

# East Kent Housing Compliance Investigation

Mark Seaborn and Rebecca Glover  
November 2019



Brookfield House, Tarporley Road, Norcott Brook, Cheshire, WA4 4EA  
office@pennington.org.uk | 0800 883 0334 | pennington.org.uk



**ISO 9001**  
Quality Management



**ISO 14001**  
Environmental Management



**OHSAS 18001**  
Health and Safety  
Management



**CHAS**  
Contractors Health and Safety  
Scheme accredited



**RICS**  
Corporate member of the RICS



**Gas Safe**  
Gas Safe registered



**Exor**  
Compliance and procurement  
policies



**NAPIT**  
Approved contractor



**Constructionline**  
Registered firm



**BAFE**  
Provision of Fire Risk Assessments  
in compliance with BAFE SP205 Part  
1



**Institute of Fire Engineers**  
Affiliate organisation of the  
Institute of Fire Engineers



**Fire Protection  
Association**  
Corporate member



**SafeContractor**  
SafeContractor accreditation



**RISQS**  
Asbestos Testing and  
Consultancy (Special  
Assessment)



**Elmhurst Energy**  
Green Deal Approved

# Mission, Vision and Values

Our company brand is an integral part of how and why we do what we do. It is important to us that any ‘new recruits’ share our values and are onboard with these and our sense of purpose for the organisation which are captured in our:



We live our **Values** every day at Pennington Choices Ltd; they serve as a compass for our actions and describe our behaviours.

## We have

### Integrity

We encourage and inspire others to learn and grow

### Fun

We respect everyone’s individual differences, values and beliefs. We create an open, positive and inspiring working environment

## We are

### Ambitious

Our ambition is to be the best at what we do

### Resilient

We are flexible and proactive to meet objectives

### Professional

We treat others as we would like to be treated ourselves

### Responsible

We have a ‘right first time’ culture

### Collaborative

We collaborate and build lasting relationships

## We

### “Can do”

We have the right people, doing the right things.

We are passionate about developing new ideas and approaches to meet demand

---

# Preface

---

Pennington Choices provides property surveying and consultancy services to organisations nationwide. We have a wealth of experience working with more than 150 public and private sector organisations across social housing, NHS, education and rail over the past 18 years. Our breadth of services make us unique and provides a cost and time-effective solution to our clients.

Our advisory, professional and out-sourced services are:

- Housing and finance consultancy
- Recruitment services
- Asbestos - surveying, analysis and management
- Chartered building and quantity surveying
- Stock condition and asset management
- Fire safety and compliance
- Energy - EPCs and sustainability services
- Gas and electrical - auditing, inspection and management
- Professional training and qualifications

We develop lasting professional relationships and partnerships with all our clients. We do this by helping them to meet their strategic objectives by adding real value to organisations and projects. Many of our long term clients are contractors, social housing organisations, local authorities, health and social care organisations, private landlords, homeowners and the education sector.

---

# Prepared By Mark Seaborn and Rebecca Glover

---

## Version Control

---

Version	Date modified	Modified by	Reason for Modification
V1	11/11/2019	MS & RG	
V2	26/11/2019	MS & RG	
V3	5/12/2019	MS & RG	<i>Ammendments following client feedback.</i>
Final	6/12/2019	LW	<i>Final Review</i>

---

# Contents

---

1.0	Introduction.....	7
2.0	Current compliance position .....	8
3.0	Fundamental causes .....	21
4.0	Specific issues .....	27
5.0	Conclusions .....	29
	Appendix 1 .....	30

## 1.0 INTRODUCTION

- 1.1 This report sets out the results of an investigation conducted by ourselves to examine the causes of the events that have led up to the four councils of Thanet, Canterbury, Folkestone and Hythe and Dover being censored by the Regulator for Social Housing (RSH). The Regulator has previously issued regulatory notices concluding a breach of the 'Home' standard part of the consumer standards framework for social housing.
- 1.2 The issues investigated by this report came first to light following service failures in relation to gas safety and the associated contractual withdrawal of the appointed gas maintenance contractor. Thereafter an audit of the wider property health and safety compliance management service delivered by East Kent Housing (EKH) was undertaken by East Kent Audit Partnership (EKAP). We would comment that we found the EKAP audit report to be a high quality piece of work in the context of seeing lots of similar internal audit type reports produced by non-technical expert authors.
- 1.3 This investigation was intended to consider the circumstances leading up to the identified service failures, the main underlying causes, the effectiveness of recovery action plans put in place and recommendations to ensure that similar situations do not recur in the future.
- 1.4 We were aware that the councils are also undertaking a review of the potential future options for the management of their housing stock and are presently consulting on the option of returning the housing service to each of the four councils.
- 1.5 The investigation was undertaken by reviewing a number of documents and documented information sources, interviewing key personnel from EKH, the four councils and some of their service contractors. We also tested data and a sample of records. We are grateful for the support and practical assistance provided, particularly by the staff employed by EKH in conducting this piece of work.
- 1.6 The four councils have ultimate responsibility for ensuring compliance with both statutory health and safety requirements and the RSH Home Standard requirements. However at a practical level EKH are responsible for putting in place the management arrangements needed to effect compliance and are accountable for the level of property health and safety compliance achieved. In some circumstances they may also have a statutory legal obligation as 'managing agent' acting on behalf of the councils.

## 2.0 CURRENT COMPLIANCE POSITION

### 2.1 Discovery

The figures referenced within this report were correct at the time of the site visit, which took place during the week commencing 21 October 2019. Appendix one contains the full details of the data validation undertaken during this time.<sup>1</sup>

#### 2.1.1 Asbestos

EKH have committed to recommissioning a new Asbestos Management Survey (AMS) from its new contractor, to all of its communal blocks which currently have an AMS dated before January 2017. This is because they have identified that the dated surveys completed by previous contractors, are of notably poor quality and cannot be relied upon to provide full assurance of the asbestos risks. The target for completion of this exercise is March 2020, and therefore there are currently 327 blocks to be completed before this time. There are an additional 715 blocks which do not have any survey in place and which need one.

Our asbestos consultants conducted a desk-top review of a sample of management surveys, as detailed in Appendix One, and noted the poor quality of the dated surveys completed by the old contractor. However, the newer surveys, completed by PA Group, also contained a number of weaknesses and it is our view that the councils should ensure that either all, or a sample of AMS's, are quality assured on an ongoing basis by appropriately qualified persons to ensure surveys effectively identify and manage all asbestos risks.

Currently there are 9432 domestic properties without an asbestos management survey, and although it is not a legal requirement to have one in place for these assets, the councils do have an obligation to keep their tenants safe, and therefore should consider a programme of works for completing these to prevent tenant exposure to ACMs.

Council	Asbestos - Communal Blocks				
	Total number of communal assets	Number on asbestos programme	Number of assets on the programme without an AMS	Number not on asbestos programme	Number of AMS's dated before Jan 17
CCC	500	478	365	22	69
DDC	414	297	170	117	100
FHDC	251	147	36	104	94
TDC	266	212	144	54	64
<b>TOTAL</b>	<b>1431</b>	<b>1134</b>	<b>715</b>	<b>297</b>	<b>327</b>

Council	Asbestos - Domestic			
	Total number of domestic assets	Number of assets on the asbestos programme	Number of assets on the programme without an AMS	Number of assets not on the programme
CCC	5459	5459	1939	0
DDC	4772	4768	3497	4
FHDC	3619	3619	1750	0
TDC	3420	3418	2246	2
<b>TOTAL</b>	<b>17270</b>	<b>17264</b>	<b>9432</b>	<b>6</b>

<sup>1</sup>Our work has identified fundamental issues with the quality and reliability of data held by EKH and as such analysis in this report should be read on that basis.

## 2.1.2 Water Hygiene

EKH manage 876 communal blocks which have not been assessed for water hygiene risk, therefore they need to assess all of these blocks, to either remove them from the programme, or to commission a Legionella Risk Assessment (LRA) if one is required. There are also an additional two blocks, which do not currently have an in date LRA in place but that need one.

Council	Water Hygiene - Communal Blocks				
	Total number of communal blocks	Number of blocks on the programme	Number of non-compliant blocks	Number of blocks not on the programme	Number of blocks with an unknown compliance obligation
CCC	500	33	0	179	288
DDC	414	24	1	100	290
FHDC	251	23	0	76	152
TDC	269	22	1	101	146
<b>TOTAL</b>	<b>1434</b>	<b>102</b>	<b>2</b>	<b>456</b>	<b>876</b>

## 2.1.3 Fire Safety

EKH has a Fire Risk Assessment (FRA) for all of their communal blocks which require one, however the FRAs for two of their blocks are not held on Pyramid. EKH were able to evidence these two separate records, however the fire protection assessment evidenced for Windsor House was not dated and did not provide full assurance that the necessary fire safety risks have been mitigated, therefore we would not categorise this block as compliant.

We are confident that EKH has effectively reconciled the main asset list with the assets on the fire safety programme, since when we tested this by requesting evidence for why 20 assets had been removed from the programme, they were able to provide evidence that the block had been visited and that no FRA was required. This evidence log is held within their master FRA block checker.

Council	FRA - Communal Blocks			
	Total number of communal assets	Number of assets on FRA programme	Number of non-compliant assets	Number of assets not on FRA programme
CCC	500	399	1	101
DDC	414	222	0	192
FHDC	251	180	0	71
TDC	266	167	0	99
<b>TOTAL</b>	<b>1431</b>	<b>968</b>	<b>1</b>	<b>463</b>

## 2.1.4 Gas Safety

There are currently nine assets which require a Landlords Gas Safety Record (LGSR), but that do not have an in date record in place, and therefore the contractor needs to complete all of these gas safety checks in order to report 100% compliance.

We tested the reliability of the reconciliation between the master asset list and the assets on the gas safety programme, and EKH were able to explain why each of the ten missing assets were not on the gas programme. EKH confirmed that all properties are inspected annually for Gas, Solid Fuel, Oil and Renewables, and that if there is a gas meter in the property, whether connected to a supply or not, the property is inspected annually. This ensures that any new gas appliances installed in a property since the last inspection are reported to EKH through the annual check. GCS currently hold this data as part of their gas management service. We would also expect EKH to hold an

evidence log to explain how they are assured that the properties which are not on the annual gas safety programme, do not have a gas supply, and do not need to be on the annual programme.

This evidence can be provided from historical knowledge or a site visit, but the information should be held by EKH.

