

FROM: Audit and Risk Manager
TO: Head of Assets
C.C. Chief Executive
Deputy Chief Executive
Head of Finance
Compliance Manager
Compliance Team Leader
Compliance Administrator
Portfolio Holder (Cllr Matecki)

SUBJECT: Asbestos Management
DATE: 17 November 2021

1 **Introduction**

- 1.1 In accordance with the Audit Plan for 2021/22, 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 The Council has a statutory duty to manage risks from asbestos (actual and potential) for the whole of its portfolio of residential, commercial and operational properties.
- 2.2 Following a competitive tendering process contracts for asbestos survey and testing (Tersus), and asbestos removal (Shield) were let for an initial period of five years effective from September 2015. Both contracts were extended formally for a further 3 years and remain in force at the time of this report.

3 **Objectives of the Audit and Coverage of Risks**

- 3.1 The audit was undertaken to test the management and financial controls in place. This was achieved through a 'risk-based audit' approach whereby key risks are identified and then processes are assessed to provide assurance that the risks are being managed effectively. This approach has been in place by WDC Internal Audit since only the start of this financial year following an external review of the function.
- 3.2 In terms of scope, the audit covered the following risks:
- Overpayments to contractors.
 - Fines due to breaching statutory duties.
 - Breach of control of asbestos regulations and / or other legislation relevant to the Council as landlord and commercial property owner.

- Adverse publicity arising from incidents of asbestos exposure.
- Contractor dishonesty. For example: wilful failure to fully undertake surveys / works charged for, duplicate charging etc.
- Asbestos exposure risking health of tenants, leaseholders, employees and / or contractor's operatives.

3.3 Potential risks were also identified in the Significant Business Risk Register, the departmental risk register, and discussion between the Internal Auditor and the Compliance Manager, Compliance Team Leader and the Compliance Administrator.

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 management of asbestos helps the Council to achieve its objectives under the external People and Services strands of Fit for the Future with regards to ensuring that there are healthy home and safe public buildings.

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 2018 was also reviewed. The current position is as follows:

| | Recommendation | Management Response | Current Status |
|---|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 1 | The Contracts Administrator (Asbestos) should be consulted during the planning stages of all housing works projects. | Agreed – will be taken forward as part of the Asset restructure. | Consultation is completed when there is planned works to prevent duplicate surveys being raised. |
| 2 | The contractors should be requested to provide annual evidence of their insurance cover, with the request being timetabled in line with the policy renewal dates. | Agreed – will be taken forward as part of the Asset restructure. | Requested annually on their renewal dates, a reminder is recorded in the relevant staff member's diaries. Up-to-date insurance certificates were available for the audit. |
| 3 | Entries should be included on AssessNet for other (relevant) corporate buildings and for staff that may come into contact with asbestos containing materials during their day-to-day work. | Agreed but needs ITC support to develop AssessNet to accommodate Asbestos Survey. | Asbestos management surveys are completed and an annual re-inspection programme is in place to review where any asbestos has previously been found. |

4.2 **Financial Risk**

4.2.1 **Overpayments to contractors.**

A budget review was carried out across the four main budget codes associated with asbestos management. The spent funds for three of the codes were well within the expected budget for the year so far. One budget code was over-spent by eleven percent. This was due to a recent need for refurbishment surveys to be completed as part of the housing improvement programme. The programme included fire prevention and climate emergency improvement works which required asbestos surveys to be carried out before the works could be completed. When budget setting, these additional survey costs had not been incorporated as the budget was based on historical survey requirements; the additional costs will be accounted for when the work has been completed and recharges have been calculated appropriately. Budgets are reviewed monthly by the Compliance Manager and a Principal Accountant. Any variances are identified and discussed.

A sample of invoices was reviewed. Charges were found to be in line with the agreed schedules. The invoices had been saved to Total and payments had been made in a timely manner.

The work carried out and charged for is checked by the repairs team and the Compliance Administrator. Additional checks are completed on notifiable asbestos removal works as they cannot be carried out without Tersus being present to monitor the air quality. This ensures the work is carried out to the appropriate standard.

4.2.2 **Fines due to breaching statutory duties.**

Software provided by Tersus is used to manage the asbestos surveys and information regarding Council-owned properties. All relevant staff have access to the system, including the repairs team and contractors.

The roles and the responsibilities for staff are clearly set out in the asbestos management plan in place ensuring that asbestos is managed safely and in line with statutory duties.

Council tenants receive a tenancy pack when signing a tenancy. This includes information about surveys that have been completed and any known asbestos within the property. Leaseholders are also provided with the relevant information for their property. This provided the tenants and leaseholders with information about asbestos at their property and details on what to do if they have concerns.

Surveys are available to view on the software provided by Tersus allowing contractors, housing and repair staff to ensure that when a repair is carried out the appropriate measures can be taken to prevent exposure.

