

## **AUDIT REPORT FOR EAST KENT HOUSING**

### **TENANT HEALTH AND SAFETY**

**Period of Audit:** 2019/20

**Date of Final Report:** 19/07/19

**Auditor:** David Griffiths

**Audit Report Number:** 2481

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## 1. EXECUTIVE SUMMARY & ASSURANCE

1.1 East Kent Housing (EKH) has been appointed by each of the councils in East Kent to undertake the management of all tenanted properties.

1.2 Testing undertaken during this review concludes that there are systemic failings in relation to the internal control of health and safety, and a number of the necessary systems of control surrounding fire safety, electrical safety, lifts and Legionella are currently absent.

1.3 Assurance levels for each area tested are as follows:

Area	Assurance
Gas Safety	Limited assurance
Fire safety	No assurance
Electrical Safety	No assurance
Lifts	No assurance
Legionella	No assurance

1.4 Urgent management intervention is required in all of the key areas tested as part of the review as each Council could be considered to be acting unlawfully in all of the areas tested due to non compliance with the regulations applicable to each area tested.

1.5 It is the following findings which result in a conclusion of **No Assurance** in these areas.

- As at 12/06/19 there were 369 properties without a current Landlords Gas Safety Certificate. We understand that this number is now 14 as of 17 July 2019.
- It is unlikely that the Councils will have a new permanent contractor for gas servicing and maintenance in place for 03 July when the current contract expires. Instead EKH will be relying on the use of temporary contractors until the new contractor is able to mobilise, and commence work under the newly tendered contract.
- Approximately 4,800 issues identified on fire risk assessments remain outstanding. While work is ongoing to rectify some of the less technical issues, approximately 800 of those are overdue their recommended completion dates.
- No action is being taken to repair emergency lighting identified as faulty as part of the annual emergency lighting testing process. The same emergency lights are being reported as faulty on subsequent tests. Audit testing estimates there to be in the region of around 2,000 faulty emergency lights across a combination of all 4 areas.
- Large parts of some buildings have faulty emergency lighting, and consequently the Council as landlord may be in breach of the Regulatory Reform (Fire Safety) Order 2005 for failing to provide emergency lighting of adequate intensity.
- Action is not being taken to rectify faults identified on Electrical Installation Condition Reports (EICR) where the overall condition is being reported as

unsatisfactory. From 830 EICR reports on landlord blocks, around 230 of these are categorised as unsatisfactory.

- Action is not being taken to rectify electrical faults categorised as C1 & C2. A C1 fault is defined as ***Danger Present - Risk of injury. Immediate remedial action required***). Testing identified C1 & C2 issues identified in April 2016 as still not having being rectified.
  - Lift servicing is carried out at monthly intervals but lift examinations are not being completed by an independent person on passenger lifts at the 6 monthly intervals required by law, due to the insurance examiner not being able to safely examine the lift for a variety of different reasons. Despite the examinations being incomplete and therefore use of the lifts not being in accordance with the relevant regulations, lifts continue to be left in operation and available for use by tenants. Four lifts were found to be non-compliant with regulations due to a lack of independent examination reports yet still being used for 575, 426, 393 & 91 days.
  - Remedial work identified on lift examination reports is not being carried out resulting in the same Category B defects being evident on the next examination six months later.
  - Little or no action is being undertaken to address the 1,916 recommendations made on Legionella Risk Assessments, of which 930 have been categorised as high risk and date back to 2016.
  - The summary evacuation sheets were out of date at the three of the 4 sites inspected as part of this review.
- 1.4 Sixteen recommendations have been made within this report of which, 7 have been classified as Critical priority, and 9 as High priority, please see the action plan at page 19 for full details.
- 1.5 In accordance with standard audit procedures, a follow-up review will be undertaken later in the year to provide management with assurance that the recommendations contained within this report have been implemented.

## 2. **SCOPE OF THE REVIEW**

### 2.1 **AUDIT OBJECTIVE**

To provide assurance on the adequacy and effectiveness of the procedures and controls established by East Kent Housing to ensure the safety of all residents in all properties for which they are responsible for is not compromised.

### 2.2 **SCOPE**

The audit has examined and evaluated the procedures and controls established by management to ensure that health and safety related risks to tenants are reduced and mitigated wherever practical, and has included the following key areas:-

#### Gas Safety - Governance, Monitoring and Compliance:

- Is there a clear procedure to gain access to properties to undertake a gas safety check every 12 months.
- Is this followed and clearly documented/recorded.
- Are actions taken within the prescribed timescales.
- How many properties have CP12s older than 12 months and what stages of action are they all at.
- In cases of no access how is the housing organisation ensuring it meets its legal obligations?
- Is the final stage letter sent by Recorded Delivery or hand delivered?
- In cases where Recorded Delivery has been found to be locally ineffective have other options been considered?
- Has the fitting of limiting devices been considered?
- Is there a 'policing' role for gas safety check within the landlord function? If so are they suitably qualified?
- Is progress on safety checks and servicing monitored at least weekly?
- Does the landlord do its own cross-checks upon completion of servicing?
- Does the landlord cross-check whether paperwork has been completed appropriately?
- Are front line housing staff and other agencies involved in cases of persistent no access?
- Are there clear procedures for dealing with persistent no-access properties and prioritising them for access in subsequent years?
- Has the housing organisation's gas servicing policy been approved and reported through its governance structures?
- Have the governance structures been informed of risk in relation to its policy on gas servicing and are there assessments of progress and effectiveness of its practices?
- Do the governance structures receive progress or monitoring reports on a regular or an exceptions basis?
- Does the organisation involve contractors, quality assurance agents and residents in reviewing the effectiveness of its arrangements for servicing and the legal remedies available to it?
- Is there an external independent quality & compliance audit?

### Gas Safety - Contractors:

- What checks does the housing organisation undertake to ensure the competency of the contractors they employ?
- Are the same competency checks of contractors applied to planned maintenance contract works?
- What quality checks are undertaken of the gas paperwork and by whom?
- Is servicing approached on a structured basis (area/street etc) and clear procedure for advising tenants in advance
- Are there regular meetings/liaison arrangements with contractors?
- Is performance on annual servicing at or very close to 100 per cent?
- Do contractors make appointments for servicing and are the arrangements flexible and tailored for tenants' needs?
- What use is made of evening and weekend appointments?