Council	Gas Safety - Domestic & Communal Blocks			
	Total number of assets	Number of assets on gas programme	Number of non-compliant assets	Number of assets not on gas programme
CCC	5959	4533	3	1426
DDC	5186	4039	2	1147
FHDC	3870	2962	0	908
TDC	3686	2757	4	929
<b>TOTAL</b>	<b>18701</b>	<b>14291</b>	<b>9</b>	<b>4410</b>

### 2.1.5 Electrical Safety

There are currently 543 communal blocks which do not have an in date Electrical Installation Condition Report (EICR) in place which can be evidenced, therefore an electrical safety check is required to all of these communal blocks in order to gain 100% compliance.

A number of domestic properties being reported as compliant on the EICR portal, SAM, do not have an EICR which can be evidenced, therefore EKH/the councils need to check all domestic EICR records currently being reported in order to understand where a new condition report needs to be completed.

Notwithstanding the need to check all of the domestic records which are being reported to check they can be evidenced, there are an additional 7966 domestic properties without a current EICR, therefore an electrical safety check needs to be commissioned to all of these properties.

We were not provided with full assurance that the 231 communal blocks and 1432 domestic properties not on the programme had a documented evidence base to explain why they had been removed. We would expect EKH to hold accurate information to evidence why a property is not on the electrical safety programme. EKH has confirmed that only 30% of properties have been inspected, through stock condition surveys, since EKH was created and that a plan to increase this percentage through stock condition surveys has been proposed to each of the councils. However, we would expect immediate action to be taken to confirm that properties not on the electrical safety programme do not have an electrical supply.

Council	EICR - Domestic			
	Total number of domestic assets	Number on electrical programme	Number of non-compliant assets	Number not on electrical programme
CCC	5459	5106	2611	353
DDC	4772	4317	1465	455
FHDC	3619	3404	1771	215
TDC	3420	3011	2119	409
<b>TOTAL</b>	<b>17270</b>	<b>15838</b>	<b>7966</b>	<b>1432</b>

Council	EICR - Communal Blocks			
	Total number of communal blocks	Number on electrical programme	Number of non-compliant blocks	Number not on electrical programme
CCC	500	480	181	20
DDC	414	374	242	40
FHDC	251	142	9	109
TDC	266	204	111	62
<b>TOTAL</b>	<b>1431</b>	<b>1200</b>	<b>543</b>	<b>231</b>

## 2.2 Taking action

### 2.2.1 Fire Safety

#### Outstanding Actions

At the time of the site visit, there were 4767 outstanding actions. There is a catch up programme in place which prioritises these based on both archetype (e.g. sheltered or high rise) and the risk rating of the FRA, which is an approach which ensures that actions are completed based on the assessors recommendation of the overall buildings fire risk. However, there is a risk that an FRA which has an overall risk rating of, for example, substantial, has actions which require immediate attention, however due to the current approach these actions will not be prioritised based on the recommended timescale for completion. This is evidenced in Table One.

Although the current approach is logical, given the number of outstanding actions, we would recommend that Board and Leadership teams are made aware of the significant risk to tenant safety that has arisen as a result of some actions not being completed at the recommended timescales due to the current prioritisation approach. The actions which have not been completed within the recommended timescale are highlighted in red in Table Two.

Many of the actions are considerably in excess of their target completion dates including works which have the highest risk categories. Some of the highest risk actions date back to 2018, representing a significant risk to residents and a fundamental failure in the management system to undertake these remedial actions.

Current compliance reporting does not identify the risk rating of the actions completed each week. However we would recommend that this is included in order to allow EKH and the four councils to track the extent to which actions have been completed in the timescales envisaged by the risk assessor and to provide the organisations with a clear understanding of the progress being made.

A desktop review of a sample of FRAs identified a number of weaknesses with the content and layout of the FRA documents, as detailed in Appendix One. We would therefore suggest that a quality assurance audit is undertaken on either all, or at least a sample of FRAs, to ensure that the documents are fit for purpose and meet the required standards e.g. British Approvals for Fire Equipment (BAFE).

Table 1 - the risk rating and action priority for each outstanding actions.

Risk Rating of the FRA	Action Priority					
	Immediately	1 week	1 month	3 months	6 months	Blank
Intolerable	8	4	1	0	0	0
Moderate	315	588	844	1547	1035	2
Substantial	114	68	55	80	37	0
Tolerable	0	7	1	3	17	0
Trivial	0	0	0	0	5	1
No risk rating	4	2	10	10	8	1

Table 2 - the date at which each action was created.

Date of FRA	Action Priority					
	Immediate	1 Week	1 Month	3 months	6 months	Blank
2018	175	261	494	912	585	1
Jan-19	22	30	101	163	114	
Feb-19	12	9	54	175	184	1
Mar-19	1	3	21	62	48	
Apr-19	21	11	5	20	5	
May-19	12	11	3	7	4	
Jun-19	5	1	7	14	8	
Jul-19	18	37	24	24	5	2
Aug-19	44	17	14	19	3	
Sept-19	40	110	113	168	72	
Oct-19	91	179	75	77	74	

## 2.2.2 Water Hygiene

### Outstanding Actions

There is a total of 1722 outstanding actions, 46% of which are high risk and which must be prioritised. Table 3 positively shows that the majority of the completed works so far have been high risk. However Table 4 highlights that the large majority of the outstanding high risk actions have been outstanding for up to 3 years. EKH and the four councils must recognise the urgency to complete these actions as it is apparent that the associated risks have not previously been recognised and they should be prioritised as a matter of urgency.

A sample of legionella risk assessments, completed by Envirocure, were reviewed by one of our qualified water hygiene consultants who confirmed that the risk assessments are robust, undertaken by LCA registered consultants and provide assurance that all water hygiene risks are identified. The risk assessments contained detailed written control regimes and conformed to the Approved Codes of Practice (ACOP) L8 requirements.

Table 3 - the number of completed and outstanding remedial works separated by risk rating.

Council	High Risk		Medium Risk		Low Risk	
	Completed	Outstanding	Completed	Outstanding	Completed	Outstanding
CCC	32	148	5	131	0	26
DDC	9	266	1	239	0	9
FHDC	49	269	48	313	0	65
TDC	45	111	30	118	0	27
<b>TOTAL</b>	<b>135</b>	<b>794</b>	<b>84</b>	<b>801</b>	<b>0</b>	<b>127</b>

Table 4 - the number of outstanding actions for each council and the date of the LRA from which the action was raised.

Date of LRA	Number of Outstanding High Risk Actions			
	CCC	DDC	FHDC	TDC
No Date	-	-	-	89
2016	-	5	-	-
2017	-	26	26	-
2018	142	235	243	22
Jan-19	-	-	-	-
Feb-19	-	-	-	-
Mar-19	-	-	-	-
Apr-19	6	-	-	-

### 2.2.3 Asbestos

#### Outstanding actions

At the time of the site visit there was just one piece of outstanding remedial work which needed to be completed. However this had already been actioned and passed onto the asbestos contractor for completion.

The four councils currently use the same asbestos contractor, PA Group, for all stages of the asbestos programme (surveying, analysis, completion of follow up works and reinspection). We would usually expect separate contractors to be used across the asbestos programme, as there is a risk that by using the same contractor to both carry out the survey and review their own removal works, asbestos risks could be overlooked.

### 2.2.4 Electrical Safety

#### Outstanding Actions

Since it was not possible to extract the outstanding C2 remedial works from the current system Strategic Asset Management (SAM), we do not have assurance there are no outstanding remedial works. However, since EKH is implementing a new system within a few weeks of the site visit which will have the ability to extract the outstanding works, we are satisfied that this issue will shortly be resolved and will provide Board and leadership teams with full oversight of the remedial works programme. However they must ensure that the remedial works tracker includes the recommended timescale for completion of follow up works in order to provide full oversight of the programme and to ensure actions are completed within the required timescales.

### 2.2.5 Gas Safety

#### Outstanding Actions

At the time of the site visit there were 1578 outstanding actions, and 10 of these had been outstanding since 2017, as shown in Table Five. As detailed in Appendix One, the gas compliance manager was able to explain that these had been completed. However, in order to prevent such issues from arising again, we would recommend that when actions are added into the remedial spreadsheet, that either the recommended time period for completion or the repair type (e.g. immediately dangerous (ID) or at risk (AR)), is included. This will provide EKH and each of the four councils with complete oversight of the repair programme, and prevent any essential repairs from being completed outside of the recommended time period.

We reviewed a sample of the outstanding actions from the spreadsheet and all were identified, by our gas safety consultant as being recommendations rather than essential actions. This provides some assurance that there are currently no outstanding immediately dangerous or at risk actions. However for full assurance we would still expect the repair type to be specified within their monitoring spreadsheet moving forward and for all the outstanding actions to be reviewed to determine and record their priority status.

Table 5 - the number of outstanding actions and year of the corresponding LGSR.

Year of LGSR Date	Number of outstanding actions
2017	10
2018	278
2019	1290
<b>Total</b>	<b>1578</b>

## 2.3 Legal exposure

### 2.3.1 Fire Safety

Both EKH and each of the four councils have a legal obligation under the Regulatory Reform (Fire Safety) Order to carry out a fire risk assessment for the purpose of identifying the general fire precautions and other measures in the common parts of premises. As a result, they are potentially in breach of this requirement by having one communal block without an in-date FRA.

They are also required to implement all necessary general fire precautions and any other measures identified by a fire risk assessment, including taking the appropriate steps to resolving the actions which arise from FRAs within a reasonable timescale. The current action plan which has been put into place to resolve the outstanding actions has resulted in some actions not being completed within the timescales stated by the fire risk assessor which is a significant fire risk, particularly for those actions noted as requiring immediate attention. Therefore EKH and the four councils should be aware that they are in breach of the legislative requirements and need an appropriate system in place to deal with these actions.

### 2.3.2 Water Hygiene

Under ACoP L8, EKH and each of the four councils have a duty to carry out a risk assessment to identify and evaluate potential sources of risk from exposure to legionella bacteria by undertaking a legionella risk assessment (LRA). There is also a requirement to regularly review LRAs and make any necessary changes as a result of the review.

They are currently in breach of these requirements since they do not currently have a risk assessment in place for two of their communal blocks. There is also risk that some of the 876 communal blocks which have not been assessed for water hygiene risks are also breaching this requirement, and it is important to understand that the discovery of more non-compliant blocks is an expected outcome of the on-going work to reconcile the main asset list with the water hygiene programme. Likewise, there is a total of 1722 outstanding actions, 794 of which have been identified as high risk and have not been actioned for up to three years. This is a direct breach of the requirement for EKH and each of the four councils to make the necessary changes which arise from LRAs and which should be prioritised as a matter of urgency.

