

# **New Policy for Property Risks & Compliance**

<b>Cabinet</b>	30th May 2024
<b>By</b>	Andreea Plant (Head of Property)
<b>Cabinet Portfolio Member</b>	Cllr Ruth Duckworth, Cabinet Member for Property and Regeneration
<b>Key Decision</b>	No
<b>Decision classification</b>	Unrestricted
<b>Call in status</b>	For Decision
<b>Ward:</b>	All

## **Purpose of the Report**

At present the risk and compliance of our operational stock lies with various teams, but predominantly with the department that occupies each building or has responsibility for a certain asset. This has led to a mixed level of compliance and this policy lays down the processes and responsibilities for the compliance functions to the Council's operational assets.

## **Recommendation(s):**

Members of the Cabinet are asked to:

1. Approve the implementation of the new Property Risk and Compliance Policy.

## **1. Summary of Reasons**

- 1.1 At present the risk and compliance of our operational stock lies with various teams but predominantly with the department that occupies each building or has responsibility for a certain asset.
- 1.2 The above arrangement has led to a mixed level of compliance and the Property Team have therefore drafted a new proposed policy to improve the compliance management of the Council's operational assets.

## **2. Background**

- 2.1 The current risk and compliance arrangement, as mentioned above, has led to a mixed level of compliance and this report is recommending the implementation of a new policy to lay down the processes and responsibilities for the compliance functions to the Council's operational assets.

### **3. Relevant Issues**

- 3.1 The lack of clarity regarding the responsibility for compliance requirements and tasks and the duties/responsibilities of the Building Manager (Responsible Person) has resulted in cases where concerns have been raised regarding the level of compliance and with limited assurance opinions from internal audit.
- 3.2 The proposed policy will change the way that compliance is addressed within the organisation, with the Property Team becoming responsible for arranging the compliance testing/reports for six statutory areas and disseminating the resultant information and sharing with the relevant department occupying or responsible for each asset, and with the Facilities Team, who will be responsible for working with the relevant department and obtaining prices and arranging any necessary remedial works and thereafter confirming that compliance has been achieved.
- 3.3 The new policy will also introduce a new reporting regime for compliance in relation to corporate property so that the council's statutory Health and Safety Committee, Corporate Management Team and elected Councillors are provided with information about the level of compliance across the portfolio.
- 3.4 The Property Team's Head of Service has engaged with the other Heads of Service and with the Council's Policy Officer and H&S Officer regarding this new policy to seek their observations regarding the introduction of this policy. Any observations have been considered and implemented where necessary within the proposed policy.
- 3.5 Please refer to the proposed Property Risk and Compliance Policy for the Council's Operational Assets attached to this report in Annex 1.
- 3.6 This is the preferred option as the current arrangement has led to a mixed level of compliance and introducing this policy will provide clarity for all, so that all teams are aware of their responsibilities. It will ensure uniformity of processes and also allow some benefits of scale to be achieved.

### **4. Alternative Options**

- 4.1 Continue with the current arrangement as is, with the department(s) responsible for each asset retaining full responsibility. This option has led to the current situation with our compliance and therefore it is not recommended.
- 4.2 Continue with the current arrangement with the department(s) responsible for each asset retaining full responsibility, with each department taking on additional resources (as necessary) to deal with the compliance testing/reporting necessary and to also ensure any resultant remedial works to achieve compliance are completed. This will also have a budgetary implication if additional staff need to be recruited. It will also miss out on any potential economies of scale.

## **5. Consultation**

- 5.1 There has been engagement but not consultation regarding the proposed introduction of this new policy.