### Gas Safety - Residents

- Do tenants know when gas servicing will take place?
- What measures are in place to identify and make specific access arrangements for vulnerable and non-English speaking residents?
- Do the procedures have a safety net built in for potentially vulnerable tenants or those with particular needs and is there liaison with support services and carers?
- Is the importance of gas safety positively promoted to tenants?
- Are CP12 (safety certificates) provided to tenants at the time of the safety check and are they also issued to any new/incoming tenants including transfers and mutual exchanges?
- Are customer satisfaction surveys undertaken on a regular basis?
- Are newsletters, letters, and local press used to inform tenants of the importance of gas checks?
- Is there specific provision within the tenancy agreement to the obligation to provide access for servicing?
- Is there an escalation procedure based on risk assessment of the length of period overdue, property type, and previous non compliance by the resident?
- Are access arrangements for servicing works widely available and customer focussed?
- Is sufficient notice given to residents of their proposed appointment and is there sufficient opportunity to rearrange it to a mutually convenient appointment?
- Are appointment reminders sent to residents? Some positive examples seen to date include the use of SMS text messaging, follow up letters and advance phone calls

### Fire Safety:

- Has the organisation undertaken a fire risk assessment for all of the types of properties which they manage?
- Does the organisation service fire detection and extinguisher systems, in accordance with manufacturers' guidelines, statutory requirements and current good practice guidelines?
- Has this fire risk assessment taken into consideration all potential hazards and then weighed up the risk, possible prevention/control measures etc to come to a decision about what to do. The organisation should document this and be able to demonstrate that they have done everything reasonably practicable to address the

risks associated with fire.

Legionella:

- Has the organisation undertaken a risk legionella risk assessment and has this identified all of the different types of system(s) that they have installed - clearly some systems, e.g. those that do not have stored water such as combi-boilers, will present a much lower risk than others.
- Has this risk assessment taken into consideration all potential hazards, e.g. legionella, scalding, biocides and then need to weigh up the risk, possible prevention/control measures etc to come to a decision about what to do. The organisation should document this and be able to demonstrate that they have done everything reasonably practicable to address the risks associated with water.

Scope exclusions:

- The scope of this review has not included Asbestos as EKH is currently in the process of moving to a new Asbestos Portal.

### 3. **FINDINGS**

<b>Gas Safety</b>	
<b>1</b>	<p><b><u>Expected Control</u></b> There should be clear and well publicised procedures in place to gain access to properties to undertake a gas safety check every 12 months. The housing organisation's gas servicing policy should have been approved and reported through its governance structures.</p> <p><b><u>Result</u></b> From the audit enquiries and testing undertaken, the control was found to be effective.</p> <p>EKH is required by law to undertake a gas safety check on all gas appliances in its properties every 12 months. The Tenants handbook pages on the EKH website have pages specifically around gas safety as do various elements of the tenancy agreements.</p>
<b>2</b>	<p><b><u>Expected Control</u></b> Management should be satisfied that they have accurate records of all properties requiring safety checks.</p> <p><b><u>Result</u></b> From the audit enquiries undertaken the control was found to be effective. Testing established that current records of properties requiring safety checks have been developed over a number of years using a variety of different sources of information to arrive at a complete database of all properties and the type of heating in each property.</p>
<b>3</b>	<p><b><u>Expected Control</u></b> Accurate Management information should be available to report the properties with and without a valid Landlord Gas Safety Record (LGSR). Levels of LGSR compliance should be at or near the target of zero.</p> <p><b><u>Result</u></b> From the audit enquiries and testing undertaken the control was found to be partially effective. Accurate management information is being provided, however levels of non compliant LGSRs are currently unacceptable due to the poor performance of the contractor.</p> <p>There is a statutory requirement for LGSR checks to be undertaken at least annually. Up until late April 2019, accurate monthly management information detailing LGSR compliance was being reported by EKH to the Councils, with non compliant LGSR numbers being around 25 split across all four Councils.</p> <p>The Councils employ an independent gas specialist (GCS) as their independent gas auditor. Since 1 April 2019 EKH increased their role to support the demobilisation of P&amp;R, including GCS managing additional contractors and appointments for residents.</p> <p>Since the contractor gave notice in March 2019 to terminate the contract on 03 July 2019, levels of LGSR compliance have deteriorated significantly to the extent that since mid May, EKH has been receiving daily compliance reports from GCS detailing the number of non compliant LGSR's.</p>

	<p>On 1<sup>st</sup> October 2018 there were 26 non compliant LGSR's reported. As at 13/06/19, that number had increased to 369. Due to LGSRs being undertaken by temporary contractors and LGSR's continuing to expire on a daily basis that number is likely to fluctuate day by day. We understand that this number is now 14 as of 17 July 2019.</p> <p>As a result of the poor levels of compliance, EKH has taken two steps to improve levels of compliance:</p> <ol style="list-style-type: none"> <li>1) Diversion of existing resources across EKH to attempt to reduce the numbers of non compliant LGSR's; and</li> <li>2) Officers across EKH working evenings and weekends to make appointments and arrange access for LGSR checks to be undertaken, to supplement the work undertaken by GCS.</li> </ol> <p>It is unclear how long staff will be able to commit to these interim working arrangements. Similarly is also unclear what other areas of compliance are being left unchecked. No risk assessment has been undertaken to record and document the risks arising from the temporary arrangements.</p> <p>Therefore please see <a href="#">Recommendations 1 &amp; 2</a> in the Action Plan.</p>
4	<p><b><u>Expected Control</u></b></p> <p>In cases of no access the organisation should ensure it is taking the necessary steps to gain access to the property to undertake gas safety checks.</p> <p><b><u>Result</u></b></p> <p>From the audit enquiries and testing undertaken the control was found to be effective.</p> <p>Under the current (soon to expire) contract there is suitable provision within the contract to enable the Council, through EKH, and the contractor to gain entry into properties to undertake gas safety checks. Where required, EKH in conjunction with the contractor takes the necessary steps to gain access to a property. In light of current levels of LGSR compliance, at the time of the audit, EKH was undertaking numerous forced entries into properties in accordance with the procedures agreed with the Councils, where residents refused access on two or more occasions and had received notice of a third appointment.</p>
5	<p><b><u>Expected Control</u></b></p> <p>EKH acting as the landlords agent should undertake sample testing to ensure that contractor has completed the paperwork correctly to support gas safety checks.</p> <p><b><u>Result</u></b></p> <p>From the audit enquiries and testing undertaken the control was found to be effective. EKH has appointed GCS to oversee the gas maintenance and servicing contract. As part of that process they review every LGSR certificate to ensure that the information contained on it is correct.</p>