### 2.3.3 Asbestos

In accordance with the Control of Asbestos Regulations 2012 (CAR), EKH and the four councils have a duty to manage all non-domestic premises (e.g. communal blocks, offices etc.) to find out if there

are asbestos containing materials (ACMs) within those premises. Where ACMs are found to be present, they are required to prepare a written asbestos management plan (which should be subject to periodic review) and carry out periodic asbestos reinspections, typically annually. Since there are 715 communal blocks which do not currently have an AMS in place, and 327 older surveys of poor quality which do not adequately identify the asbestos risks, they are in breach of these requirements and are at risk of prosecution by the HSE under the Health and Safety at Work Act 1974. It is also our view, that EKH's Asbestos Management Plan requires improvement as it should set out the exact detailed procedures which will take place as part of the inspection programme of works in the required organisational and regulatory timeframes.

### 2.3.4 Electrical Safety

The Landlord and Tenant Act 1985 requires the electrical installation in a rented property is safe when the tenancy begins and maintained in a safe condition throughout the tenancy. In order to demonstrate compliance with this (and other legislation including the Health and Safety at Work Act 1974, Electricity at Work Regulations 1989 and Housing Act 2004, etc.), the four councils must adopt periodic electrical inspection and testing programmes for all of their properties. Since there are currently 543 communal blocks and 7966 domestic properties which do not have a valid Electrical Inspection Condition Report, they are in breach of the legislation, and are subsequently at risk of a range of sanctions including prosecution by the Health & Safety Executive.

### 2.3.5 Gas Safety

Under the Gas Safety Regulations 1998, the four councils must ensure an annual gas safety check is carried out by a qualified Gas Safe registered engineer, to ensure all gas installation pipework, gas appliances (other than tenants' own appliances) and flues serving those appliances are maintained in a safe condition. As a result of the nine domestic properties which do not currently have an LGSR which meets these requirements, EKH and the four councils are in breach of the legislation and at risk of prosecution by the Health & Safety Executive.

EKH and the four councils are also legally required to complete the Immediately Dangerous (ID) or At Risk (AR) actions which arise from LGSRs in order to ensure that appliances are maintained in a safe condition and therefore there is a risk that they are in breach of these requirements through having 1578 outstanding actions. However this cannot be confirmed since the type of action is not identified within the remedial works spreadsheet.

## 2.4 Policies

### 2.4.1 Gaps

In general, we would recommend all property compliance policies follow the same format, to ensure consistency. We would normally expect to see the following sections within a compliance policy and we would not expect the policy to exceed 15 pages.

- Introduction
- Scope
- Regulatory standards, legislation and codes of practice
- Additional legislation
- Obligations
- Statement of intent
- Compliance risk assessment/ inspection programmes
- Compliance follow-up work
- Record keeping

- Key roles and responsibilities
- Competent persons
- Training
- Performance reporting
- Non-compliance
- Approval

### **2.4.2 Asbestos Safety**

The document titled 'Asbestos Management Policy & Procedure' is being used as both the policy document and the Asbestos Management Plan. Although we would usually recommend that, for clarity and ease of understanding, these are separate documents, EKH and the four councils must ensure that in whatever format, it is clear the policy document is also acting as the management plan, since they have a legal obligation to have an asbestos management plan which meets the requirements of the Control of Asbestos Regulations 2012. We would expect an asbestos management plan to include details of the end to end process for each stage of asbestos delivery, and to include a statement around the legal obligation to establish an Asbestos Management Plan to comply specifically with regulation 4 of the Control of Asbestos Regulations 2012, which came into force on 6th April 2012. The current document does not include this.

We would expect the policy to reference that failure to discharge their responsibilities properly could lead to a range of sanctions including prosecution by the Health & Safety Executive under the Health & Safety at Work Act 1974, prosecution under the Corporate Manslaughter and Corporate Homicide Act 2007 and via a serious detriment judgement from the Regulator of Social Housing. We recommend that the policy sets out the full detail of its reporting criteria within Board reporting and also includes the frequency of reporting to the Board (e.g. quarterly) for absolute clarity.

Although the competency requirements of staff involved in asbestos management are outlined within an appendix titled 'Roles and Responsibilities', we would recommend this is included within the main body of the policy for complete clarity.

We would also expect to see statements around internal and external quality auditing regimes for the management of asbestos.

### **2.4.3 Water Hygiene**

The water hygiene policy states a commitment to complete a legionella management plan for all communal blocks. However we were notified this is still in draft form and is not currently in place, therefore this should be reflected within the policy.

In addition, we would expect the policy to set out timescales for completion of remedial works to ensure any required actions are completed at a rate relative to the level of risk. The current process, with no set timescales, creates a risk that some high-risk actions could remain outstanding for long time periods.

### **2.4.4 Fire Safety**

We would expect the fire safety policy to include reference to the relevant fire safety legislation and codes of practice, as well as state the obligations which these place upon the four councils, to demonstrate they are clear about their compliance obligations. This includes referencing the Regulatory Reform (Fire Safety) Order 2005 (FSO), LACORS - Housing - Fire Safety and the National Fire Chief Council's Guidance (NFCC). The current policy does not include reference to this relevant legislation.

Although the policy sets out what EKH and the four councils intend to do across their fire safety programme, it does not cover the level of detail which we would usually expect. For example, we would expect the policy to cover the process for non-compliance and escalation in particular how issues will be formally reported and who to. This should also acknowledge cases of serious non-compliance that might need to be disclosed to the Regulator of Social Housing in the spirit of co-regulation.

#### **2.4.5 Gas Safety**

The gas safety policy clearly sets out the legal obligations which are placed upon EKH and the four councils with regard to their gas safety programme. However we would expect the policy to include reference to all of the relevant legislation and codes of practice, relevant to gas safety, such as the Health and Safety at Work Act 1974, since failure to discharge their responsibilities properly could lead to a range of sanctions including prosecution by the HSE under the Health and Safety at Work Act 1974.

Although the policy states their obligation to attempt to fix all faults identified at the time of the gas safety check, it does not state a clear process for the completion of follow up works which can't be completed during the time of the inspection. We would expect the policy to state a clear procedure for the completion of follow up works, with set timescales for completion.

We would also expect the policy to include reference to a commitment to the frequency and percentage of internal and external third party auditing taking place to all LGSRs. Best practice suggests that third party auditing should review 5% of LGSRs to ensure compliance with the legislation and best practice requirements.

#### **2.4.6 Electrical Safety**

There is no standalone electrical safety policy. Rather, EKH covers its electrical safety obligations within a document titled 'Planned Cyclical Maintenance Policy and Procedure Manual'. The level of detail covered within this document is not what we would expect from a standard electrical safety policy and excludes relevant legislation and codes of practice. The limited legislation which is referred to, is out-dated, and by referring to the Electrical Equipment Safety Regulation 1994 rather than the updated version dated 2016, does not provide full assurance that EKH is clear of its obligations or that their review process is robust to ensure that legislative changes are regularly updated within their policy documents.

The policy document does not outline the commitment to delivering follow-up (and close out) of recommended actions, but we would expect the approach to be clearly outlined within the policy, with roles and responsibilities also clearly set out.

In addition, the policy does not cover the escalation process which will take place in cases of non-compliance, and does not cover the frequency of compliance reporting, or the KPIs which will be included in these reports.

#### **2.4.7 Role of the councils**

As the landlord, each of the four councils has overarching responsibility for meeting the requirements of legislation and codes of practice, as evidenced within the Regulators 2017-2018 Consumer Regulation Review, which specifies that *"As a landlord, registered providers are responsible for ensuring that tenants are safe in their homes. Contracting out delivery of services does not contract out responsibility to meet the requirements of legislation or standards, and so registered providers need robust systems to give boards assurance of compliance"*. As a result, we would recommend EKH ensure each of the four councils are involved in the policy approval process

to ensure that the policy principles and the approaches undertaken by each compliance team are aligned with each of the council's requirements.

The current policies do not provide assurance that the present review process is robust. The EKH leadership team should set the context for compliance (in respect of the organisation's risk management strategy and approach) by making the strategic decisions for each area of compliance (i.e. obligations, inspection programmes, follow up actions, competencies, KPIs etc.) which should form the policy principles to be approved by each of the four councils and EKH Board. The strategic and cross-cutting nature of these decisions can be missed if led by technical operators at EKH alone particularly where legislation is ambiguous and cost versus risk needs to be considered. We would recommend a robust review process is implemented across all five compliance areas and that this is set out within the policy documents to ensure it is clear who holds responsibility for review and approval, including the board, strategic lead, responsible person and each of the four councils.

## 2.5 Staff matters

Our experience of working with EKH staff was overwhelmingly a positive one. Those individuals we interacted with were clearly engaged in resolving the issues within their relevant service areas to the best of their abilities. They were positive, helpful and largely clear on what needed to be done. Where weaknesses in the recovery process exist, they largely arise due to the relative under-developed competencies of individuals, clarity of planning, the data management tools and historic records available to them and the leadership approach to problem definition and solving that was being applied. The staff we interacted with appeared resilient and motivated to resolve the situation despite the context in which they are working.

There was a recognition of the proposals to return the service to each local authority, but it wasn't a pivotal part of their thinking or an apparent active distraction.

Our conclusion is that where 'good work' is being undertaken it is because of the competence and commitment of the operational staff rather than because of any robust, stable and mature process or system. There is therefore an inherent risk that any loss or demotivation of said staff could have a significant impact on the recovery process and thereafter property health and safety compliance performance.

## 2.6 Auditing

There is no legal requirement to undertake routine auditing of completed compliance activity. It has however been best practice in relation to gas safety at least since the 'Best Value' and Audit Commission inspection era. An increasing, but nonetheless, minority of social housing organisations are now undertaking some level of technical, routine quality assurance auditing activity across all of the main compliance areas.

EKH and/or the four councils are undertaking quality assurance of their gas safety activity, via Gas Contract Services, who provide a monthly PDF report via monthly meetings, although the results of this are not routinely available to either EKH or the local authorities. The purpose of this type of auditing is to test if the activity has been done 'properly' as well as 'has it been done' which tends to be the focus of much of property compliance activity. We would recommend the routine auditing of completed gas safety checks, electrical condition reports, fire risk assessments, asbestos surveys and analytical testing and water hygiene risk assessments. An exception for lifts would be reasonable, reflecting the statutory inspection regime required by law in addition to the routine servicing and maintenance activity which is undertaken.

## 2.7 Lessons from the current approach to recovery

Our work has identified that there remains a material ‘gap’ in what EKH know about the extent of the challenge before them (discovery) as well as the arguably more expected gap in taking remedial action (taking action). There is no prescriptive, detailed, time lined plan in place to close the gaps in compliance. Anecdotally, staff suggested Christmas for completion of the discovery phase. The East Kent Audit Partnership report was published in May 2019. Staff reported to us they were aware of significant gaps in compliance earlier than that (Jan / Feb) and these gaps were communicated to at least some senior leaders within EKH. The first conclusion must be that this has taken far too long. With appropriate ‘will’ there is no reason why discovery could not have been completed in 2-3 months even allowing for the complexity of the EKH model and a comprehensive search for existing records.

