



# INTERNAL AUDIT REPORT

**FROM:** Audit and Risk Manager                      **SUBJECT:** Health and Safety Compliance of Council Buildings

**TO:** Head of Neighbourhood and Assets                      **DATE:** 28 November 2022

**C.C.** Chief Executive  
Deputy Chief Executive  
Compliance Manager  
Compliance Team Leader  
Head of Finance  
Portfolio Holder (Cllr Matecki)

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## 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 Jemma Butler, 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 This audit focuses on the various health and safety related compliance issues that the Council is responsible for which are not covered in other audits. Including areas such as electrical and gas safety, legionella, and fire safety the audit reviews compliance areas which ensure Council buildings are safe for staff, visitors, and customers.

## 3 Objectives of the Audit and Coverage of Risks

- 3.1 A 'risk-based audit' approach has been adopted whereby key risks have been identified during discussion between the Internal Auditor and key departmental staff and upon review of the Significant Business Risk Register and the relevant Departmental Risk Register.
- 3.2 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.

- 3.3 In terms of scope, the audit covered the following risks:
1. Potential fines for non-compliance with legislation and compensation claims / insurance costs if issues occur.
  2. Non-compliance with legislation (including the 'overarching' Health & Safety at Work Act 1974).
  3. Adverse press if injuries occur on Council premises due to non-compliance with applicable health and safety regulations.
  4. Injuries to staff and visitors as a result of being in unsafe buildings.
  5. Areas of health and safety compliance not recognised by staff as being a Council responsibility.

3.4 These risks, if realised, would be detrimental to the Council with regards to meeting the following corporate objectives, as set out in the Fit for the Future Strategy:

- The work in this area indirectly helps the Council meet a number of different strands and intended outcomes of the Fit for the Future strategy such as meeting health needs, ensuring the Council has well looked after public 'spaces' and ensuring that staff have the appropriate 'tools' for their jobs.

## 4 Findings

### 4.1 Recommendations from Previous Reports

4.1.1 The current position in respect of the recommendations from the audit reported in November 2019 was also reviewed. The current position is as follows:

	<b>Recommendation</b>	<b>Management Response</b>	<b>Current Status</b>
1	A review should be undertaken of the properties with 'active' EICR attributes on Active H to ensure that this accurately reflects the properties for which EICR tests are required.	Agreed. DC and MEE0 to identify all stock requiring cyclical EICR's and update attributes in ActiveH accordingly. Further, a semi-automated programme of works can be generated as demonstrated in other areas.	EICR's are identified on ActiveH allowing a semi-automated programme to be generated. The attributes used identify the asset type and the no. of years before the testing cycle is next due.
2	A schedule of PAT testing should be set for each relevant Council property.	Agreed. DC and MEE0 to identify all stock requiring cyclical PAT testing and update attributes in ActiveH accordingly. Further, a semi-automated programme of works can be generated as demonstrated in other areas.	PAT testing is not a legal requirement, although the Council does complete the testing on frequent basis within corporate properties. ActiveH is not used to programme the testing as it is manually arranged.

	<b>Recommendation</b>	<b>Management Response</b>	<b>Current Status</b>
3	Inventories of electrical equipment that require PAT testing should be maintained for each relevant Council property.	Agreed, the AC&DG need to agree that building managers maintain an inventory of equipment requiring PATesting. Dodds should be able to support with information of equipment currently tested.	Inventories of stock are not maintained due to hybrid working the equipment in the building fluctuates. There are set items which are on an equipment list for testing. This includes appliances in the kitchens and heating appliances.
4	The variation to the original contract should be confirmed with D&K.	A copy of the variation documentation has now been obtained.	The variation to the contract was held and provided for the audit.
5	Inventories of firefighting equipment should be kept up to date to ensure that contractors are aware of what needs to be tested.	Agreed, the AC&DG need to agree that building managers maintain an inventory of equipment pertaining to firefighting equipment. Baydale should be able to supply information of currently installed equipment.	The fire risk assessments list the firefighting equipment in place. This is provided to Baydale who can use it when performing testing to confirm the items are present and safe to use.
6	Training on the need for Permits to Work should be provided to relevant staff, including individual building managers as appropriate.	Agreed. CTL and BM&HSC to liaise on suitable training and audience.	An exercise has recently been undertaken highlighting the need for permits to work, especially when involving hot works. Staff are aware of the need for them and relevant information has been circulated to contract managers.