6	<p><b><u>Expected Control</u></b>  The new gas contract should suitably detail the requirements of the incoming contractor in terms of:</p> <ul style="list-style-type: none"> <li>• Hours of work;</li> <li>• Appointments;</li> <li>• Servicing &amp; safety inspections;</li> <li>• LGSR compliance;</li> <li>• Quality control;</li> <li>• Performance Monitoring;</li> <li>• Requirements for breakdowns and repairs;</li> <li>• Non gas appliances; and</li> <li>• Communal heating systems.</li> </ul> <p><b><u>Result</u></b>  From the audit enquiries and testing undertaken, the control was found to be effective.</p> <p>The specification used for the tender to select the new contractor for gas servicing and repairs was reviewed where it was found to contain all of the expected elements to ensure that gas servicing and maintenance is undertaken in accordance with expected standards.</p>
<b><u>Fire Safety</u></b>	
7	<p><b><u>Expected Control</u></b>  EKH and the Client Councils should be clear on their respective duties and those of the “Responsible Person”.</p> <p><b><u>Result</u></b>  From the audit enquiries and testing undertaken the control was found to be effective. All Fire Risk assessments list on them who the responsible person for fire is for the building. East Kent Housing have appointed Director of Property Services as the Responsible Person who confirmed that he was aware of his appointment as Responsible Person. However the Director of Property Services has very recently left EKH’s employ so this responsibility needs to be reallocated.</p> <p>Therefore please see <a href="#">Recommendation 3</a> in the Action Plan.</p>
8	<p><b><u>Expected Control</u></b>  EKH should have a complete database that clearly identifies: properties subject to fire safety requirements, the risk category for each property, the inspection programme, fire risk assessment review dates and supports reporting of key information.</p> <p><b><u>Result</u></b>  From the audit enquiries and testing undertaken, the control was found to be effective. Testing established that EKH Project Manager (Fire Safety) has recently reviewed the fire safety data set against the main block data set to ensure all buildings are captured across all 4 areas which may require an FRA due to having communal areas.</p>

	<p>EKH use a software system (Pyramid) to record the details of all FRA's. Review of the system established that it holds all of the necessary details relating to the current and historic FRA for every building including the risk category for each. The system can be used to generate various reports which are then used by officers to identify the status of each FRA or outstanding issues on each FRA.</p>
9	<p><b><u>Expected Control</u></b></p> <p>EKH should adequately plan FRA reviews in advance of their expiry / review date and employ sufficient resource to deliver these.</p> <p><b><u>Result</u></b></p> <p>From the audit enquiries and testing undertaken, the control was found to be effective. The Pyramid software is able to produce management reports listing the expiry date of FRA's. This enables management to be able to identify and subsequently plan workloads to ensure FRA's are completed on time. Until recently, EKH had to make use of contractors to supplement in house resources to keep FRA's updated. It is anticipated that going forwards current staff levels will be sufficient to reduce reliance on contractors to undertake FRA's.</p>
10	<p><b><u>Expected Control</u></b></p> <p>EKH should have undertaken FRA's for all properties which are subject to legislation. The details of each FRA should be recorded.</p> <p><b><u>Result</u></b></p> <p>From the audit enquiries and testing undertaken the control was found to be effective. Testing established that as of late May 2019, all properties listed on the FRA database had a current FRA in place. However please see findings below in respect of the quality and completeness of these FRAs.</p>
11	<p><b><u>Expected Control</u></b></p> <p>Fire risk assessments should take into consideration all potential hazards and then weigh up the risk, possible prevention/control measures in place to come to an overall risk score for each building.</p> <p><b><u>Result</u></b></p> <p>From the audit enquiries and testing undertaken the control was found to be only partially effective.</p> <p>From a sample of 3 FRA's reviewed which had been completed by the contractor, a number of potential fire safety hazards were identified during the visits which were not raised as an issue on the FRA. The EKH Compliance Inspector (Fire Safety) agreed that all of the issues identified during the audit visits should have been raised as issues on the FRA's. EKH have already raised their concerns with the contractor and plans are being agreed to ensure that EKH staff undertake sample testing of FRA's completed by contractors.</p> <p>Therefore please see <a href="#">Recommendation 4</a> in the Action Plan.</p>
12	<p><b><u>Expected Control</u></b></p>

	<p>Remedial work should be taken to rectify all issues identified on FRA's which require action to be undertaken by the responsible person.</p> <p><b><u>Result</u></b> From the audit enquiries and testing undertaken this control was found not to be working.</p> <p>A report detailing all outstanding issues was obtained where it was identified that as at the end of April 2019, there were 4,912 outstanding issues which have been identified on FRA's but are yet to be rectified. We understand that this is because all works are contained within one council contract for fire protection works for each area and that this is still to be completed.</p> <p>A second report obtained showed that of the 4,912 outstanding issues, around 809 actions are reported as overdue as they have not been actioned in accordance with the timescale recommended in the FRA.</p> <p>Fire Safety staff from EKH are working through some of the issues on FRA's and currently closing issues are around 250 per month. However this work is focussing on 'quick wins' and means that areas requiring works (of which there are many) currently continue to remain outstanding. In recognition of the outstanding fire prevention work, EKH have implemented some mitigation measures such as regular inspections of communal areas to reduce the likelihood of fire starting.</p> <p><b>Therefore please see <a href="#">Recommendation 5</a> in the Action Plan.</b></p>
13	<p><b><u>Expected Control</u></b> All fire detection systems should be serviced and tested in accordance with legislation and manufacturers' guidelines. Issues identified as part of the testing regime should be rectified as soon as practical.</p> <p><b><u>Result</u></b> From the audit enquiries and testing undertaken this control was found to be partially effective. Sufficient information was provided during the course of the audit to indicate that fire alarms are being tested at regular intervals by a competent person in the sample of 9 buildings selected for testing.</p> <p>It was however noted on 4 reports test certificates that the fire alarm zone plan was unsatisfactory.</p> <p><b>Please see <a href="#">Recommendation 6</a> in the Action Plan.</b></p> <p>Discussions with officers also established that a number of lifts are not connected to the fire alarms. This means that in the even of a fire alarm activation, the lifts do not descent to the ground floor and instead, persons are able to continue to use the lift as they so wish. Testing identified that 27 of the 48 lifts in place do not descend to the ground floor in the event of a fire alarm activation. EKH officers have already started to obtain quotes for the work where it is capable of being completed in isolation. For other areas, this forms part of a wider programme of works needed in the block as identified in the FRA, and cannot be completed as a separate action, and is contained with the fire protection works contract referred to above.</p> <p><b>Please see <a href="#">Recommendation 7</a> in the Action Plan.</b></p>