The absence of a recovery plan that is both detailed and time lined, and that represents ‘one version of the truth’, is a significant omission. EKH has an action plan in place, but it is too high level to act as either a ‘driver’ of activity or to facilitate progress reporting. There is also a wider ‘improvement plan’ that overlaps with the EKH compliance action plan, as well as an action plan within the East Kent Audit Partnership. In talking to staff it is apparent that at least some of them have their own service specific action plans orientated to tackling their respective ‘discovery’ and ‘taking action’ challenges. The presence of multiple action plans is a source of confusion at worst and duplicated effort at best. The absence of a plan that is appropriately detailed is hindering the collective ability to tackle the backlog of compliance issues as quickly as possible and provide assurance to the governing bodies of the four council’s.

At no stage during our investigative work did anyone articulate a clear ‘goal’ for recovering compliance. The presence of such a clear goal that all parties have signed up to would act as a ‘North Star’ for the team involved with the practical recovery and the wider stakeholder community. Human beings are fundamentally motivated to achieve things. Goal and second-tier objectives help people to understand their role in the whole and provide motivation by achieving objectives or milestones. We would expect this to convey what state of health compliance should attain and by when, with reference to appropriate milestones. Detailed planning would then be set within the context of achieving the agreed goal and second tier objectives and decision making would be enhanced by focusing on problem solving to achieve the goal / objectives.

The current performance reporting regime that is in place is positively unhelpful. It doesn’t provide anyone with information which is informative and likely to facilitate good decision making or action. It consumes considerable resources on the part of EKH staff to produce. Inaccuracy in the data, real or perceived, is a regular source of anxiety on the part of the local authority client officers resulting in both parties consuming another quantity of time in unpicking and resolving the same. Leaders need to be mindful of the propensity for people to focus on ‘what gets measured’, in this case for little or no material benefit. While it might be relevant to a ‘steady state’ service environment, which has arguably is close to achieving, it is not appropriate to the services which are in recovery.

EKH has directed considerable staff resource to the recovery programme, particularly latterly as staff have been recruited as either interims or permanent employees. However, overall resourcing has been slower to become available than we would expect considering the extent of the compliance problems reported in the East Kent Audit Partnership report. Progress would have been enhanced by quicker provision of staff resource to tackle the problems. This staff resource could have come from other functions within EKH, other departments within the council’s or by buying it in.

## 2.8 Next steps

We would suggest that the recovery action, which is well underway and should be nurtured and protected, would be enhanced by:

- One clear, but detailed, recovery action plan with granular milestones focused on ‘discovery’ and ‘taking action’ within each compliance work stream. This should become the focus of progress / performance reporting until each service has reached an agreed level of ‘steady state’.
- Optimising the available resource in terms of both money and people to progress the recovery plan in a timely manner so that a steady state level of compliance is achieved as soon as possible.
- Achieving a system of ‘Assurance’ rather than ‘Reassurance’. This means the team within EKH would be dealing increasingly with factual knowledge, with the ability to evidence and demonstrate reported compliance. Equally the councils and the board of EKH on their behalf would be exhibiting behaviour which is about testing the position at a factual level. This may require some training and/or support to obtain the development of different behaviours and techniques in relation to holding the EKH staff team to account.
- Evaluate property health and safety compliance risks outside of the ‘big 6’. These would include issues such as Radon, playgrounds, lightening conductors, housing health and safety rating system (HHSRS) etc., and will require a thorough property audit to identify, scope, assess and address.
- We were specifically not assured that the management arrangements in place to deliver the programme of fire safety remedial works arising from Fire Risk Assessments will be effective. Questions remain about the approach being taken to undertake detailed passive fire safety surveys (compartmentation and fire doors) and to action what can be expected to be a significant scope of works arising from the same, the actioning of remedial works already identified in the Fire Risk Assessments, procurement of contractor capacity to undertake works, the evidencing and certification of remedial works including the long term storage of these records and the approach to linking the results of routine electrical testing of fire alarms etc., with the fire safety programme. Fire safety remains the most significant immediate risk to the residents and consequentially in terms of corporate risk to the councils. More needs to be done to ensure that a clear strategic plan is in place for identifying and actioning physical works to buildings and that this plan is transparently understood and is capable of being tested with progress being evidenced to provide assurance to stakeholders.

## 3.0 FUNDAMENTAL CAUSES

### Tier 1

We have set out our conclusions in two tiers. Tier one failures are the most fundamental and to a degree have allowed the environment for Tier two failures to exist. Nonetheless, Tier two failures are worthy of specific comment in their own right.

### 3.1 Purpose

The formal report considered by elected members in 2011 makes reference to achieving a number of ambitions for EKH, namely:

- Delivering excellent customer service - aiming for 3 stars
- Realising greater efficiencies and savings for reinvestment
- Encouraging stronger and more prosperous communities
- Improving procurement capacity
- Providing additional investment for council housing estates
- Ensuring longer term resilience for the councils' individual Housing Revenue Accounts (HRAs)
- Establishing a stronger housing role for the councils
- Developing a stronger role for tenants in shaping housing services
- Improving career opportunities for staff.

In reading the reports provided to members at the time it is hard to get a sense of the collective ambition that existed at the time that would in turn bring to life the above objectives, which could have easily applied to virtually all local authority housing services at the time. The absence of clear, compelling purpose that resonated with housing service staff, addressed the needs of residents and talked directly to the wider housing strategies of the four council's might well have provided a better platform for EKH to work from.

In talking to staff within EKH it is apparent there is a belief that cost savings were and continues to be a major driver and focus for the service. There is a sense amongst staff that 'cost' and process associated with procurement and value for money is the most important thing, providing that there are no demonstrable issues or problems within the housing service. Whether based on fact or not, this perception has been allowed to grow and cement so that it is arguably now a part of the housing service fabric. The absence of a positive and compelling vision which inspires and is relevant to the housing service is in part a reason why this cost focused culture has come to exist. The behaviour of the council client officers and procurement staff in seemingly focusing more on 'value for money' both in terms of actual cost but principally in terms of procurement process than in delivery of the service and reducing service failure risk has been interpreted through the prism of a cost and process focused culture and has acted to re-inforce this belief. In essence 'leadership behaviour' in terms of both act and failure to act, has allowed this belief to impact on the culture of EKH.

### 3.2 Governance

The Board of EKH should have been the main vehicle through which the four councils effected oversight and executive accountability. Instead the Board seems to have little meaningful role. It is clear from our discussions with some Board members that if the Board were fulfilling the role it should have been, it would not have had the competence to do so. While board appraisal has been carried out, this has seemingly made little difference to the leadership effectiveness of the Board. We suspect the role of the Board from the outset was not understood by any of the parties, including the then senior staff. There is no apparent evidence the role has been defined. More pointedly, if the councils accepted the Board should be the main vehicle to effect oversight and accountability,

the role of the council client officers and their individual 'scrutiny' committee's should have been defined to recognise the primacy of the Board. In practice the council client officers appear to be 'contract managing' EKH while the council scrutiny arrangements appear to be treating EKH as an internal department of the council. As a result, the Board is effectively redundant and there is unnecessary duplication and some level of distraction and confusion caused by EKH having multiple accountability channels (the Board of EKH, the council client officers, the council scrutiny arrangements, the EKH / resident panels and arguably the council chief executives).

If the role of the Board is to effect oversight, executive and organisational accountability then the skills of the Board would need to reflect that. Appointments to the Board should be made in that context. If the councils had concerns about the performance or capability of the Board the more appropriate response would have been to develop that performance or capability, rather than create another way of doing this.

### 3.3 Leadership

Ultimately all problems are solvable assuming there is a will, and leadership is sufficiently effective to do so. None of the issues that have caused or are part of the back story to these events are unusual in the housing sector or otherwise 'difficult' to solve. It is our conclusion that notwithstanding the other Tier 1 causes that we have articulated, ineffective leadership is a significant issue. It is not part of our brief to evaluate the performance of any particular leader and it could be argued that no leader however effective could have overcome the challenges that the housing service faced. Collectively, however, leadership has failed to keep residents safe and the four councils compliant. We would highlight the following specific issues, albeit in the context of the generality of this conclusion:

- Much of the decision making both in the run up to these events and following them, appear to be tactical in nature with a short term focus. There is little evidence of leadership driving a longer-term and more strategic perspective. Where decisions have been made which have a long-term impact, such as the 'single IT system' they appear to have lacked any sound strategic context or objectives which ultimately derive benefits for residents or progress the wider missions of the four councils. While business case documents may well have been produced as part of decision making they have lacked the robustness to ensure that proposals addressed the specific, well understood priorities of EKH and the councils and made material contribution to the achievement of the organisational objectives.
- Problem-solving has lacked depth. In addressing examples of service failure for example around the capital programme or more recently that associated with compliance, leadership has not apparently got to grips with the root causes of issues and worked at an appropriate level to resolve these so that the efforts of frontline staff are more effective.
- Organisational awareness is a key leadership role, which seems to have broken down in this instance such that leaders were slow to understand the issues within the service and to consequently understand the action needed to be taken. Challenge and effective holding to account of both individuals, EKH and the actions of officers within the councils has not been as strong as it needed to be, which has contributed to this lack of organisational awareness. The loss of staff knowledge as a result of the 2017 EKH reorganisation and the risks that this represented in terms of compliance being not apparently understood nor mitigated against, would be a good example of this lack of organisational awareness.
- Taking urgent action has been ineffective. Using the outstanding fire safety remedial works as an example, the need to undertake this work was known many months prior to the issue of the East Kent Audit Partnership report. Much of the remedial work represents a direct threat to the health and safety of residents, yet it has taken circa 12 months to get a contractor appointed and in place despite them being procured via a national, highly credible social housing procurement consortia framework. There is undoubted operational 'fault' on the part of EKH and the councils in terms of the delay in getting this contract

going. However it is a leadership role to ensure that time and mission critical things 'happen'. Residents could quite reasonably see this failure in leadership as unforgiveable considering the seriousness of the safety issues in question and the wider context of the Grenfell tragedy.

### 3.4 EKH as a shared ALMO

EKH is the only shared ALMO in existence. All other ALMO's have a direct 1-on-1 relationship with their parent council. The complexity of EKH working with four separate councils with competing political, strategic and operational perspectives and priorities has undoubtedly proved a major stumbling block. It is factually the case that, on occasions, the councils have not been of one mind and have not had the management arrangements in place to speak in a cohesive way with the sort of seniority which would have made a difference to decision making. The shared nature of EKH is not an insurmountable problem. However there are very few examples of multiple local authorities collaborating successfully to deliver a core local service such as housing. This should have been a concern to the councils at the inception of EKH and at the very least, thought should have been given to how this fundamental challenge would be overcome through appropriate governance structures and leadership. While the risks associated with this are documented in the formal reports considered by elected members in resolving to proceed with EKH, there is no evidence of this issue being actively worked on at a practical level.