## 4.2 **Financial Risk**

### 4.2.1 **Risk: Potential fines for non-compliance with legislation and compensation claims / insurance costs if issues occur.**

There are contracts in place for both gas and electrical services. The contracts in place were reviewed as part of the gas and electrical safety checks audit completed earlier in the year. Rather than duplicate work, the information has been shared for this audit.

The electrical contract, held by Dodds, includes provisions for corporate properties. Noting 30 sites within the terms of the contract for corporate properties, the terms state that the works on these properties are relatively complex and therefore not included within the prices of schedules of rates. Payment is on a time and materials basis and to be made monthly via bacs.

Safety checks are not programmed according to the terms of the contract. The terms provide one main (multiskilled) electrician able to work on a variety of electrical issues and machines within the corporate properties. The workload shall be specified by Council officers, such as building managers, as and when needed. In cases where the workload is higher the electrical contract allows extra staff to support the main electrician.

Electrical installation condition reports (EICR's) are carried out every three years at corporate properties. A sample of EICR's was reviewed. The corporate properties in the sample all had up-to-date completed safety checks and documentation was held detailing the checks performed. ActiveH (the Council's asset management system) had been updated as required to showing the latest checks performed. Where contractors had identified required works during the checks, these have been recorded and the works performed as necessary.

Dodds carry out the portable appliance testing (PAT testing) under the terms of the contract. A list is being compiled of corporate locations where PAT testing is required and this will be used by Dodds to conduct the tests. Testing needs have changed over the last few years due to the pandemic. This has prompted the Assets team to update the lists of equipment held and locations to ensure that the areas now used inside the buildings are included in the testing.

There is not an automated programme for PAT testing. Certificates are uploaded to ActiveH when completed within the documents for the relevant building. The inventory lists held for testing do not include all equipment but main items such as fridges, microwave, and heating appliance. There is no complete list of IT equipment as staff work from other locations including their own homes) and therefore the equipment may not be in the office at the time of testing. IT and other equipment and appliances in corporate buildings will be tested if presented when the testing is being carried out.

PAT testing is not required by law in the UK; rather, it is one way of checking equipment's electrical safety. While there are no UK PAT Testing Regulations, employers have a legal duty to ensure that electrical equipment is safe under other legislation. The Government, however, has put regulations into place that pertain to the maintenance of electrical appliances and the most effective way to ensure that these regulations are met is through PAT testing.

The UK Health and Safety Executive along with insurance companies expects organisations to perform PAT testing to ensure that they are compliant with certain regulations including:

- Health and Safety at Work Act of 1974
- The Electricity at Work Regulations of 1989
- The Provision and Use of Work Equipment Regulations of 1998
- The Management of Health and Safety at Work Regulations of 1999

Not complying with the regulations mentioned above can result in fines up to £5,000 and/or six months imprisonment. Therefore, even though PAT testing itself is not legally required, it simply helps to protect the organisation by ensuring that it is complying with these regulations. PAT testing is completed every 5 years in corporate buildings.

On the Health and Safety intranet page there is a 'Working from Home DSE' document, which gives information for staff on some electrical things to check when working hybrid. The document editing information shows this was last updated in July 2021.

The gas servicing contract, held by D&K heating, for Housing sets out the terms for residential properties only. There has been a variation to the contract completed which includes corporate properties. The variation document provided for the audit lists a number of corporate buildings to be included in the contract for gas servicing. Gas servicing is carried out annually on the Council's corporate properties.

If a serious issue is found a certificate is not issued to show the boiler is unsafe. This means the repair or replacement must be arranged immediately. Smaller remedial works would be carried out during the safety checks and servicing then recorded directly onto Active H where the order is raised.

A sample of gas safety checks and boiler servicing was carried out. Documentation had been uploaded and where remedial work had been identified the information had been input onto ActiveH. There were three locations identified where the checks were slightly overdue; one of these was due to an inputting error and the other two were no longer the responsibility of the Council (they are now leasehold properties).

A contract is in place for legionella testing with HSL Compliance Ltd. This was reviewed under the last audit of this subject area and there have been no variations to the contract made since. The contract is due to expire in 2023.

There are several elements to the legionella compliance. HSL carry out monthly temperature testing of sentinel outlets (hot & cold at the end of the pipe run), quarterly shower head clean and disinfection, stored water tank inspections, TMV servicing, etc. These certificates are stored on a portal that HSL provide and on the Council's document management system.