14	<p><b><u>Expected Control</u></b> All emergency lights should be subject to monthly and annual testing with faulty lights being repaired as soon as practical.</p> <p><b><u>Results</u></b> From the audit enquiries and testing undertaken this control was found not to be working to the extent that urgent management intervention is required.</p> <p>Testing confirms that emergency lighting is being tested on a monthly basis with records of tests undertaken being retained in a log book which is held on site. Emergency lighting also has to be subject to an annual test which includes testing the lights to ensure that they remain illuminated for 3 hrs. The result of the annual test are recorded on a certificate with is provided to EKH.</p> <p>Test certificates for Sunny Corner and Lambert House (DDC properties) report numerous lights as faulty on both the initial and subsequent testing certificates for each building. Of particular concern was the number of sequentially numbered faulty lights at Lambert House suggesting that large areas of the building have working no emergency lighting coverage which means that the Council could potentially be failing to provide occupants of the building with a safe means of escape from the building which is contrary to The Regulatory Reform (Fire Safety) Order 2005 and therefore could be considered to be acting unlawfully by not repairing faulty emergency lighting.</p> <p>When this issue was raised with EKH Compliance staff it emerged that a decision was taken to not repair faulty emergency lighting in Dover as it is identified through the testing programme, and instead to wait until the new fire protection works contract referred to above is in place, as it was expected to be completed by February 2019. The same policy has been applied to emergency lighting across other area, however discussions with EKH staff have established that they estimate there to be around 2,000 faulty emergency lights across all areas.</p> <p>Please see <a href="#">Recommendation 8</a> in the Action Plan.</p>
15	<p><b><u>Expected Control</u></b> Fire drills should be regularly undertaken in all sheltered accommodation.</p> <p><b><u>Result</u></b> From the audit enquiries and testing undertaken it was concluded that this control is partially effective.</p> <p>A recent EKH policy change now requires fire drills to be undertaken in accordance with what the FRA recommends which is normally that fire drills should be undertaken at 6 monthly intervals at sheltered accommodation. Since the change in policy, fire drills have already been undertaken at schemes in Canterbury F&amp;H DC and are planned to take place at DDC over early summer months.</p> <p>Therefore please see <a href="#">Recommendation 9</a> in the Action Plan.</p>
16	<p><b><u>Expected Control</u></b></p>

	<p>Fire extinguishers should be subject to an annual maintenance and servicing regime.</p> <p><b>Result</b> From the audit enquiries and testing undertaken the control was found to be effective.</p> <p>While undertaking visits to a number of sheltered accommodation schemes, checks were undertaken on fire extinguishers and emergency blankets to confirm that they have been checked within the last 12 months. All equipment inspected during the visits was found to have been serviced in the last 12 months.</p>
	<b>LIFTS</b>
17	<p><b>Expected Control</b> All lifts should be examined by a competent person at 6 monthly intervals in accordance with Lifting Operations Lifting Equipment Regulations 1998 (LOLER).</p> <p><b>Result</b> From the audit enquiries and testing undertaken, it was concluded that <b>this control is not working to such an extent that each Council is acting unlawfully and urgent management intervention is required.</b></p> <p>We raised similar concerns as part of the audit of Tenants' Health and Safety in 2014 concerning lifts. Since then there has been little or no improvement in controls surrounding the maintenance and examination of lifts.</p> <p>Under current LOLER regulations, the Duty Holder is legally responsible for ensuring that the lift is safe to use and that it is thoroughly examined. These responsibilities include:</p> <ul style="list-style-type: none"> <li>• maintaining the lift so that it is safe to use;</li> <li>• selecting and instructing the competent person;</li> <li>• ensuring that the lift is examined at statutory intervals (every 6 or 12 months) or in accordance with an examination scheme drawn up by a competent person;</li> <li>• keeping the competent person informed of any changes in the lift operating conditions which may affect the risk assessment;</li> <li>• making relevant documentation available to the competent person, e.g. manufacturer's instructions and maintenance records;</li> <li>• acting promptly to remedy any defects;</li> <li>• ensuring that all documentation complies with the Regulations; and</li> <li>• record keeping.</li> </ul> <p>Testing identified that whilst lift 6 monthly examinations are being undertaken by Zurich on all of the lifts in the sample tested, there are considerable gaps in procedures.</p> <p>In a number of cases tested the lift examiners from Zurich were unable to complete the examinations due to safety concerns being identified with the</p>

