates dating back to 2009 could be viewed at the insurer's request.

The Active H system covers all the relevant works orders that have been completed up to a point in time. Testing by the auditor showed that Active H is regularly updated with the details of the checks and works performed. All properties within the tested sample had clear diary notes, explaining what was found at the point of the last site inspection.

The properties sampled all had up-to-date certificates saved onto the DMS and the dates of the certificates agreed with the dates on Active H.

4.2.3 Payments are made to contractors for checks that have not been completed.

Payments to both contractors are based on estimated costs and these cover works other than just the safety check certifications. Invoices are supplied based on a number of works orders, produced on a monthly basis. Based on the contracts, monthly valuation claims are then created on Active H. The figures quoted on the invoices supplied during the audit fully matched the figures on the Active H system.

It is the responsibility of the Contract Administrators to raise a works order; when the works order has been complete a monthly valuation is subsequently produced. If the status of the works order is set to 'complete', this produces a bottom-line chargeable cost based on the prices specified in the contracts. The Compliance Team Contract Administrators then confirm if the number of works orders is correct and compare this with the information that the contractors hold. Once the Compliance Team have checked that the figures accurately reflect the number of works orders carried out for that month, the invoice is posted to the Finance team via the Active H system. A valuation summary is produced in Microsoft Excel and a PDF invoice is sent to Finance, who compare this with the electronic version supplied from Active H.

The gas contractor (D&K Heating Ltd) is paid on a price-per-property basis. Therefore, if they visit the same property twice within a year, they will still only receive one payment. Dodds Group (Midland) Ltd, however, are paid on a fixed-price schedule of rates (SOR) which includes payment for their performance of the safety checks as well as their providing of the certificates. Testing showed that the 'actual order value' on all of the sampled orders amounted to the same figures as the 'raised value'.

4.3 Legal and Regulatory Risks

4.3.1 Non-compliance with applicable legislation: The Gas Safety (Installation and Use) Regulations 1998, The Landlord and Tenant Act 1985 and 'Part P' of Building Regulations.

The CM advised that there was no overarching policy covering the checks required as the need for the checks to be performed is covered in the relevant legislation. The Gas Safety (Installation and Use) Regulations 1998 state that 'under regulation 36, gas appliances, installation pipework and flues provided for tenants, are to be maintained in a safe condition and annual safety checks [are] to be carried out'.

There is a process in place regarding instances where contractors are unable to gain access to properties for them to undertake the required safety checks. At the time of the previous audit the no-access processes were documented in flow-chart format. These stages have since been uploaded electronically onto the Active H system.

The Compliance Team do not have a specific 'aspirational policy' regarding EICR checks. A planned programme of works will begin when an EICR is over 7 years old, although EICR's carry a 10-year validation date. In some instances, properties have received an electrical safety check within 5 years of the previous inspection. The Active H system allows a warning message to appear if the EICR is over 7 years old.

Currently, the Compliance Team do not follow a data retention policy, although it was discussed under the last audit that one would be drawn up. For continuity reasons, historical documents have been kept on the DMS. The CM also highlighted that, to comply with the data retention requirements of the Gas Safety (Installation and Use) Regulations, the certificates would need to be retained. The regulations specify that 'records will need to be kept until two further gas safety checks have been carried out.' Active H also overrides the details of the last test performed, meaning that data is not kept unnecessarily.

4.4 **Reputational Risks**

4.4.1 **Council considered to be a bad landlord if legislation is not complied with, or service is poor.**

The Gas Servicing Administrator (GSA) confirmed that monthly meetings are held to monitor progress against the programme of checks. Minutes from the latest meetings with both contractors evidenced how many checks had been performed and how many were overdue or awaiting installations.

Testing showed that within the selected sample most of the void properties had the relevant certificates held on the DMS, all of which matched the dates held on Active H. Although one property did not have the correct certificate held on file, this was produced during the audit and entered onto the system accordingly. This issue was of a 'one-off' nature and did not suggest a wider problem. Where gas certification was not provided, this will only be produced once a new tenant occupies the property and the contractor has uncapped the gas. Two of the sampled properties, whilst they had void certificates on file, did not have inspection dates on the documents.

Recommendation

The contractor should be reminded to sign and date all void safety certificates.

The Housing Servicing team provide the tenant with the appropriate certificates once their tenancy commences. The tenant is fully informed of any gas safety certificates and EICRs, which are included as part of their tenancy pack.

The CM advised that there was no formal method of informing the Compliance Team of relevant programmed works. He highlighted that, if a new gas appliance was being installed, this would be done by the contractor who is also responsible for the annual checks; they would update the gas certificate as part of the installation process.

The relevant information is then input onto the system and the dates revised accordingly.

4.4.2 The Council retain the liability for un-performed checks if action taken to address these is not effective.

Although the contractors drive the no-access policy, the Council still retain liability for un-performed checks if the contractors are unable to gain access to a property.