4.3 **Legal and Regulatory**

4.3.1 **Breach of control of asbestos regulations and / or other legislation relevant to the Council as landlord and commercial property owner.**

An asbestos management plan is in place. The plan was updated in 2020 and reviewed in July 2021. It sets out the responsibilities, roles of staff and the organisation structure. It details how asbestos should be labelled and managed and how frequently checks and surveys should be completed. There is also detailed information about notifiable asbestos and the process to follow. It is recommended that the plan be reviewed annually, although the review dates show that it has been reviewed every 6 months by the Compliance Administrator.

Inspections are completed annually at properties (both corporate and rented) where there is a known presence of asbestos or asbestos has previously been identified. Prior to any works being completed asbestos surveys are carried out and logged onto the software provided by Tersus. Where works are carried out following the asbestos survey, follow-up surveys are completed and the file updated detailing the work carried out and the re-inspection details.

There is not a formal removal programme in place as the Health and safety Executive (HSE) recommends that asbestos is left in place, monitored, managed and removed as appropriate.

4.4 **Reputational Risks**

4.4.1 **Adverse publicity arising from incidents of asbestos exposure.**

All records of asbestos surveys, inspections and works regarding Council-owned properties are stored in one place. The software used currently has over 15,000 completed surveys stored. Historical asbestos reports and surveys are retained on the software even after updates are produced. The software has been in place since 2015 when the contract with Tersus began. All surveys and inspections since then are available to view.

Shield (who hold the contract for asbestos removal) also have access to the system thus allowing them to update property information when asbestos has been removed, sealed or other relevant works have been completed.

The above records help to prevent incidents arising from asbestos exposure as it allows all repair staff and contractors to review the most recent surveys and inspections as well as providing a record of any work completed.

4.5 **Fraud Risks**

4.5.1 **Contractor dishonesty e.g. wilful failure to fully undertake surveys / works charged for, duplicate charging etc.**

There are two formal contracts in place for asbestos works. There is one with Tersus for surveys and testing and one with Shield for removal services. Both contracts include KPI's and which are monitored on a monthly basis.

Formal measures are included in the service area plan. These include service-specific measures such as the percentage of corporate properties with up-to-date asbestos surveys. There are also indirect measures within the health and safety targets and requirements. The Compliance Administrator monitors the KPI's and service plan measures reporting on either a monthly basis (KPI's) or quarterly (for the service area plan measures).

The Compliance Administrator carries out monthly monitoring and quarterly meetings with both Shield and Tersus. The meetings also provide an opportunity to discuss the KPI's and reasons why they may not have been met. Minutes of the meetings are taken and retained. Meetings have a standard agenda that includes a review of the minutes and actions from the previous meetings, open orders, KPI's, changes to the contract or business needs and other relevant discussion points.

The only formal amendments to the contracts since the last audit was the extension of both contracts for a further three years. This option to extend was included in the contract when agreed in 2015.

No ad-hoc works are undertaken. All works carried out by both contractors are as needed and in line with the contracted arrangements.

As covered above (4.2.1) all works are checked or carried out with both contractors present to ensure the works comply with legislation. This also ensures that the Council is charged only for works completed.

4.6 **Health and Safety Risks**

4.6.1 **Asbestos exposure risking health of tenants, leaseholders, employees and / or contractor's operatives.**

Copies of the insurance documents for both Tersus and Shield are saved to the relevant folder within the shared drive. They have more than adequate cover including indemnity cover of £10m for Tersus and £20m for Shield. Updates are requested annually by the Compliance Administrator who also adds a diary note each year to ensure that new copies are obtained upon renewal.

There is a risk register in place which was last reviewed in August 2021. The risks include failure of contractor and health and safety of staff and customers. They include asbestos-specific issues and concerns such as: awareness of asbestos in council owned properties and leaseholder properties; and failure to monitor asbestos.

There is one risk assessment available on AssessNet regarding asbestos exposure. The risk assessment is specifically written for the Royal Pump Rooms. The risk assessment details the locations of asbestos for the benefit of contractors and staff when working within the building.

There are no additional risk assessments on AssessNet as each asbestos survey, inspection and work order also includes a risk assessment specifically for that location. Therefore, there is no need to duplicate the assessments as the ones held on the Tersus software will be the most up-to-date.

There are generic risk assessments saved to the relevant files provided by the contractors. These cover risks when the contractors are working at their depots or when travelling to or from a location.

5 **Conclusions**

5.1 Following our review, in overall terms we are able to give a SUBSTANTIAL degree of assurance that the systems and controls in place in respect of Asbestos Management are appropriate and are working effectively to help mitigate and control the identified risks.

5.2 The assurance bands are shown below:

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

5.3 There are no recommendations arising from the review and therefore no action plan is included with this report.

Richard Barr
Audit and Risk Manager