	<p>inspection process of the lift during the examination. The early termination of a lift examination means that the lift has not been examined. In a number of cases, the following examination 6 months later also had to be terminated early due to the same concerns being raised by the examiner as those which were raised 6 months previously. The early termination of a 6 monthly examination means that the Council is failing to operate the lift in accordance with the LOLER regulations as it has not had the lift examined every 6 months.</p> <p>Testing identified the following points of notable concern:</p> <ul style="list-style-type: none"> <li>• Trove Court left hand lift (Thanet tower block) went without a completed examination certificate from 23/09/17 to 10/04/19 (575 days) and therefore the Council was not operating the lift in accordance with LOLER regulations and consequently the Council has been acting unlawfully.</li> <li>• Trove Court right hand lift (Thanet tower block) went without a completed examination certificate from 23/09/17 to 10/10/18 (393 days) and therefore Council was not operating the lift in accordance with LOLER regulations and consequently the Council has been acting unlawfully.</li> <li>• Lang Court (Canterbury) lift examination of 21/01/18 was completed, the next exam completed was 09/11/18 as the 10/08/18 was cancelled. Therefore in the period 10/08/18 to 09/11/18 (91 days) the Council was not acting in accordance with LOLER regulations.</li> <li>• Harbour Towers (Thanet tower block) lift servicing odd floors. The last lift examination report is dated 12/10/17, all other subsequent lift examinations have been terminated early by the examiner to potential safety concerns to the lift examiner preventing him from being able to safely complete the examination. The April 2019 examination was also cancelled and therefore the lift continues to be used despite not being examined in accordance with LOLER regulations.</li> </ul> <p>Testing also identified that where lift examinations are being completed, EKH is not rectifying the defects reported on lift examination reports as requiring corrective action as soon as reasonably practicable. This means that the same defects are reported as outstanding on numerous six monthly lift examination reports. The main cause of lift examinations having to be terminated early by the examiner is likely to be that safety issues raised with the lift examination process are not being addressed.</p> <p>Therefore please see <a href="#">Recommendations 10 &amp; 11</a> in the Action Plan.</p>
18	<p><b><u>Expected Control</u></b></p> <p>All lifts should be serviced at regular intervals as part of an ongoing lift maintenance programme.</p> <p><b><u>Result</u></b></p> <p>From the audit enquiries and testing undertaken it was concluded that this control is not working. Legislation surrounding lifts requires the owners of all</p>

	<p>passenger carrying lifts to be both serviced at suitable intervals by a competent person, Under current LOLER regulations, the Duty Holder is not only legally responsible for ensuring that the lift is examined, it is also requires the Duty Holder to ensure that lifts are regularly maintained so that they continue to remain safe to use.</p> <p>Sample testing of lift service and inspection records indicates that all of the lifts are being regularly maintained, and all are in good working order with no issues being recorded on any of the service reports.</p> <p>However, as discussed above, numerous issues are being identified with lifts when the lift examinations are being completed indicating that lift servicing is not as thorough as it should be as some faults are not being rectified. However some faults are being managed on those lifts which are due for replacement.</p> <p>Therefore please see <a href="#">Recommendation 12</a> in the Action Plan.</p>
<b>ELECTRICAL SAFETY</b>	
<b>19</b>	<p><b><u>Expected Control</u></b></p> <p>All fixed electrical installations should be tested at regular intervals.</p> <p><b><u>Results</u></b></p> <p>From the audit enquiries and testing undertaken it was concluded that this control is only currently partially effective.</p> <p>The Electricity at Work Regulations 1989 (EAWR) fall under the Health &amp; Safety Act 1974 (HSWA). While the EAWR does not specifically make reference to inspection and testing of electrical installations, best practice does require that systems are maintained to prevent danger. The Guidance states that:</p> <p><i>Regular inspection of equipment is an essential part of any preventative maintenance programme. In the case of residential accommodation the inspection frequency should be a maximum of 5 years between inspections.</i></p> <p>Audit testing was undertaken on a sample of 9 buildings to confirm that electrical systems have been tested within the last 5 years. The date of the last test was only recorded on 3 of the 9 certificates; in all three cases, the last test had been outside of the 5 year period. The date of the last test was reported on the certificate as 'unknown' for the remaining 6 buildings.</p> <p>On the basis that 3/3 where the dates were recorded were outside of the 5 year period, is it reasonable to conclude that at least some of the 6 with no date to have also been inspected outside of the 5 year inspection period.</p> <p>Therefore please see <a href="#">Recommendation 13</a> in the Action Plan.</p>
<b>20</b>	<p><b><u>Expected Control</u></b></p> <p>Faults identified on Electrical Installation Condition Reports (EICR) testing which pose an actual or potential danger to occupants of the building should</p>

be rectified as soon as practical.

### **Results**

From the audit enquiries and testing undertaken, it was concluded that **this control is not working to such an extent that each Council is acting unlawfully and urgent management intervention is required.**

Once an electrical installation has been tested, the tester provides EKH with an Electrical Installation Condition Report (EICR) which details the condition of the installation. The report will also include a section detailing the severity of any faults in the installation, and the timescales for rectification of any faults.

The faults are coded as follows:

#### **C1 – Danger Present, Immediate Action required.**

The person responsible for the installation's maintenance is advised to take action without delay to remedy the defect, or take other appropriate action to remove the danger i.e. switching or isolating the installation.

#### **C2 - Potentially Dangerous: Action should usually be taken within 30 days**

The installation may not pose an immediate risk to those using it but urgent remedial action is required to remove the potential danger.

#### **C3: Improvements Needed: No time limit provided**

Non-compliance with a current safety standard has been revealed which, whilst not posing an immediate or potential danger, would significantly improve safety if remedial action was taken. Duty holders should, therefore, give careful consideration to the safety benefits in carrying out the remedial work.

Review of a sample of 9 EICR's identified a number of faults coded as C1 & C2. Any electrical installation with C2 faults is normally considered to be unsatisfactory.

From the sample of 9 EICR's tested, 8 were found to be unsatisfactory. Officers later confirmed that from around 840 blocks requiring an EICR, 230 of which are unsatisfactory.

For the audit sample of 8 unsatisfactory EICR's, further enquiries were made to confirm that EKH has taken the necessary action to rectify the faults categorised as either C1 or C2 on the EICR's. Two officers responded separately that there is no information available on EKH systems to show that the faults reported on the unsatisfactory EICR's have been rectified on the EICR's, the oldest of which is dated 2016.

In light of the fact that the oldest EICR is dated 2016 and a number of other EICR's have multiple faults requiring rectification, EKH is not considered to be taking reasonable steps to rectify faults reported to them on EICR's and is therefore not acting in accordance with Health and Safety at Work regulations.