EKH was established at a time where the creation of a combined 'East Kent Council' through merger of the four council's looked highly likely. It is foreseeable that this environment made the creation of a shared housing service in the form of EKH appear entirely logical and that the governance arrangements would in turn be simplified by EKH working to one council, the newly created 'East Kent Council'.

ALMOs have differing relationships with their parent councils. The degree of autonomy that each ALMO enjoys varies and for most has changed over time as the model has been shown to work, to drive up standards in service delivery and facilitate investment in the housing stock. EKH operates much more like an outsourced service provider than it does an ALMO and shows signs of being conflicted as a result; between trying to be the trusted partner to the councils while focused on services to residents and driving harmonisation, while in turn trying to respond to the individual needs and requirements of each council. There is no evidence to suggest that EKH have the skills and capability to successfully operate as an outsourced service provider in terms of commercial and contract management and their service delivery operating model.

While originally envisaged, the extent to which the housing services of the four local authorities have been harmonised and integrated inside the vehicle of EKH is limited. This has undoubtedly caused duplication of effort, complexity and scope for misunderstanding and confusion. While we cannot evidence or quantify this, it is also likely that some economies of scale savings have been foregone as a result of this continuing lack of harmonisation within both EKH and the councils.

The scale of the potential risk arising from a failure to create a harmonised service focused around a clear purpose was assessed as part of the business case to establish EKH. However it was not seen as a major concern, a view which with the benefit of hindsight appears somewhat optimistic.

There is ambiguity as to the roles and responsibilities of the councils and EKH. This is a more fundamental issue than simply being associated with the 1-to-4 relationship of EKH and the councils. However, the presence of four councils has amplified this. For most ALMOs, having both clarity and a mature, trust based approach on roles and responsibilities over issues such as procurement, contracting and associated decision making, asset management strategy and compliance management, can be an early and sometimes problematic challenge. These challenges continue to exist for EKH and are a constant source of conflict between the parties and ultimately service

failure. While the management agreement sets out the split of responsibilities, little has been done subsequent to this to make this a real world reality. Staff within EKH and the councils have levels of ambiguity as to roles and responsibilities, there are differences in actual behaviour between the councils in this respect and there are examples of behaviours from staff which arguably conflict with the ‘accepted’ position on the roles of the parties.

### 3.5 Relationships

The relationship between the parties is dysfunctional. This has hindered the collective effort to both prevent the recent compliance issues from arising and in responding to them.

The four councils have reasonable relationships but they also disagree on some issues, have made decisions which have not been mutually supportive on occasions and clearly have their own local political contexts and organisational priorities. As a ‘four’ they do not speak with one voice in relation to EKH. The presence of four separate ‘council client officers’ makes this more of an issue. Each brings their unique, individual perspective as to their role and undoubtedly each interacts with and asks for different things from EKH.

The relationship between the councils and EKH is poor. Trust is in short supply. There is an absence of a clear sense of ambition or goal for the service that all parties are committed to. Interactions between the parties are not driving change and positive outcomes for residents in the way in which all involved would undoubtedly want.

We have not specifically tested ‘culture’ within EKH. However the perception of the EKH culture is that ‘blame’ is a significant aspect and that consequently people avoid taking responsibility particularly around making decisions. Despite this we found good examples where staff engaged with recovering the compliance position appear aware of the wider culture but are choosing to behave differently, using their best endeavours to make a difference.

The four councils and EKH should be working as one, albeit large, team to deliver the required service outcomes for residents and further the council’s wider strategic missions (all of which should be set out in an agreed ‘Vision’ for the service). As a team the parties are not being effective. We would refer to the “5 Dysfunctions of a Team” model by Lencioni as a way of understanding the nature and extent of the issues in this respect, which we have set out below:



## Tier 2

In this next section we have commented on issues which are mostly practical in nature which have had a significant impact on the service, over a prolonged period of time. They are secondary to the fundamental issues (Tier 1) which we have set out below but are nonetheless significant and are worthy of specific comment against on that basis.

### 3.6 Data

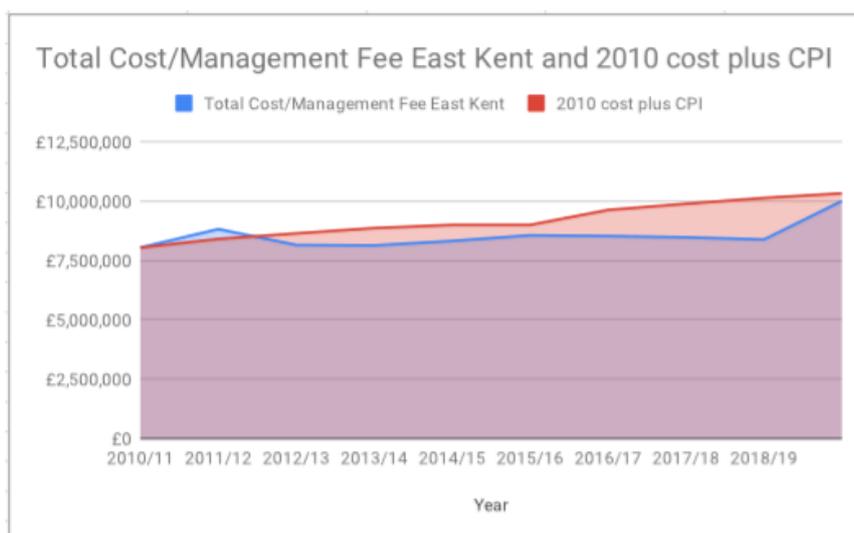
The data held by EKH is not in a state of health that would reflect a robust, mature organisation that has a solid grasp of what is needed to deliver services. We believe this to be a longstanding issue and would appear, at least in some instances, to track back to the quality of data originally handed over by the councils at the inception of EKH. The data held by EKH in relation to compliance had, and still does have, significant gaps, albeit these are being closed by EKH. We understand that stock condition data is also limited with a sample survey of circa 30% having been completed relatively recently.

The records held by EKH is in a corresponding limited position. Anecdotally we were advised of records being discarded during the process of reorganisation, that other records such as survey reports either cannot be found (electrical inspections) or are of such limited usefulness as to be unreliable (asbestos communal management surveys).

The data and record management capability of EKH is very limited. Spreadsheets are being widely used to record data and manage compliance. This is an approach which is highly risky and vulnerable to service failure. The system used to hold stock condition is limited in functionality. EKH rely on contractors to hold records and data for key areas of compliance activity which represents a practical limitation on service delivery and also a significant risk in terms of both compliance management and service delivery. We understand that Northgate does not have the capability to deliver this task.

### 3.7 Funding

The use of EKH as the delivery vehicle for the housing service has saved the councils a material amount of money over the lifetime of the arrangement, albeit with areas of significant service failure existing. Initial costs were reduced as part of moving into the ALMO and then costs have not had inflationary increases until fairly recently such that a real term saving to the councils has arisen. The extent of this is shown below:



The management costs of EKH are low in comparison to peers.

We cannot conclude that there is a cause and effect relationship between the relatively low cost of the EKH management service and the service outcomes that have been experienced. However it is something the parties will want to consider in the context of making decisions about the future delivery arrangements for the service. More significant is the way in which the level of funding has played out within the culture of EKH. It has arguably been one of the issues which has helped to cement the ‘belief’ within EKH that the focus for the service from the councils has been about cost saving. The interests of the parties would have been better served by adopting a strategic review and zero based budgeting approach to resetting the resources needed by EKH to deliver the councils’ ambitions for the housing service rather than the somewhat piecemeal approach which has played out more recently.

### **3.8 Procurement**

The successful procurement of appropriate suppliers has been a cause of delay and service failure. This has manifested itself within compliance but elsewhere within the range of services provided by EKH as well. The causes of this are many. Neither the councils or EKH are without fault in this context, some of which is accepted by the party concerned, some of which is not, nor rather is it being seen as being caused by the other parties’ failure. The collective failure to get successful contracts / suppliers in place in a timely manner is an undisputable fact and has directly led to some of the compliance issues which the councils have been censored for by the regulator. There has been considerable effort and resources deployed to solve this problem. Some of this has given a level of improvement, but arguably not enough to allow to meet the collective needs of the parties. Procurement as an issue has been known about for some time and was held out as a reason for why weaknesses in capital programme delivery and associated contract management existed. Procurement itself is not an intrinsically difficult thing. Failure to solve this problem is therefore a symptom of more fundamental problems, which we have already commented on.

### **3.9 Recruitment challenges**

We are advised that EKH struggle to recruit staff, particularly good quality property related people. This is not a problem that is unique to the east Kent area, but we recognise the specific challenges that would appear to exist. Solving this problem should have been a strategic priority for EKH, either through improving the attractiveness of EKH as an employer, re-thinking its recruitment processes or examining alternative service delivery options. EKH are aware of the need to address this challenge and it is included within organisational planning. However there is no evidence of the sort of problem analysis and creative thinking that might have provided a meaningful solution to this this.

## 4.0 SPECIFIC ISSUES

During the course of our work we identified a number of issues which are worthy of commenting on, but which are not 'causes' of the service failure within compliance. We have done so below.

### 4.1 Issue 1 - The failure of the P&R gas contract

Our perception is that this was largely seen as a 'poor contractor' issue and that the compliance issues that arose as a result were in essence caused by the contractor failing. With the benefit of hindsight it is clear that it wasn't just a contractor issue and that many of the issues already commented on in our report were also a factor. The failure to properly understand the issues which were the responsibility of EKH such as data, data management and records, missed an opportunity to understand the wider compliance issues in existence.

### 4.2 Issue 2 - The HQN report

This work was commissioned by EKH in response to the failure of the P&R contract. The councils dispute some of the content which presents itself to the reader as 'fact'. The HQN report asserts conclusions on questions set by the brief issued by EKH about the councils. In the absence of having met with or sought specific input from the councils, the HQN conclusions are not credible in relation to these specific aspects. As a result the report itself has had very limited impact in terms of learning, at least on the part of the councils.

The report itself is largely a record of events with some analysis of the reasons for decisions particularly where they resulted in delay. It suggests to the reader that generally EKH acted in a timely and appropriate manner and that the causes of the compliance issues were due to the failure of P&R. We now know that there were wider issues that related directly to gas and to the wider property compliance service. The report would have had more impact and consequentially greater learning capability had it recognised the inherent risks associated with the systems and processes being used by EKH to manage compliance and the wider organisational relationship issues which were at the root cause of the operational problems.