Contractors will make three attempts to access a property; if no access is granted, they refer to the Contract Administrator. D&K Heating Servicing Ltd have direct access to the Active H system and so they are able to immediately report no access cases to the Compliance Team. Housing officers are made aware within three weeks of continual no-access issues and will investigate accordingly.

Whilst progress meeting minutes revealed that there have been issues with contacting tenants, there was nothing that specifically evidenced the number of no-access cases over a monthly period.

Recommendation

The number of monthly no-access cases should be included in the progress meeting minutes.

The tenancy handbook clearly states that, if a tenant refuses to allow the contractor into their home to carry out a check, the Council can take legal action, allowing them to enter the property, and the tenant may be charged for any costs that the Council incurs as a result of this. As aforementioned, the narrative function on Active H allows both the contractor and the Compliance Team to document the reasons why a check has not taken place.

4.5 Health and Safety Risks

4.5.1 Risk to tenant's health from unsafe appliances if not checked thoroughly/repairs are not undertaken following the identification of issues.

The Senior Housing Advice and Allocations Officer confirmed that tenants receive a handbook at the start of a new tenancy. The gas safety certificate is sent alongside this, and the tenancy handbook states that the Council will contact the tenant to arrange an annual gas safety check.

D&K Heating Servicing Ltd will cap off the gas as part of the void process. The incoming tenant has to contact the contractor directly, in order to get the gas uncapped and, as part of this 'reconnection', the gas certificate is produced.

It is also signposted to tenants that they can notify the Council if they believe that a safety check has not been completed, or if an appliance is unsafe; the repair hotline is listed in the tenancy handbook. The Tenancy Agreement also

stipulates that tenants 'must report to the Council, as soon as possible, any damage to the property or common parts, loss or damage'. Moreover, the procedure for requesting a repair is signposted on the Warwick District Council website.

4.6 **Other Risks**

4.6.1 **Unable to evidence that checks have been performed as a result of contractors not providing/uploading certificates or the system being unavailable.**

Since the last audit, the automation of the DMS has now been completed, meaning that certificates are submitted onto a web portal and any updates to these can be made digitally. Testing showed that all of the sampled properties had the correct certificates held on file. The test also revealed that the relevant checks were completed in a timely manner; fifteen of the sampled checks were completed thirty days earlier than expected. Only three of the sampled checks were started after the inspection was requested; all other properties were visited on the same date that the works order was raised.

Contractors are able to conduct remedial works on site as soon as these have been identified. The recommended works range from category C1 to C3, with C1 being works which require the most urgent attention. Contractors endeavour to rectify these issues immediately, as the works are a requirement of passing the safety checks. If a system is unsafe the EICR cannot be issued; the safety certificate will only be supplied when the requirement has been implemented. Category C3 works are not likely to impact on the safety certificate but may help to highlight future issues within the property.

Contractors inform the Council of the category risks observed on site. Where works have been flagged as being required prior to safety certificates being issued, this has been highlighted using the narrative feature on Active H.

4.6.2 **Checks are not undertaken at all relevant properties as a result of the Active H system not being updated (e.g., new properties not included on the system, dates incorrectly input leading to delayed checks etc.)**

Testing conducted by the auditor highlighted that all of the relevant certificates had been loaded onto the DMS in a timely manner. It was clear, however, that a much larger number of recommendations from the contractors came from observations made during electrical inspections as opposed to gas safety checks.

As part of the testing, various certificates either contained observations recorded or the details of works performed. These can generally be placed into three categories:

1. Plastic consumer units fitted or existing units not complying with latest regulations.
2. Distribution Boards (fuse boxes) not being appropriately labelled.
3. Electrical issues classified as C3 (recommended works but not necessary for check to be 'passed').

Recommendation

Common issues identified in the contractor's inspection log should be given a formal agenda item at progress meetings.

Contract Administrators update the Active H system as soon as a check has been completed. Active H previously required the officer to input a false date into the EICR field, so that a works order could be raised. However, this meant that the original date could not be amended once the works order was complete. The workflow now prevents any works orders from being raised until the EICR has been issued.

The last certificate completed informs the Compliance Team as to when the next programme of works is scheduled to take place. If an item is replaced or installed, a new safety certificate is issued, and this alters the anniversary date. Testing conducted by the auditor revealed that properties in which a new boiler had been installed had their gas safety checks moved as a result of this. Both the boiler installations and gas safety checks were recorded on the certificates where appropriate, and the next gas safety check dates altered accordingly.

Gas servicing reports are exported from the Active H system. The report generates a list of properties that are due to be inspected within three months, in order to ensure that the properties will be visited and checked by the anniversary of the last inspection. Once the report is generated, an email is sent to the contractor advising them of the properties that are due for servicing.