	Therefore please see <a href="#">Recommendation 14</a> in the Action Plan.
<b>Legionella:</b>	
<b>21</b>	<p><b><u>Expected Control</u></b></p> <p>Suitable action should be undertaken to implement any recommendations arising from Legionella Risk Assessments.</p> <p><b><u>Results</u></b></p> <p>From the audit enquiries and testing undertaken, it was concluded that <b>this control is not working to such an extent that each Council is acting unlawfully and urgent management intervention is required.</b></p> <p>As a landlord, the Council has a duty to take the necessary precautions to reduce the risks of exposure to legionella. Those duties include:</p> <ol style="list-style-type: none"> <li>1. Identify and assess sources of risk (ie – undertake a risk assessment)</li> <li>2. Manage any risks</li> <li>3. Prevent or control any risks</li> </ol> <p>Copies of the Legionella Risk assessments were obtained for a sample of 9 buildings. Testing confirms that each building has a legionella risk assessment in place with each risk assessment containing a varying number of recommendations detailing work required in the building to manage the risk of legionella to the occupants of the building.</p> <p>A report was obtained detailing all of the recommendations made on all of the legionella risk assessments undertaken for EKH. That report lists 1,916 recommendations, and gives each a risk of High, Medium or Low. On that basis, each has fulfilled its duties in terms of identifying and assessing sources of risk.</p> <p>EKH staff confirmed however that from the 1,916 recommendations arising from Legionella Risk assessments, less than 5% have been actioned, 930 of which are high risk. Considering that some of the risk assessments date as far back as 2016 it would be reasonable to have expected EKH to have actioned at least a fair proportion of the high risk recommendation by 2019. By not taking the necessary action to implement the recommendations, each Council has not fulfilled its duty to prevent or control exposure in accordance with the Regulations.</p> <p>Therefore please see <a href="#">Recommendation 15</a> in the Action Plan.</p>
<b>22</b>	<p><b><u>Expected Control</u></b></p> <p>All legionella outlets should be tested at regular intervals.</p> <p><b><u>Results</u></b></p> <p>From the audit enquiries and testing undertaken it was concluded that this control working effectively. Testing confirms that for all of the buildings selected, records are in place by means of a legionella logbook to confirm that legionella outlets are being tested on an ongoing basis.</p>

## Emergency Evacuation Summary sheets

23

### Expected Control

Emergency evacuation summary sheets should be kept up to date.

### Results

From the audit enquiries and testing undertaken it was concluded that this control only partially effective.

While undertaking visits to sheltered schemes to review FRA's, where it was possible to gain access to the documents, the emergency evacuation summary sheets held on site were also reviewed. From the limited sample of 2 emergency evacuation sheets which were reviewed, both were found to be out of date. They need to reflect the overall situation rather than provide commentary on individual circumstances.

Therefore please see [Recommendation 16](#) in the Action Plan.

## 4. DISTRIBUTION LIST

Prepared by: - David Griffiths	Reviewed by: -	Date	To
Discussion Draft Report	Deputy Head of Audit Partnership (SW) & Head of Audit Partnership	21/06/19	EKH Chief Executive
			Interim Operations Manager (Repairs & Compliance)
Draft Report	Deputy Head of Audit	17/07/19	EKH Chief Executive
			Interim Operations Manager (Repairs & Compliance)
Final Report	Deputy Head of Audit	18/07/19	EKH Chief Executive
			Interim Operations Manager (Repairs & Compliance)
			CCC, DDC, F&HDC & TDC Client Officers
			CCC, DDC, F&HDC & TDC S151 Officers
			CCC, DDC, F&HDC & TDC Chief Executives

## SUMMARY OF AUDIT RECOMMENDATIONS AND ACTION PLAN

### APPENDIX 1

Priority	Main Control Risk	Audit Recommendation to mitigate risk	Proposed Action or Action Taken	Proposed Completion Date & Responsibility
<b>Gas Safety</b>				
Critical	Levels of non compliant LGSR's may go unchecked.	1. Provide weekly reports detailing levels of non compliant LGSR's to each Council until levels of LGSR compliance reach the KPI target.	Daily reports are currently being obtained detailing LGSR compliance. These reports are being shared with each Council every two days at present. Compliance is now at 14 overdue LGSRs across all four Councils, with 2 of these in a legal process.  The new contractor will be asked to provide this information on a weekly rather than monthly basis.	Complete  Servicing and Compliance Manager (MCB)
High	Levels of non compliance in other work streams reach unacceptable levels.	2. Undertake a risk assessment to identify the risks arising from diverting staff from other areas of compliance onto gas safety. Share the outcome of the risk assessment with each Council.	Staff from across EKH, rather than just compliance staff, were used for a short period of time (approximately 2 weeks) to support the recovery of LGSRs. A risk assessment was not considered necessary.	Chief Executive
<b>Fire Safety</b>				
High	No individual identified as the Responsible Person for fire.	3. Appoint a suitably senior EKH employee to be allocated the responsibility of 'Responsible Person' for all FRA's.	The Chief Executive has taken over responsibility as the Responsible Person in all	Complete

Priority	Main Control Risk	Audit Recommendation to mitigate risk	Proposed Action or Action Taken	Proposed Completion Date & Responsibility
			Health & Safety policies, and this action was taken prior to the departure of the Director of Property Services.	
High	Weaknesses in FRA's may go unnoticed and remedial fire safety works are not undertaken as they have not been identified on FRA's.	4. Put in place an ongoing process of undertaking sample checks on FRA's completed by contractors.	A procedure is now in place to quality assure 5% of FRAs completed, whether or not that is by a member of staff or a contractor.	Complete.
Critical	Remedial fire prevention work may not receive sufficient funding.	5. Put in place and share with each Council a risk based action plan which ensures that outstanding fire prevention work is completed as soon as practical.	<p>All fire protection work was prioritised, provided to each council and tendered by each Council in October 2018, using a specialist fire protection works framework.</p> <p>The tenders were evaluated in February 2019 but we are still waiting for the contract to be completed. Regular meetings are held with Kent Fire and Rescue Service, who are aware of the position, and a letter of intent has been sent to the successful tenderer who has indicated that they will be in a position to start the contract on 1 September 2019.</p>	<p>Risk based programme of works provided to the Councils in October 2018.</p> <p>Each Council to conclude their contract for 1 September 2019.</p> <p>Works to be completed over the next year.</p> <p>Project Manager</p>

Priority	Main Control Risk	Audit Recommendation to mitigate risk	Proposed Action or Action Taken	Proposed Completion Date & Responsibility
			In the meantime, EKH has increased its block inspections until these works are completed. This includes daily visits at high risk blocks, and night security where necessary.	(Fire Safety)
High	In the event of an alarm activation, it may not be possible to identify the source of the activation.	6. Ensure that suitable fire alarm zone plans are in place and up to date for every building which has a fire alarm.	Work has started on this where possible, but cannot be completed in full until after the fire prevention work has been completed in each building. This is because the zone plans will change once the FRA works are completed.	All fire alarm zone plans are being reviewed, where possible, and new drawings will be produced where necessary. This will be completed by September 2019.  For the remainder, the zone plans will be completed after the works contained in the Fire Prevention Works contract.  Interim Operations Manager (Repairs & Compliance)
High	In the event of a fire alarm activation, occupants of the	7. Ensure that work to connect lifts to fire alarms is completed as soon as practical	Work orders have already been issued to the relevant	