The councils have subsequently questioned whether EKH were appropriately candid about the gas compliance position and the timelines of doing so. An analysis of this could have helped the parties to identify and tackle some of the relationship issues which have consequentially held them back in tackling the wider compliance issues.

### 4.3 Issue 3 - The performance track record of EKH

This is reported as being 'good'. Costs are low and routine operational housing management performance is good in comparison to peers as assessed through House mark benchmarking.

There is some unease within individuals as to whether this performance reporting can be relied upon. This is a problem, both practically and by virtue of the impact it has on the relationship between the parties. If there was concern about the integrity of the performance information it should have been subject to forensic audit and testing to discover what, if any, weaknesses existed. Leaders cannot make sound decisions without reliable information. There has to be 'one version of the truth'.

---

Had performance data been subject to detailed test, it should have given one of two possible outcomes:

- The discovery of material deficiencies in the data management process that in turn might have led to the discovery of the undoubted data and record issues which have impacted negatively on the compliance service. Leaders could have then addressed the same earlier.
- Acceptance of the performance management information, which should have led to consideration as to why EKH was 'good' in some areas of activity but clearly struggling in others. This might have given leaders an earlier opportunity to identify some of the conclusions of our work and to take action.

## 5.0 CONCLUSIONS

The fundamental reasons for the failure in the property health and safety compliance service managed by EKH can be summarised as:

- The nature of EKH as a shared ALMO, working for four councils with their own differences and priorities.
- The lack of a clear, inspirational and relevant purpose for EKH that in turn directed the efforts and decision making of the organisation and its interaction with the four councils.
- Ineffective Governance.
- Ineffective leadership.
- A dysfunctional relationship between EKH and the councils.

None of the above are technical or operational matters. As ‘problems’ they all belong with the governing bodies and leadership teams of EKH and the councils to resolve.

A significant practical cause was the substantial weaknesses in data, data management including IT capability and record keeping. Levels of resourcing available to EKH may have been a factor. The presence of a ‘cost saving’ culture was also a factor.

We are aware that the councils are respectively consulting on the future management arrangements for their housing service. It is hard to conclude anything other than that the current EKH model is fundamentally broken. To retain the present arrangement would require a very substantial renewal of the model, the purpose of EKH, the relationship between EKH and the councils and ultimately the governance and leadership capability, principally within EKH.

# Appendix 1

Water Hygiene		
Key Line of Enquiry	Findings	Conclusions
<p>1.1 Does the organisation have a clear understanding of the assets on the compliance programme? Can they evidence why assets aren't on the compliance programme?</p>	<p>We compared the full asset list with the communal blocks on the water hygiene compliance tracker, and identified two blocks which were not accounted for on the water hygiene programme. The compliance manager was able to evidence that both of these properties were new build schemes and that they would be added onto the compliance tracker during the following week when an asset list reconciliation would be completed. This process takes place regularly and ensures that the full asset list aligns with the water hygiene programme.</p> <p>EKH are currently undertaking a gap analysis to identify which communal blocks need to be included on the water hygiene programme. This has been completed for all councils, apart from Dover, whereby they are currently in the process of visiting each communal block to identify whether there is a water system at the property which requires it to be included on the compliance programme.</p> <p>We requested evidence to show why 12 communal blocks had been removed from the water hygiene programme to test the reliability of the gap analysis which had been completed. 10 of the 12 blocks could be evidenced whilst on site, whilst one of the remaining properties could only be evidenced by a hard copy Health and Safety document which was not available at the time of the audit. For the remaining block, 17-34 Starle Close, evidence could only be provided for flats 17-28 in the block.</p>	<p>We were satisfied that the new excel spreadsheet which is being used as the water hygiene compliance tracker is fit for purpose and allows EKH to effectively manage and oversee the legionella risk assessment programme. The tracker includes all communal blocks which EKH have a responsibility for and there is a regular process for updating the water hygiene tracker with the main asset list for new acquisitions or property disposals.</p> <p>There is reasonable assurance that EKH can evidence why assets aren't on the compliance programme, with the exception of 17-34 Starle Close. We would recommend that a standard process and evidence trail is maintained across the stock, to allow easy access to an evidence trail for future reference.</p>

<p>1.2 Is what is being reported tested and accepted? Is the data source reliable?</p>	<p>An additional gap analysis is currently being completed, to identify whether there is a risk assessment in place for each communal block. All communal blocks are being reported as non-compliant until an LRA can be evidenced. This is in line with what we would expect.</p> <p>We requested evidence of 20 LRAs to validate that what is currently being reported is reliable. Out of the 20 requested LRAs, 17 in date LRAs could be evidenced. There were three issues for the remaining properties:</p> <ul style="list-style-type: none"> <li>• The LRA evidenced for 4-15 Dour Street, only covered flats 4-9.</li> <li>• The LRA evidenced for Walmsley House, Princess Street, contained 117 actions, however only 116 actions were included within the remedial actions tracker.</li> <li>• Only an out of date LRA could be evidenced for 22 Old Dover Road, despite a more recently dated survey being reported in the tracker. Upon investigation it was identified that this property was void, boarded up and currently ‘off contract’ meaning that the LRA was on hold until a decision on the property had been made. The more recent date had been incorrectly entered into the spreadsheet.</li> </ul>	<p>The data validation provided reasonable assurance that what is being reported is accurate and up to date.</p> <p>EKH may want to improve the process currently in place to transfer actions from the risk assessment to the excel tracker spreadsheet, since this is currently a manual process and is therefore subject to human error, as evidenced from the validation exercise.</p> <p>However, based on the validation of the 20 LRAs, we were satisfied that there is reasonable assurance that the new excel tracker being used to report compliance is fit for purpose, and can be relied upon to report the compliance position. In the longer term, EKH and the four councils could consider using software which will automatically report risk assessment dates, to prevent the risk of human error in compliance reporting.</p>
--	--	---

<p>1.3 Are remedial works being addressed?</p>	<p>All remedial works from risk assessments are manually transferred from the contractors online portal onto the excel tracker spreadsheet by the water hygiene compliance manager, which creates a significant risk of human error.</p> <p>Each action is given a risk rating of either high, medium or low, however none of these works are given a timescale for completion. We would usually expect the water hygiene policy or management plan to identify a set timescale for completion of required works to ensure that the actions are completed within a reasonable timescale, relative to the level of risk.</p> <p>The following observations were noted from the water hygiene compliance tracker:</p> <p><b>CCC:</b> At the time of the site visit there were 142 high risk remedial works which had been identified over a year ago and which had not been completed. 104 of these had not had the required works ordered, with the oldest dated 19/2/2018.</p> <p><b>DDC:</b> There were 266 outstanding high risk remedial works dated over a year ago, with the oldest dated 23/09/2016.</p> <p><b>FHDC:</b> There were 269 high risk remedial works dated over a year ago. 233 of these had not had the required remedial works ordered, with the oldest dated 17/11/2017.</p> <p><b>TDC:</b> There were 111 high risk remedial works dated over a year ago. 91 of these not had the required remedial works ordered, with oldest dated 18/06/2018.</p>	<p>There is risk of human error when the actions from LRAs are transferred from the contractor’s portal onto the excel spreadsheet. These spreadsheets are effective as an interim measure, however EKH may want to consider moving away from this manual process in the longer term.</p> <p>In our view, the current process for managing remedial works requires some improvement to ensure that all works are completed within a reasonable timescale relative to the level of risk. The four councils may want to consider setting timescales for completion of required works dependant on risk rating to ensure that the works do not remain outstanding for long periods of time.</p>
--	--	--

<p>1.4 Are the legionella risk assessments fit for purpose?</p>	<p>A sample of legionella risk assessments were reviewed by one of our qualified water hygiene consultants who confirmed that the risk assessments are robust, undertaken by LCA registered consultants, and provide assurance that all water hygiene risks are identified. The risk assessments contained detailed written control regimes and conformed to the ACOP L8 requirements.</p>	<p>We are satisfied that the LRAs are fit for purpose and provide assurance that all risks are being appropriately identified and managed.</p>
<p>1.5 Is the water hygiene policy document fit for purpose?</p>	<p>A review of the water hygiene policy identified several weaknesses:</p> <ul style="list-style-type: none"> <li>• Desktop risk assessment reviews are not being undertaken, despite the water hygiene policy stating that they will undertake desktop risk assessments to all communal blocks before an on-site risk assessment is completed.</li> <li>• The policy does not set out timescales for completion of remedial works which arise from legionella risk assessments, creating a risk of actions remaining outstanding for long periods of time.</li> <li>• The policy states a commitment to complete a legionella management plan for all communal blocks, however this is only in draft form and is currently being produced with the help of an external consultant. The policy document should reflect that this is still in the process of production, and then amended once it is in place.</li> </ul>	<p>The policy document requires improvement because although it sets out what EKH and the four councils intend to implement moving forward, it is not an accurate reflection of what is currently taking place. We would therefore recommend that this policy is reviewed, with the involvement of all key staff involved in the water hygiene process, to ensure that it accurately reflects what is taking place in practice.</p>

Electrical Safety		
Key Line of Enquiry	Findings	Conclusions
<p>2.1 Does the organisation have a clear understanding of the assets on the compliance programme? Can they evidence why assets aren't on the compliance programme?</p>	<p>EKH are currently undertaking a gap analysis to identify which properties they hold an EICR for which can be evidenced. Those properties which do not currently have an EICR, or where the EICR is missing, are then added onto the catch up programme to ensure that a valid EICR is put into place.</p> <p>EKH have started this process with the communal blocks currently on the programme, and were able to provide a full list of all of the communal blocks which they currently hold an EICR for, as well as those which they do not.</p> <p>A second gap analysis is currently being undertaken to reconcile the master asset list with the electrical safety programme, in order to provide assurance that the assets that need to be on the programme are. At the time of the site visit, all communal blocks for Thanet District Council had been visited, and any without an electrical supply have been removed from the programme, although documented evidence of this cannot be provided. For the remaining blocks this exercise has not been completed, and there is a forward plan to visit each of the blocks not on the programme to confirm that there is no electrical supply.</p>	<p>EKH and the four councils do not have full assurance that all assets which need to be on the programme are included, however we were satisfied that they have a clear plan in place to address this. We would recommend that when assets are removed from the electrical safety programme, documentary evidence is retained to ensure that they understand and can evidence why they have been removed.</p> <p>EKH also made us aware of the proposed plan to complete stock condition surveys on all of their stock, as this would provide an evidence base for assets not on the electrical safety programme.</p>
<p>2.2 Is what is being reported tested and accepted? Is the data source reliable?</p>	<p>We requested a copy of the EICRs for 20 communal blocks to validate what is being reported in their compliance tracker. This highlighted the following issue with one of the blocks:</p> <ul style="list-style-type: none"> <li>1-12 Woodville Close - the EICR for this block had a front cover date of 15/11/18, but had a date of</li> </ul>	<p>The EICR validation provided assurance that the current catch up programme and gap analysis to identify which communal blocks EKH hold an EICR for has been undertaken effectively.</p>