Testing is not routinely conducted for legionella unless there is suspicion it may be present. There is no requirement to carry out sampling on a routine basis in the L8 legionella legislation. If a system has been isolated for a period of time a test will be undertaken

Weekly flushing is undertaken at un-staffed properties such as the sports pavilions and at Riverside House by service officers who sit in the Compliance Team. Bigger staffed sites like the Pump Rooms, Spa Centre, etc., are flushed on site. Sites have a logbook where flushing should be recorded. The logbooks are not routinely checked as the resource is not available. The logbooks also contain the appropriate legionella risk assessment.

Systems are only disinfected as and when required, when the compliance team are advised to do so by HSL following a tank inspection, when a site has been left vacant for a period of time or following a sample which has returned a result as having a trace of a bacteria. There is no requirement within the L8 document to carry out routine disinfection of water systems. Taps, shower heads and TMV's are routinely cleaned / disinfected.

A sample was reviewed to assess some of the elements carried out for legionella compliance. Risk assessments were held in all sampled cases and all were up-to-date. Monthly outlet testing had been performed at four of the seven locations in the sample; the other three were overdue by 1-2 months. Four of the sites in the sample had shower facilities. Quarterly servicing is not being completed at these sites or, if it is, it is not being logged onto ActiveH. Only one of the showers had been serviced within the last quarter, the others have not been serviced since April 2022, August 2021 and April 2021.

Weekly testing could not be tested in detail as records are held in a logbook at each individual site rather than on ActiveH.

### **Recommendations**

- 1. Monthly testing should be performed and logged on ActiveH.**
- 2. Shower servicing should be reviewed and carried out at main corporate buildings where facilities are provided and used.**

## **4.3 Legal and Regulatory Risks**

### **4.3.1 Risk: Non-compliance with legislation (including the 'overarching' Health & Safety at Work Act 1974).**

At present, checks are not routinely undertaken for maintenance undertaken in Council-owned buildings that are rented out to non-housing tenants. There is a desire to have a process in place where maintenance works can be checked and monitored but there is a lack of resource.

There is a process in place for leased non-housing properties where the tenant wants to alter the property or carry out maintenance works. They apply to the Council to make the changes; the licence is then updated to incorporate the changes. Building control may need to inspect the property to ensure the alterations or work are compliant.

An exercise has previously been carried out where non housing tenants were written to asking them to provide copies of their EICR, gas and electric certificates and fire risk assessments. This was last completed in early 2020 where, although a number of responses were received. many had been sent emails chasing them. This has not been completed since as there is not the resource to do it due to a number of unfilled vacancies in the service area.

For rented / leased non-housing properties there must be a fire risk assessment in place where there are five or more employees. There are corporate buildings where areas are leased to other companies e.g. Bowls England and Warwick Uni. The Fire Safety Orders apply here and any fire safety actions and procedures should be reviewed regularly as part of the building group meetings. As there is a lack of available resource to manage non-housing tenants, monitoring of the reviews is not being completed.

Annual inspections provide an opportunity to review the condition of the property, resolve defects and confirm any alterations which have been completed. Unfortunately, the lack of resource means that these carried out sporadically rather than in a uniform manner.

A lease management system would be useful to help with monitoring of works and allow programmes to be automated for inspections and storage of relevant documents. Alternatively, there may be the option of programming ActiveH to assist with the management of leasehold properties.

## **Recommendation**

**Council properties with non-housing tenants should be providing the relevant documentation to comply with legislation such as the Fire safety order 2005.**

### **4.4 Reputational Risks**

#### **4.4.1 Risk: Adverse press if injuries occur on Council premises due to non-compliance with applicable health and safety regulations.**

There are a number of compliance programmes in place to help reduce or prevent health and safety issues. The programmes include gas and electrical safety checks, legionella management, fire safety and more.

There are a number of acts and regulations that the Council must follow to ensure the health and safety of staff, visitors, and customers at corporate properties. For the purpose of this audit the main legislation is:

- The Workplace (Health, Safety and Welfare) Regulations 1992
- Electricity at work regulations 1989
- Gas safety regulations 1996
- Lifting operations and lifting equipment regulations 1998
- Management of health and safety at work and fire precautions regulations 2003

The Council has an internal Health and Safety Group which meets on a bi-monthly basis to identify, discuss, and resolve health and safety related issues within the Council. The group is made up from a number of officers across various departments in the Council. Currently there are thirteen members. There is a Terms of Reference for the group; however, the terms are not dated so it is unclear if the document is a current or a historical one. The terms state that minutes of the group meeting would be published on the internal intranet. However, these were not available on the Group's page. The Group has recently been re-formed so this may be because there were no minutes yet to share.