Priority	Main Control Risk	Audit Recommendation to mitigate risk	Proposed Action or Action Taken	Proposed Completion Date & Responsibility
	building may will still be able to use the lift.		contractors where it is possible to address this issue.  For some areas, the works to connect the lifts to fire alarms are dependent on the Councils Fire Protection Works contract.	Interim Operations Manager (Repairs & Compliance)
Critical	Potential non compliance with the Regulatory Reform (Fire Safety) Order 2005.	8. Put in place and share with each Council an action plan which ensures that all emergency lighting identified as faulty is repaired as soon as possible.	The renewal of the emergency lighting was contained in the Fire Protection Works contract. As this is not due to commence until 1 September 2019, we have commenced work on repairs and this work will be completed by 31 July 2019.	31 JULY 2019 Interim Operations Manager (Repairs & Compliance)
High	Potential non compliance with the Regulatory Reform (Fire Safety) Order 2005.	9. EKH should ensure that a fire drill is carried out at each sheltered scheme at least every 6 months.	This is carried out, and there is a schedule of fire drills in place.	COMPLETE
<b>Lifts</b>				
Critical	Lifts may not be examined in accordance with LOLER regulations and therefore the Council may be acting unlawfully.	10. Senior Management should ensure that the 2 most recent LOLER reports for all passenger carrying lifts across all 4 areas are reviewed and that outstanding defects listed on reports are rectified as soon as possible.	All LOLER reports have been checked and any outstanding repairs have been ordered where appropriate. There were no category A repairs on the LOLER reports.	COMPLETE Interim Operations Manager (Repairs & Compliance)
Critical	Lifts may not be maintained in accordance with LOLER regulations and therefore the	11. Management should implement more robust procedures for ensuring that defects identified on LOLER examination	Procedures are now in place to ensure that reports are run on a regular basis and that the	COMPLETE Interim Operations Manager (Repairs &

Priority	Main Control Risk	Audit Recommendation to mitigate risk	Proposed Action or Action Taken	Proposed Completion Date & Responsibility
	Council may be acting unlawfully.	reports are rectified as soon as possible and always before the next examination.	Zurich lift examinations take place.	Compliance)
High	Lifts may not be maintained in accordance with LOLER regulations and therefore the Council may be acting unlawfully.	12. EKH should ensure that robust contract management procedures are implemented to monitor the lift servicing contract.	All EKH staff have had external training in contract management, and a new lift engineer (competent person) is due to start in post on 29 July 2019. A procedure manual is in place for contract management, and this will be covered during his induction period.	31 August 2019 Interim Operations Manager (Repairs & Compliance)
<b>Electrical safety</b>				
High	Electrical installations are not inspected resulting in faults not being identified.	13. EKH should ensure that all electrical systems for blocks are tested at least every 5 years.	Thanet District Council already have a five year programme in place. Canterbury City Council EICRs are currently underway and will be completed by December 2019. Dover District Council and Folkestone & Hythe Councils do not currently have a five year programme but it is their intention to move to this. All outstanding EICRs for DDC and F&H Council will be completed by their existing repairs contractor.	December 2019 Interim Operations Manager (Repairs & Compliance)
Critical	Persons may be electrocuted	14. EKH should ensure that all faults	All block EICRs have been	September 2019

Priority	Main Control Risk	Audit Recommendation to mitigate risk	Proposed Action or Action Taken	Proposed Completion Date & Responsibility
	as a result of faulty electrical installations.	reported on EICR's for blocks are reviewed and that reasonable action is taken to act on any faults reported in the EICR.	checked and any outstanding C1 actions have been completed. There are a number of C2 repairs required within Sheltered and High Rise buildings, these works are due to be completed by end of September	Interim Operations Manager (Repairs & Compliance)
Legionella				
Critical	Danger of occupants of buildings contracting Legionnaires disease.	15. EKH should ensure that all recommendations made in legionella risk assessments are reviewed and actioned in order of level of risk as soon as practical.	<p>EKH currently control the risks on blocks by monthly water sampling and weekly temperature checks where necessary.</p> <p>The Councils do not currently have a contract in place for risk assessment works to be undertaken, as this work was contained in the Heating &amp; Hot Water contract which has now been terminated.</p> <p>The legionella works were sub-contracted by the Heating &amp; Hot Water contractor, and it is the Councils intention to make a direct contract award to that sub-contractor.</p> <p>The sub-contractor is currently working across all four areas to provide pricing schedules</p>	<p>Pricing schedules to be completed by End August 2019</p> <p>High &amp; medium risk works to be completed by End December 2019 subject to contracts being awarded.</p> <p>Interim Operations Manager (Repairs &amp; Compliance)</p>



Priority	Main Control Risk	Audit Recommendation to mitigate risk	Proposed Action or Action Taken	Proposed Completion Date & Responsibility
			for the outstanding works and the Councils will then make budget available for EKH to commission the works.	
PEEPS				
High	PEEP's may be out of date and may not reflect the needs of the residents in the event of a fire.	16.EKH should remind all Sheltered Scheme Managers of the ongoing requirement to keep emergency evacuation summary sheets up to date at all times, especially where void flats become occupied or occupied flats become void.	All PEEPs are up to date. We are liaising with Kent Fire & Rescue as to what information they require us to put on the summary sheets.	August 2019 Director of Customer Services