	<p>completion and date of review of 18/11/2016. The later date is the date which is currently being reported in the tracker, creating a potential risk that the property will not get re-inspected until 2 years after it needs to be.</p> <p>Of the 40 requested domestic EICRs, the following issues were identified:</p> <ul style="list-style-type: none"> <li>• 53 Artillery Gardens - no EICR could not be evidenced, however the property was being reported as compliant.</li> <li>• Six domestic assets did not have an EICR which could be evidenced because EKH noted issues with getting hold of the records from their contractor, MEARs. EKH are in the process of transferring the certification held by their contractor onto their own systems, however since this has not yet been completed, and that some of the records held solely by their contractor cannot be accessed, we cannot validate that what they are reporting is correct.</li> </ul>	<p>However, the issue identified with the EICR for 1-12 Woodville Close, suggests that there may be a QA issue for the EICR reports. EKH and the four councils should ensure that there is a substantial audit process in place to prevent errors such as this, and that this is set out within their policy.</p> <p>The data validation of domestic assets, did not provide full assurance that what is being reported is correct. However since EKH are addressing the identified issues, by moving all of their records onto their own systems from the contractors portal, and completing a gap analysis, to identify which records they are able to evidence, we are satisfied that the issues will be mitigated once these tasks have been completed.</p>
<p>2.3 Is compliance being reported accurately?</p>	<p>The four councils have recently changed their electrical inspection approach, and are now completing inspections on a 5 year cycle for both domestic and non-domestic properties. We identified that any domestic property which had their EICR issued during the original 10 year re-inspection cycle, are still being reported as compliant under the original 10 year certificate end date. Although legally, these properties are compliant, they are not compliant with the new 5 year approach.</p>	<p>It is our view that current compliance reporting creates some confusion and does not provide the Board with complete clarity on the current compliance position of the stock, as it may appear that all properties being reported as compliant are compliant with the new 5 year inspection cycle.</p> <p>We would recommend that the organisation reports compliance separately based on both the 5 and 10 year inspection period. This will allow a clear understanding of which properties</p>

		are compliant with the new 5 year reinspection cycle, but also which properties are legally compliant with the original 10 year reinspection cycle.
2.4 Are remedial works being addressed?	All C2s which are not completed on site, are extracted directly from the EICR by the compliance manager at EKH, and the works sent out to a contractor once approved. There is no way of extracting the outstanding C2s from the current system, (SAM), which creates risk that EKH and the four councils do not have complete oversight of the remedial works programme, and therefore C2s could remain outstanding for a period of time.	The current approach to addressing C2 remedial works has some weaknesses, because EKH and the four councils do not have complete oversight of the remedial works programme as they cannot extract all of the outstanding works. However, since EKH have a new system, which is due to be implemented within the next few weeks, and which has the ability to extract all of the outstanding remedial works, we are satisfied that this issue will shortly be resolved.
2.5 Is the electrical safety policy document fit for purpose?	<p>There is no standalone electrical safety policy, and rather the information we would usually expect to be included within an electrical safety policy, is held within a document titled 'Planned Cyclical Maintenance Policy and Procedure Manual'. This policy lacks the required detail we would usually expect from an electrical safety policy and excludes relevant legislation and codes of practice.</p> <p>The following issues were identified from the current policy:</p> <ul style="list-style-type: none"> <li>• There is no clear approval process for review.</li> <li>• The policy does not set out the electrical inspection programme and does not detail the obligations which are placed upon EKH and the four councils in relation to electrical safety.</li> <li>• The policy references Shepway District Council which changed its name to Folkestone and Hythe on</li> </ul>	<p>It is our view that the current policy is not fit for purpose and that the process of policy review requires improvement to ensure that EKH and the four councils are clear of their obligations in relation to electrical safety. The review process should involve all relevant members of the electrical safety team and the policy should be approved by the Board and Leadership Teams.</p> <p>We would recommend that the electrical safety policy document is rewritten into a standalone document which covers the following areas:</p> <ul style="list-style-type: none"> <li>• Regulatory standards, legislation and codes of practice</li> <li>• Obligations</li> </ul>

	<p>1st April 2018, suggesting that the policy has not been thoroughly reviewed since before this time.</p> <ul style="list-style-type: none"><li>• The policy also refers to outdated legislation which suggests that the review process requires further improvement to ensure that they are clear of the obligations placed upon them in regards to electrical safety.</li></ul>	<ul style="list-style-type: none"><li>• Compliance Inspection Programme</li><li>• Compliance follow up work</li><li>• Record Keeping</li><li>• Key roles and responsibilities</li><li>• Training</li><li>• Performance Reporting</li><li>• Non-compliance/escalation process.</li><li>• Approval</li></ul>
--	--	--

Asbestos Safety		
Key Line of Enquiry	Findings	Conclusions
<p>3.1 Does the organisation have a clear understanding of the assets on the compliance programme? Can they evidence why assets aren't on the compliance programme?</p>	<p>Compliance is currently being reported through an Excel Spreadsheet tracker, which contains a list of all of the assets which the four councils manage. We compared this list to the master asset list and found that all assets were accounted for.</p> <p>EKH are currently undertaking a gap analysis to identify which communal blocks need to be on the asbestos management programme. We were advised that all Communal Blocks for Thanet District Council have been visited and those without communal spaces have been removed from the programme. The remaining three councils are in the process of completing this.</p>	<p>We were satisfied that the current excel spreadsheet which is being used to manage the asbestos management programme is fit for purpose.</p> <p>The gap analysis, which is currently in the process of completion, will provide EKH and the four councils with an understanding of which assets are not on the asbestos programme. We would recommend that an evidence base is kept to explain why assets are removed from the programme.</p>
<p>3.2 Is what is being reported tested and accepted? Is the data source reliable?</p>	<p>EKH and the four councils do not currently have a clear understanding of which domestic properties have an asbestos management survey in place. A gap analysis is being completed to confirm the properties where a survey cannot be evidenced, and these properties are being put onto a catch up programme, whereby an asbestos management survey is commissioned at the time of an R&amp;D survey.</p> <p>The councils have not formally committed to completing an Asbestos Management Survey to their domestic stock, at the time of void repairs, day to day repairs, or planned maintenance works, as legally required. This approach should be clearly be outlined within their asbestos policy.</p> <p>We requested evidence of 40 communal block records to check that what was being reported in their excel tracker</p>	<p>We are satisfied that EKH have a clear plan in place to identify which domestic properties they do not hold an asbestos management survey for. However, we would expect the formal commitment to complete a survey on all domestic stock at the time of void repairs, day to day repairs or planned works to be outlined within their policy to show that EKH and the four councils are clear of their legal obligations.</p> <p>We are satisfied that the excel spreadsheets being used to manage the communal asbestos programme are fit for purpose, and that the information contained within these sheets is reliable</p>

	spreadsheet was correct. This identified that all 40 blocks were being correctly reported, and could be evidenced.	and a reflection of the current compliance position.
3.3 Can compliance reporting be relied upon?	<p>We identified that compliance is being reported based on the number of properties which have an asbestos management survey in place, regardless of quality or age. Although the councils have committed to recommissioning a new asbestos survey for all communal blocks, because they are aware of the poor quality of older surveys, the current compliance reporting method, includes all of these poorer quality surveys.</p> <p>Additionally, the councils have committed to recommissioning an asbestos management survey to all communal blocks by March 2020. We tested this process by requesting the asbestos management survey for a sample of 20 communal blocks which had been reported as having a new survey in place and all new surveys could be evidenced.</p>	<p>The current approach to compliance reporting requires improvement, because it is evident that the assets being reported as compliant include older surveys regardless of their quality or content, and those which are dated before the 6th April 2012, before the new CAR 2012 legislation was introduced. Although some of these surveys are legally compliant, we would recommend that the compliance reports clearly state that blocks with dated and poor quality surveys are being included within the compliance figures.</p> <p>We are satisfied that EKH and the four councils are making good progress with commissioning new asbestos management surveys for all communal blocks and are therefore on track to gaining full assurance.</p>
3.4 Are the asbestos management surveys fit for purpose?	<p>An asbestos management survey from the council's old contractor, was reviewed by one of our qualified asbestos consultants, who identified that the overall quality of the survey was poor, and had been conducted by a non-UKAS accredited company. The review also identified the following issues:</p> <ul style="list-style-type: none"> <li>The report should detail exactly which areas of the building were inspected, however the report was very vague as it only stated that 'solid walls, ceilings and floors' would be inspected.</li> </ul>	<p>The council's older asbestos management surveys are of particularly poor quality, however they are aware of this and have therefore recommissioned new surveys to be completed for all of their stock.</p> <p>It is our view that there are some weaknesses in the asbestos management surveys completed by their new contractor, which does not provide full assurance that all asbestos risks are being</p>

	<ul style="list-style-type: none"> <li>Based on the front cover image, there were several areas which were not assessed and which should have been included within the survey, such as the infill panels around the front door.</li> <li>The report did not detail exactly which areas were not assessed within the survey, and instead was generic, whereas we would expect the locations not assessed to be clearly stated.</li> </ul> <p>Our internal asbestos consultants reviewed one of the councils 's new asbestos management surveys which had been completed by their new contractor, PA Group, and found some areas for improvement:</p> <ul style="list-style-type: none"> <li>The survey was listed as an 'Asbestos Refurbishment Survey to ceilings throughout the communal areas and an Asbestos Management Survey to the remainder', however the report only detailed findings from inspections carried out on the first floor ceilings, and did not include reference to any other areas tested.</li> <li>The general building notes were vague, and we would expect to see a description and notes on each individual room, rather than the vague and imprecise statements which were contained within the report.</li> </ul>	<p>appropriately mitigated. The councils and EKH should ensure that all surveys are quality controlled by appropriately qualified persons to ensure that surveys effectively mitigate all asbestos risks.</p>
<p>3.5 Are remedial works being addressed?</p>	<p>At the time of the site visit there was only one outstanding remedial work, however this had already been actioned and had been passed onto the asbestos contractor for completion.</p>	<p>The procedure for the completion of remedial works is fit for purpose and ensures that required works are completed, and a record retained of the works which have taken place.</p>
<p>3.6 Is the asbestos management policy document fit for purpose?</p>	<p>The policy is contained within a document titled 'Asbestos Management Policy and Procedure', and we were informed that this document is also being used as</p>	<p>The policy document requires improvement through the inclusion of some of the key details which we have</p>