The Workplace (Health, Safety and Welfare) Regulations 1992 lists a number of main areas included within the regulations. The areas include but are not limited to: Maintenance of equipment, devices and systems, ventilation, temperature, windows, doors, and drinking water.

There are a number of compliance programmes in place as covered above, (gas, electric and legionella para 4.2.1.) and below (fire safety and lifts para. 4.5.1). Staff also received the relevant training (covered in a separate audit of Corporate Health and Safety). These all help the Council to comply with various pieces of legislation whilst reducing the risk of injury to staff, visitors, and customers. By ensuring the compliance programmes are in place and working,

the Council can help protect itself against adverse press resulting from injury on Council property.

#### 4.5 **Health and Safety Risks**

##### 4.5.1 **Risk: Injuries to staff and visitors as a result of being in unsafe buildings**

There is a contract in place for the maintenance of the fire alarm systems at Council buildings with Fire Safe Services Limited (FSS). The contract was reviewed as part of the last audit of this subject area; no changes or variations have been made since. The contract ends in March 2023.

Fire alarm systems are tested on a weekly basis in corporate buildings. The test is completed by FSS and documented. The documented test is issued to the M&E Energy Officer who stores them in a file within the Assets drive. Any remedial works identified that need to be completed are logged on the document and completed.

The most recent testing completed on 10th October 2022 was carried out at fifteen locations. The tests documented no defeats or issues identified at the locations and the systems all performed as they should.

There is a 3-monthly program of works for the contractor for fire alarms which provides coverage of all Council properties over a calendar year. This system means that the compliance team will know the exact dates the testing has been completed and certificates can be matched up against the jobs when it comes to billing.

A contract is in place for the maintenance and inspection of fire extinguishers at Council buildings with Baydale Control Systems Ltd. It runs from April 2021 to March 2023. The contract terms cover the servicing, testing, certification, reactive maintenance, and ad-hoc installation of Fire Fighting Equipment. This was a variation to their existing contract that covered door entry systems, CCTV, security doors, and fire alarm systems maintenance and upgrades.

Baydale carry out the servicing of the fire extinguishers on an annual basis across 34 locations. The equipment at Riverside house was reviewed and had last been carried out in November 2021. The M&E Energy Officer confirmed that the servicing at Riverside House was due to be completed before Christmas.

There are spreadsheets for the various corporate locations which list the firefighting equipment and its location. The programming for the servicing of the equipment is completed manually rather than using ActiveH. This manual system has been in place for years and works effectively. Contractors performing the inspections ensure that all appliances are tested with replacements being provided as appropriate. Documentation of the testing completed was reviewed and, when needed, equipment had been replaced and the inventory updated as appropriate.

AssessNet contains a folder specifically for fire risk assessments. The risk assessments are carried out periodically by Building Control and uploaded onto



the system. If any remedial work is required or issues identified the Compliance team are notified so the work can be actioned.

The most recent fire risk assessments available on the system are from 8 November 2019. There have been a number of changes to the way the corporate buildings are used since these assessments were completed. Many of the changes in response to the pandemic have resulted in new ways of working. New risk assessments are being undertaken at present and will be uploaded onto the system in due course.

A review of the 2019 fire risk assessment for Riverside House was carried out with and remedial work and recommended changes noted. A walk around the building was performed to review if the works and changes had been implemented. As floor four is no longer used the suggested changes were discounted.

Although the fire risk assessment noted that all kitchens needed smoke detectors, this had not been completed; observation of five kitchens found that none was fitted with either a smoke or heat detector. Another issue highlighted in the report was the lack of emergency lighting in some rooms and toilets - observation of the areas noted in the report found that there were no emergency lights present.

There were some items that had been resolved such as all kitchen doors being replaced with fire doors. Main internal doors and kitchen doors have also been fitted with fire door stops which automatically close when the noise level reaches a certain volume, usually triggered by the sound of the fire alarm. Storage cupboards within or under stair wells have all been fitted with smoke detectors. Unfortunately, these locations could not be viewed by the auditor but the Facilities Manager confirmed that this had been completed.