**EKH Mitigation Measures****Appendix 2**

<b>Issue</b>	<b>Mitigation Action identified</b>	<b>Frequency</b>	<b>Owner</b>	<b>Resources Required</b>	<b>Start Date</b>	<b>Due Date</b>	<b>Progress</b>
<b>FIRE SAFETY</b>							
<b>Fire Prevention Works Contract still not commenced</b>	<b>Increased visits to Sheltered &amp; Towers &amp; any substantial blocks to be visited for rubbish, ASB etc.</b>	<b>Morning &amp; Afternoon daily</b>	<b>MG</b>	<b>AMcK to provide list of blocks</b>  <b>Security company to be used in short term.</b>	<b>27 June</b>	<b>Ongoing</b>	<b>Resources in place and this is underway and covered either by staff or external resources.</b>  <b>Overnight security is being used on Invicta House which has recently had several small fires</b>
	<b>Newsletter to all residents with fire safety tips</b>	<b>Once per month</b>	<b>MG</b>	<b>Tower block information has been reviewed and is with printers, wider advice being reviewed</b>	<b>To be undertaken w/c 1 July</b>	<b>Underway</b>	<b>Kent Fire &amp; Rescue have agreed wording. Sheltered schemes have been completed, and Invicta House. Remainder of tower blocks is underway and will be completed by 25 July.</b>
	<b>Contractor to make good any fittings which can be repaired</b>	<b>Once</b>	<b>MCB</b>	<b>PJC/Mears instructed to carry out urgent repairs</b>	<b>26 June</b>	<b>5 July</b>	<b>Fittings have been checked, works have been ordered and will be completed by 31 July.</b>
	<b>All other blocks with emergency</b>			<b>Inspection regime being reviewed.</b>	<b>1 July</b>	<b>ongoing</b>	<b>See above</b>

	lighting issues to receive additional inspections (if required)						
<b>LEGIONELLA</b>							
High Risk Actions not completed & contract awaited	Water sampling in tower blocks and sheltered schemes	Once	CP	Envirocure (EKH to cover cost if Council do not award contract)	3 July	Over July with monthly inspections	Additional tank inspections underway by EKH.  Envirocure are inspecting tanks and pricing high and medium risk actions. Thanet is now completed, Canterbury to be completed by 2 August, Folkestone & Hythe to be completed by 16 August and Dover to be completed by 30 August.
	Additional temperature checks for tower blocks & sheltered communal areas	Weekly	MG	ILMs/CP	5 July	Ongoing	Additional temperature checks are being carried out and recorded.
	Additional inspections of	Once	MCB	CP	3 July	End July	Further tank inspections underway by EKH over July.

	<b>water tanks</b>						
	<b>Drain down any unbooked guest rooms and treat as void property</b>	<b>As necessary</b>	<b>MG</b>	<b>CP/Mears</b>	<b>5 July</b>	<b>Ongoing</b>	<b>All guest rooms have been checked and these are regularly booked. A regime of tank cleansing is already in place, as well as recorded temperature checking.</b>
	<b>Order tank cleansing in readiness for Council contract award</b>  <b>Scheme managers to start testing</b>	<b>Once</b>	<b>MCB</b>	<b>CP/Envirocure (EKH to cover cost if Council don't award contract)</b>	<b>28 June</b>	<b>Ongoing</b>	<b>Envirocure are checking all tanks over July.</b>  <b>Testing kits received and ILMs have been trained and are recording temperatures.</b>
<b>LIFTS</b>							
<b>Some Zurich checks may be outstanding</b>	<b>Crimson report to be checked and appointments made with Zurich</b>	<b>Once</b>	<b>MCB</b>	<b>Nicola to check Crimson Reports</b>	<b>28 June</b>	<b>Complete</b>	<b>There are no gaps from inspections and any identified repairs are actioned</b>
<b>ELECTRICAL</b>							
<b>Some EICRs may have unmitigated</b>	<b>All EICRs to be checked for C1 actions</b>	<b>Once</b>			<b>25 June</b>	<b>28 June</b>	<b>COMPLETE</b>

<b>C1 actions</b>							
	<b>6 blocks to be checked to ensure distribution board is locked &amp; stickered or other mitigation action taken</b>	<b>Once</b>	<b>MCB</b>	<b>Compliance Inspectors</b>	<b>31 June</b>	<b>4 July</b>	<b>COMPLETE</b>
	<b>Block inspections as above</b>	<b>As Above</b>	<b>MG</b>				

## Definition of Audit Assurance Statements & Recommendation Priorities

### Assurance Statements:

**Substantial Assurance** - From the testing completed during this review a sound system of control is currently being managed and achieved. All of the necessary, key controls of the system are in place. Any errors found were minor and not indicative of system faults. These may however result in a negligible level of risk to the achievement of the system objectives.

**Reasonable Assurance** - From the testing completed during this review most of the necessary controls of the system in place are managed and achieved. There is evidence of non-compliance with some of the key controls resulting in a marginal level of risk to the achievement of the system objectives. Scope for improvement has been identified, strengthening existing controls or recommending new controls.

**Limited Assurance** - From the testing completed during this review some of the necessary controls of the system are in place, managed and achieved. There is evidence of significant errors or non-compliance with many key controls not operating as intended resulting in a risk to the achievement of the system objectives. Scope for improvement has been identified, improving existing controls or recommending new controls.

**No Assurance** - From the testing completed during this review a substantial number of the necessary key controls of the system have been identified as absent or weak. There is evidence of substantial errors or non-compliance with many key controls leaving the system open to fundamental error or abuse. The requirement for urgent improvement has been identified, to improve existing controls or new controls should be introduced to reduce the critical risk.

### Priority of Recommendations Definitions:

**Critical** – A finding which significantly impacts upon a corporate risk or seriously impairs the organisation's ability to achieve a corporate priority. Critical recommendations also relate to non-compliance with significant pieces of legislation which the organisation is required to adhere to and which could result in a financial penalty or prosecution. Such recommendations are likely to require immediate remedial action and are actions EKH must take without delay.

**High** – A finding which significantly impacts upon the operational service objective of the area under review. This would also normally be the priority assigned to recommendations relating to the (actual or potential) breach of a less prominent legal responsibility or significant internal policies; unless the consequences of non-compliance are severe. High priority recommendations are likely to require remedial action at the next available opportunity or as soon as is practical and are recommendations that EKH must take.

**Medium** – A finding where EKH is in (actual or potential) breach of - or where there is a weakness within - its own policies, procedures or internal control measures, but which does not directly impact upon a strategic risk, key priority, or the operational service objective of the area under review. Medium priority recommendations are likely to require remedial action within three to six months and are actions which EKH should take.

**Low** – A finding where there is little if any risk to EKH or the recommendation is of a business efficiency nature and is therefore advisory in nature. Low priority

recommendations are suggested for implementation within six to nine months and generally describe actions EKH could take.

FINAL