4.6.3 Underperformance of contractors/failure of contractors to deliver services.

The contract with D&K Heating Servicing Ltd continues to be let on a 'price per property' basis. This includes each property having an annual service and any breakdown associated costs. This overall payment is split across the year and paid to the contractor monthly. This price is reviewed annually and is changed if the property number falls above or below 10%. Anything that is deemed to fall out of scope of the 'price per property' costs is sent as a quoted cost. There is an agreed schedule of rate costs for heating installations which are determined by the type of property and the number of bedrooms it has. The contract with Dodds Group (Midland) Ltd is based on a Schedule of Rates (SOR). The CM advised that, with regards to electrical checks, Dodds work through the properties on a cyclical basis.

The specification for each contract includes details of the checks to be performed along with reference to the relevant legislation and standards. The contracts also outline the obligations that both the contractor and the Council must meet. It should be noted that the contracts are due to expire on 31 May 2023. There will be no extension to the contract with Dodds Group and so this will need reprocurring. A contract price-up has been undertaken in preparation for this procurement. The Council are looking to extend the contract with D&K Heating Servicing Ltd. However, this will need to include the variation in uplifted rates as the current figures are now ten years old. The Procurement Business Partner (PBP) is currently in the process of checking the deed stores at Riverside House for the original contract scope.

The previous gas contract related to Service Maintenance and Repairs for Gas Heating Systems. This has diversified in recent years with heating no longer being purely generated by gas, but also by thermal and solar methods.

The web portal allows the contractor to find when a visit was completed and also check when a visit is due. Contractors are notified of the properties due for checks to be performed three months in advance. Properties scheduled for a visit are sent to the contractors via a programmed plan of works orders. The contractor then contacts the tenant, performs the check and the Contract Administration team issue the safety certificates as appropriate. These are then loaded onto the DMS and the date for the next check is automatically generated. Where the Compliance Team have identified void properties, these are sent to the contractors as part of the works orders.

4.6.4 **Breakdown of relationship with contractor.**

As previously stated, progress meetings are held to discuss the performance of the contractors. The Compliance Manager will attend these meetings in the event that a major issue has been flagged up or if significant and dynamic changes are due to be implemented into system procedures. These meetings are an opportunity for any issues to be raised and dealt with accordingly. In the case of the most recent progress meeting with Dodds Group, common issues with supplies were listed under AOB.

Whilst there have been no issues identified with regards to contract management and operational performance, this has nevertheless been made a standard agenda item for these meetings.

The CM advised that a formal contingency plan does not currently exist. From a procurement perspective it is not possible to have multiple contracts running alongside one another. The current hired contractors must fulfil the obligations set out in the specifications; if they cannot meet the conditions of the Service-Level Agreement, this would be seen as a breach of the internal contract and legal implications would ensue.

5 **Summary and Conclusions**

- 5.1 Section 3.2 sets out the risks that were being reviewed as part of this audit. The review highlighted weaknesses against the following risks:
 - Risk 5 – Void safety certificates are not correctly dated.
 - Risk 6 – No-access cases are not formally evaluated at progress meetings.
 - Risk 9 – Common issues identified by the contractors are not formally recognised at progress meetings.
- 5.2 Further 'issues' were also identified where advisory notes have been reported. In these instances no formal recommendations are thought to be warranted as there is no risk if the actions are not taken.
- 5.3 In overall terms, however, we can give a SUBSTANTIAL degree of assurance that the systems and controls in place in respect of Gas and Electrical Safety Checks in Council-tenanted dwellings are appropriate and are working effectively to help mitigate and control the identified risks.

5.4 The assurance bands are shown below:

Level of Assurance	Definition
Substantial	There is a sound system of control in place and compliance with the key controls.
Moderate	Whilst the system of control is broadly satisfactory, some controls are weak or non-existent and there is non-compliance with several controls.
Limited	The system of control is generally weak and there is non-compliance with controls that do exist.

6 Management Action

6.1 The recommendations arising above are reproduced in the attached Action Plan (Appendix A) for management attention.

Richard Barr
Audit and Risk Manager

Action Plan

Internal Audit of Gas and Electrical Safety Checks – May 2022

Report Ref.	Risk Area	Recommendation	Rating*	Responsible Officer(s)	Management Response	Target Date
4.4.1	Reputational Risk - Council considered to be a bad landlord if legislation is not complied with or service is poor.	The contractor should be reminded to sign and date all void safety certificates.	Low	Contract Administrator	Agreed	Immediate, (at next Contract meeting)
4.4.2	Reputational Risk - The Council retain the liability for un-performed checks if action taken to address these is not effective.	The number of monthly no-access cases should be included in the progress meeting minutes.	Low	Contract Administrator	Agreed	Immediate, (at next Contract meeting)
4.6.2	Other Risks – Checks are not undertaken at all relevant properties as a result of the Active H system not being updated (e.g., new properties not included on the system, dates incorrectly input leading to delayed checks etc.)	Common issues identified in the contractor's inspection log should be given a formal agenda item at progress meetings.	Low	Contract Administrator	Agreed	Immediate, (at next Contract meeting)

* The ratings refer to how the recommendation affects the overall risk and are defined as follows:

High: Issue of significant importance requiring urgent attention.
Medium: Issue of moderate importance requiring prompt attention.
Low: Issue of minor importance requiring attention.