All fire alarm systems had recently undergone testing and the certificates had been completed and supplied by the contractors as appropriate.

There are ten lifts within corporate properties. All lifts are listed on ActiveH and are serviced and maintained on a frequent basis. A contract is in place for the inspection, servicing and maintenance of lifts and lifting equipment with Stannah Lift Services Ltd. The contract has been in place since 2018 and was reviewed as part of the previous HSC audit. The contract expires in March 2023.

Testing confirmed that inspections, servicing, and maintenance of lifts and lifting equipment are performed as required. Records are maintained of services completed within corporate properties. A programme for planned maintenance is raised on a monthly basis by the M&E and Energy Officer. These are usually generated at the end of the month through ActiveH. Inspections are carried out on a monthly basis on all but three locations, which are completed bi-monthly.

Where remedial work had been completed photographic evidence was provided by the contractor showing the work completed. A brief description was also provided with a narrative of what had been done to resolve the fault.

## 4.6 **Other Risks**

### 4.6.1 **Risk: Areas of health and safety compliance not recognised by staff as being a Council responsibility.**

COSHH guidance requires hot works, working at height and working in confined spaces as the main areas where permit to work procedures are required. These requirements include risk assessments to be carried out identifying the need for permits to work.

Contractors undertake all the risk assessments before undertaking works. They know that they have to work safely and carefully and undertake this as part of their normal day-to-day tasks.

Previously, checks were not completed to confirm that the risk assessments are done and that the contractors have the relevant right-to-work permits. A recent issue highlighted that some contractors had been completing works without the required permissions. As it is still a Council responsibility to ensure permits are held, the issue is now being addressed with the contractors. They have been written to and asked to provide the relevant permits and permissions for high-risk works.

These checks have not previously been completed as the contractors that the Council use are selected from a framework and the frameworks will have undertaken initial checks to show that the contractors have the relevant permissions to carry out high-risk works. By using competent contractors it was felt that there was no need to check the permissions. Moving forward they will be requested and recorded on a regular basis as they may be required for insurance purposes.

A selection of the permits and permissions recently received were shared with the auditor. The high-risk works were identified and permits from the contractors were found to be up-to-date.

## 5 **Summary and Conclusions**

### 5.1 Section 3.3 sets out the risks that were being reviewed as part of this audit. The review highlighted weaknesses against the following risks:

Risk 1 - Potential fines for non-compliance with legislation and compensation claims / insurance costs if issues occur.

Risk 2 - Non-compliance with legislation (including the 'overarching' Health & Safety at Work Act 1974).

### 5.2 In overall terms, however, we can give a SUBSTANTIAL degree of assurance that the systems and controls in place in respect of Health and Safety Compliance of Council Buildings are appropriate and are working effectively to help mitigate and control the identified risks.

5.3 The assurance bands are shown below:

<b>Level of Assurance</b>	<b>Definition</b>
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 recommendation arising above is reproduced in the attached Action Plan (Appendix A) for management attention.

Richard Barr  
Audit and Risk Manager

## Action Plan

## Internal Audit of Health and Safety Compliance of Council Buildings – November 2022

Report Ref.	Risk	Recommendation	Rating*	Responsible Officer(s)	Management Response	Target Date
4.2.1	Risk 1 - Potential fines for non-compliance with legislation and compensation claims / insurance costs if issues occur.	Monthly testing should be performed and logged on ActiveH.	Low	Compliance Team Leader / M&E Energy Officer	A compliance report will be run weekly, missing certificates will be followed up and the systems updated as appropriate.	Completed
		Shower servicing should be reviewed and carried out at main corporate buildings where facilities are provided and used.	Low	Compliance Team Leader / M&E Energy Officer	A compliance report will be run weekly, missing certificates will be followed up and the systems updated as appropriate.	Completed
4.3.1	Risk 2 - Non-compliance with legislation (including the 'overarching' Health & Safety at Work Act 1974).	Council properties with non-housing tenants should be providing the relevant documentation to comply with legislation such as the Fire safety order 2005.	Low	Senior Building Surveying Project Manager / Compliance Team Leader	There is an identified need to request and review compliance documentation from non-housing/ commercial tenants, although limited resource has only allowed for an intermittent approach to requesting this data and subsequently managing it. It is intended to review this as part of a review of the Neighbourhood and Assets team restructure during 2023.	End of July 2023

\* 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.