## **6. Corporate Implications**

### **6.1 Finance and Resources**

- 6.1.1 The implementation of this policy will require some realignment of budgets between departments to create a 'compliance testing/reporting' budget for the Property Team and 'compliance day to day/revenue remedials' budgets for the departments responsible for any resultant remedial works. The section 151 can approve any budget transfers (virements) up to £50k, therefore any proposed virements over £50k, which subsequently arise from the budget realignment exercise, will be reported to Cabinet for approval in future budget monitoring reports.
- 6.1.2 The policy will also delineate between revenue and capital expenditure, this being dependent upon the level of work necessary at each asset within a financial threshold. This will determine which department(s) actions any remedial works coming out of compliance testing/reports.
- 6.1.3 There are no financial implications arising directly from this report as there is an assumption that total compliance costs, be they Capital or Revenue, will be covered from within existing budgets.
- 6.1.4 Value for money will be secured by following the council's procurement process.

### **6.2 Legal and Constitutional**

- 6.2.1 The Council is bound by a number of legal provisions in relation to its operational property. These include the Health and Safety at Work Act 1974 (the Act) and the Management of Health and Safety at Work Regulations 1999. By virtue of section 2 of the Act, the Council has a duty to ensure, so far as is reasonably practicable, the health, safety and welfare at work of all its employees. By virtue of section 3 of the Act, this duty is extended to persons other than employees who may be affected.
- 6.2.2 For the reasons set out in this report, the decision sought will assist the Council to meet its duties in relation to legislation relevant to health and safety in respect of the Council's operational properties. The policy is not a policy contained within the Council's Policy Framework and is a matter that should be determined by Cabinet.

### **6.3 Council Policies and Priorities**

- 6.3.1 This report relates to the following corporate priorities: -
- To keep our district safe and clean;
  - To work efficiently for you.

## **6.4 Risk**

- 6.4.1 As mentioned above, responsibility for operational property risk and compliance has until now sat with various departments and this has led to a mixed level of compliance. This places the Council at risk, with the potential for injury or death if compliance is not in place.
- 6.4.2 This policy aims to address that and lay down the processes and responsibilities for the compliance functions to the Councils operational assets. This will in turn improve compliance management and reduce the risks mentioned above.
- 6.4.3 The policy is a mitigation measure against these risks.

## **6.5 Climate Change and Biodiversity**

- 6.5.1 This is a decision about introducing a policy relating to compliance and as such there are no direct climate change or biodiversity matters associated with this decision.

## **7. Equality, Equity and Diversity Implications**

- 7.1 Members are reminded of the requirement, under the Public Sector Equality Duty (section 149 of the Equality Act 2010) to have due regard to the aims of the Duty at the time the decision is taken. The aims of the Duty are: (i) eliminate unlawful discrimination, harassment, victimisation and other conduct prohibited by the Act, (ii) advance equality of opportunity between people who share a protected characteristic and people who do not share it, and (iii) foster good relations between people who share a protected characteristic and people who do not share it.

Protected characteristics: age, sex, disability, race, sexual orientation, gender reassignment, religion or belief and pregnancy & maternity. Only aim (i) of the Duty applies to Marriage & civil partnership.

- 7.2 This report relates to the following aim of the equality duty: -

- To eliminate unlawful discrimination, harassment, victimisation and other conduct prohibited by the Act.

The Council wishes to implement this new policy to ensure, so far as is reasonably practicable, the safety of council staff and the public using or visiting any of our operational premises or assets.

- 7.3 An Equality Impact Assessment has been undertaken where the test for relevance determined that a full equality impact assessment was not required. Please refer to this document attached to this report in Annex 2.

## **8. Crime and Disorder Implications and Community impact**

- 8.1 This is a decision about introducing a policy relating to compliance and as such there are no direct crime and disorder implications and community impact matters associated with this decision.

## 9. Subject History

9.1 The history relating to the need for this policy has been explained earlier within this report and which has resulted in a mixed level of compliance.

## Appendices

Annex 1: Property Risks & Compliance

Annex 2: Equality Impact Assessment

## Background Papers

*Title:* The CIPFA Guidance Note on Compliance Monitoring in Council Buildings (England) 2020

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## Report Sign Off

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**Finance** Chris Blundell (Director of Corporate Services - Section 151)

**Finance** Matthew Sanham (Head of Finance and Procurement)