	<p>EKH's asbestos management plan. Although as a policy document this is fairly robust, there are a few omissions:</p> <ul style="list-style-type: none"><li>• The policy does not reference any of the codes of practice or legislation, other than CAR 2012, and we would also expect the obligations which are placed upon EKH and the four councils from this legislation to be clearly set out.</li><li>• The policy does not outline EKH's and the council's inspection and testing programme for both non-domestic and domestic stock.</li><li>• The policy does not reference the contractor or include the need for their asbestos contractor to be UKAS accredited.</li><li>• We would expect the council's commitment to the frequency of compliance reporting and KPI measures to also be set out within the policy.</li><li>• We would expect an asbestos management plan to include details of the end to end process for asbestos delivery from asset list reconciliation to remedial works completion and the auditing regime.</li></ul>	<p>identified as missing from the current policy.</p> <p>It is our view that if this document is also to be used as the asbestos management plan, then it should set out the end to end process for asbestos management, so that the councils are clear of the current process and the roles and responsibilities of key individuals at each stage.</p>
--	--	---

Gas Safety		
Key Line of Enquiry	Findings	Conclusions
4.1 Does the organisation have a clear understanding of the assets on the compliance programme? Can they evidence why assets aren't on the compliance programme?	We identified approximately 300 assets from the main asset list, which did not appear on the gas compliance spreadsheet and sent a sample of these assets to the compliance manager. The compliance manager could explain why they had been removed from the gas safety programme. However, EKH were not able to provide an evidence log to explain why each asset had been removed from the programme because this is held with the gas contractor, GCS.	We would expect there to be a full register of all the assets which are not on the gas programme but which are on the main asset list, in order to provide full assurance that no assets are missing from the compliance programme. This should be updated on an ongoing basis and regularly reconciled with the main asset list and held by EKH.
4.2 Is what is being reported tested and accepted? Is the data source reliable?	<p>We requested a sample of 40 domestic property LGSRs and EKH were able to evidence 38 of these. The two remaining properties were not on the gas safety programme, however the compliance manager could not evidence why the properties had been excluded from the programme, and suggested this could be because the asset had been sold. These assets were as follows:</p> <ul style="list-style-type: none"> <li>• 106 Mayfield Avenue</li> <li>• 19 Wycherley Crescent.</li> </ul> <p>We also requested a sample of 20 communal block LGSRs and EKH were able to provide evidence of a valid LGSR for all of these assets.</p>	The validation provided partial assurance that what is being reported in the compliance reports for both communal and domestic properties is accurate and reliable. However, EKH should identify why the two identified domestic assets are not on the gas safety programme, and if they cannot, must ensure that a gas safety check is undertaken to confirm this.
4.3 Are remedial works being addressed?	At the time of the site visit there were 16 actions which had been outstanding for more than one year. Since it is expected that a new LGSR had been completed on these properties since the remedial repairs were first identified, this was queried with the gas compliance team, who explained that it is likely that these remedial works should have been completed by the previous contractor, P&R, however the contractor did not	We are aware that the councils had issues with their previous gas contractor, which was able to explain why there were outstanding remedial works which had remained in the tracker spreadsheet for over a year, and we are satisfied that the process with the new contractor ensures that remedial works are completed within

	<p>complete the required work. Since the new gas contractor has been in place, a more recent LGSR has now been completed which will have addressed these issues during the more recent safety check.</p> <p>We referred a sample of the 1578 outstanding actions to our gas safety consultant who confirmed that all of the incomplete actions were not essential repairs, and therefore EKH were not legally obliged to complete these repairs immediately.</p>	<p>a reasonable timescale. However, we would expect EKH to check that the 16 outstanding remedial repairs have actually been completed and then these can be removed from the remedial works spreadsheet.</p> <p>We would expect the outstanding remedial spreadsheet to include details of the types of repair (e.g. immediately dangerous (ID)) so that EKH and the four councils have complete oversight of the outstanding repairs which they are legally required to complete.</p>
<p>4.4 Is the gas safety policy document fit for purpose?</p>	<p>The policy document covers the obligations placed upon EKH and the four councils in relation to gas safety, however lacks some of the required content we would usually expect to be included, such as the following:</p> <ul style="list-style-type: none"> <li>• The policy document is five months past its review date (May 2019) and had a review period of 5 years.</li> <li>• The policy does not refer to all of the relevant legislation and contains no reference to the codes of practice relevant to gas safety.</li> <li>• The policy does not clearly set out the councils approach to gas safety inspections and does not specify the specific approach for each asset type e.g. domestic or communal.</li> <li>• The policy does not include reference to the frequency of, or KPIs included in, compliance reporting.</li> <li>• The policy does not set out the process which will take place in cases of non-compliance.</li> </ul>	<p>It is our view that the gas safety policy does not clearly set out the councils approach to gas safety. We would recommend the policy is restructured to include the following information:</p> <ul style="list-style-type: none"> <li>• Regulatory standards, legislation and codes of practice</li> <li>• Obligations</li> <li>• Compliance Inspection Programme</li> <li>• Compliance follow up work</li> <li>• Record Keeping</li> <li>• Key roles and responsibilities</li> <li>• Training</li> <li>• Performance Reporting</li> <li>• Non-compliance/escalation process.</li> <li>• Approval</li> </ul>

Fire Safety		
Key Line of Enquiry	Findings	Conclusions
5.1 Does the organisation have a clear understanding of the assets on the compliance programme? Can they evidence why assets aren't on the compliance programme?	<p>EKH have undertaken a gap analysis to identify all of the communal blocks which require an FRA, and have removed those which don't fall under the requirements of the RRO from the programme. This has been identified through site visits to every communal block, and is appropriately documented within the pyramid system.</p> <p>We requested evidence for why 20 communal blocks have been removed from the programme, and EKH were able to provide evidence of a site visit which had been undertaken for all of these blocks.</p>	Based on the validation exercise undertaken, we are satisfied that EKH have a clear understanding of the assets which are on the fire safety programme.
5.2 Is what is being reported tested and accepted? Is the data source reliable?	<p>We requested the FRA for 40 communal blocks and 38 of these could be evidenced. The remaining two blocks did not have an FRA which could be evidenced for the following reasons:</p> <ul style="list-style-type: none"> <li>1-70 Windsor House - there was currently no FRA from the main contractor held in the Pyramid system, however a fire protection assessment was in place which was being used as the current FRA. This document was not dated and therefore did not provide full assurance that an in date FRA was in place for this block.</li> <li>1-27 Elizabeth Court - the FRA could not be evidenced because the tower block was undergoing major refurbishment works, therefore the FRA is being held until completion of these works.</li> </ul>	The validation exercise highlighted one tower block which is currently being reported as compliant, however an in date FRA could not be evidenced due to refurbishment works taking place. If residents are still living in this property whilst refurbishment works are taking place, then EKH have a legal obligation to have a full FRA in place, and must ensure that there is a full FRA which can be evidenced.
5.3 Are remedial works being addressed?	Actions which arise from an FRA are managed through the Pyramid system. At the time of the site visit, there were 4767 outstanding actions, from a total of 845 different blocks. There is a catch up programme in place to	The approach for addressing fire safety actions is fairly logical given the number of outstanding actions which the organisation currently has. However the

	<p>complete these actions, and prioritise these based on both archetype (e.g. sheltered, high rise) and the risk rating identified on the FRA.</p> <p>We identified a potential risk, whereby an FRA which has an overall risk rating of, for example, substantial, could contain action which require immediate attention, however due to the current approach these will not be prioritised based on the recommended timescale for completion.</p>	<p>board and each of the councils must be made aware of the risks associated with the approach, as some actions which require immediate attention have been outstanding for long periods of time.</p> <p>It was noted that this new approach has been implemented within the past few weeks, and that this has not yet been approved by all councils. We would expect this to be set out within their fire safety policy document and approved by all four councils.</p>
<p>5.4 Are compartmentation issues appropriately actioned?</p>	<p>Compartmentation issues which arise from FRAs are completed on a priority basis by the fire contractor APL, who also manage the actions which arise from these surveys. However, we were not made aware of any process in place for commissioning a new FRA once the compartmentation issues have been corrected. Our fire safety consultants advised that once compartmentation issues have been actioned following an FRA a new FRA should be commissioned, earlier than the standard annual review based on the changes made from the compartmentation survey.</p>	<p>EKH have an adequate process in place to deal with compartmentation issues which arise from FRAs, however we would expect that a clear plan is put into place which ensures that a new FRA is commissioned following any changes to the compartmentation of a building.</p>
<p>5.5 Are the FRAs fit for purpose?</p>	<p>Our qualified Fire Safety consultants reviewed a sample of FRAs, and although they were identified as being fit for purpose in terms of identifying the required risks, they identified the following issues:</p> <ul style="list-style-type: none"> <li>• There was no photo on the front cover of the report</li> <li>• The actions that derive from the assessment are not clear and do not give a clear and instructive action for the RP to conduct. They come across as “optional” rather than imperative.</li> </ul>	<p>We are satisfied that the FRAs are fit for purpose, however due to the number of issues identified within such a small sample of FRAs, we would suggest that EKH and the councils ensure that a quality assurance audit of either all or a sample of FRAs, is undertaken to ensure that they effectively identify all of the risk.</p>

	<ul style="list-style-type: none"> <li>• The FRA identifies that there is an alarm system within the property but states that the category is unknown. This isn't acceptable, as the risk assessor they should be able to identify what system is within the building.</li> <li>• It provides a large "occupancy table", this is not necessary, it is a dwelling. Occupancy at all times should be assumed.</li> <li>• The actions identified by the assessor are not evidenced by photos, which BAFE suggests.</li> </ul>	
<p>5.6 Is the fire safety policy document fit for purpose?</p>	<p>The fire safety policy has a number of weaknesses, including the following:</p> <ul style="list-style-type: none"> <li>• The policy has no set review period and although it was stated as having a last review dated September 2019, the policy refers to the Homes and Communities Agency who were replaced in January 2018, suggesting that the policy has not been reviewed since before this time.</li> <li>• The policy does not include reference to any fire safety legislation or the obligations which these place on the organisation.</li> <li>• The policy does not set out the frequency or KPI information which will be included in compliance reporting.</li> <li>• The policy does not include reference to the procedure which will take place in cases of non-compliance.</li> </ul>	<p>The fire safety policy does not contain the level of required detail which we would usually expect from a fire safety policy. We would expect the policy to cover the following:</p> <ul style="list-style-type: none"> <li>• Regulatory standards, legislation and codes of practice</li> <li>• Obligations</li> <li>• Compliance Inspection Programme</li> <li>• Compliance follow up work</li> <li>• Record Keeping</li> <li>• Key roles and responsibilities</li> <li>• Training</li> <li>• Performance Reporting</li> <li>• Non-compliance/escalation process.</li> <li>• Approval</li> </ul>