

ABERDEEN CITY COUNCIL

COMMITTEE	Audit, Risk and Scrutiny Committee
DATE	26 September 2017
REPORT TITLE	Internal Audit Report AC1806 – Corporate Landlord Responsibilities
REPORT NUMBER	IA/AC1806
LEAD OFFICER	David Hughes
AUTHOR	David Hughes

1. PURPOSE OF REPORT

- 1.1 The purpose of this report is to present the planned Internal Audit report on Corporate Landlord Responsibilities.

2. RECOMMENDATION

- 2.1 It is recommended that the Committee review, discuss and comment on the issues raised within this report and the attached appendix.

3. BACKGROUND / MAIN ISSUES

- 3.1 Internal Audit has completed the attached report which relates to an audit of Corporate Landlord Responsibilities.

4. FINANCIAL IMPLICATIONS

- 4.1 There are no direct financial implications arising from the recommendations of this report.

5. LEGAL IMPLICATIONS

- 5.1 There are no direct legal implications arising from the recommendations of this report.

6. MANAGEMENT OF RISK

- 6.1 The Internal Audit process considers risks involved in the areas subject to review. Any risk implications identified through the Internal Audit process are as detailed in the attached appendix.

7. IMPACT SECTION

7.1 **Economy** – The proposals in this report have no direct impact on the local economy.

7.2 **People** – There will be no differential impact, as a result of the proposals in this report, on people with protected characteristics. An equality impact assessment is not required because the reason for this report is for Committee to review, discuss and comment on the outcome of an internal audit. The proposals in this report will have no impact on improving the staff experience.

7.3 **Place** – The proposals in this report have no direct impact on the environment or how people friendly the place is.

7.4 **Technology** – The proposals in this report do not further advance technology for the improvement of public services and / or the City as a whole.

8. APPENDICES

8.1 Internal Audit report AC1806 – Corporate Landlord Responsibilities.

9. REPORT AUTHOR DETAILS

David Hughes, Chief Internal Auditor
David.Hughes@aberdeenshire.gov.uk
(01224) 664184



ABERDEEN

CITY COUNCIL

Internal Audit Report

Communities, Housing and Infrastructure

Land & Property Assets

Corporate Landlord Responsibilities

Issued to:

Bernadette Marjoram, Interim Director of Communities, Housing & Infrastructure

John Quinn, Head of Land & Property Assets

Fraser Bell, Head of Legal & Democratic Services

Steven Whyte, Head of Finance

Stephen Booth, Asset Management Manager

Ian Cowling, Hard FM Manager

Malcolm Brown, Contract Manager (Public Buildings)

Mai Muhammad, Energy Manager

External Audit

EXECUTIVE SUMMARY

Aberdeen City Council as a Corporate Landlord has accountability to ensure that all buildings under its control comply with the appropriate statutory, regulatory and corporate standards.

As at June 2017 the Council had over 300 non-housing public properties with Corporate Landlord Responsibilities and therefore cyclical maintenance requirements. In 2016/17 the cyclical maintenance for Corporate properties cost just over £972,000.

The objective of this audit was to ensure that the Council has systems in place that provide assurance over compliance with the legal requirements in relation to its Corporate Landlord role for these properties.

Although there are working practices in place, some of these have still to be formalised, and others need to be better aligned with corporate health and safety documents. Arrangements for ensuring external and internal tenants are compliant also need to be clarified. The Service plans to address these points by June 2018.

The continuing need for a client / contractor split of service management and operational delivery is still to be determined following changes to the Council's organisational structure.

In general comprehensive records are maintained, though due to changes in systems and some minor errors identified improvements have been recommended and the Service will review options for doing so.

1. INTRODUCTION

- 1.1 Aberdeen City Council as a Corporate Landlord has accountability to ensure that all buildings under its control comply with the appropriate statutory, regulatory and corporate standards.
- 1.2 Landlords must make sure that the equipment for supplying water, gas and electricity is kept in safe working order. Safeguards must be put in place over fire safety, lift maintenance, and the management of asbestos. In addition, public buildings in excess of a specified size must display current Energy Performance Certificates.
- 1.3 As at June 2017 the Council had over 300 non housing public properties with Corporate Landlord Responsibilities and therefore cyclical maintenance requirements. In 2016/17 the cyclical maintenance for Corporate properties cost just over £972,000.
- 1.4 The objective of this audit was to ensure that the Council has systems in place that provide assurance over compliance with the legal requirements in relation to its Corporate Landlord role for these properties.
- 1.5 The factual accuracy of this report and action to be taken with regard to the recommendations made have been agreed with John Quinn, Head of Land & Property Assets.

2. FINDINGS AND RECOMMENDATIONS

2.1 Cyclical Maintenance Process

- 2.1.1 Cyclical maintenance is managed and delivered by two elements of the Land & Property Assets Service within Communities, Housing & Infrastructure: Asset Management acts as the client Service, identifying overall requirements and managing service delivery. Operational delivery is provided by Building Services, acting as a contractor. Data relating to property assets and maintenance activity is held on the Confirm system.
- 2.1.2 Asset Management present Building Services with a list of all operational properties detailing the statutory and any additional cyclical maintenance required. Building Services deliver this maintenance, ensuring that the activities are carried out in compliance with statutory requirements. Where Building Services do not have the necessary resources or expertise to carry out the required works, they use a range of contracted specialist contractors.
- 2.1.3 Following cyclical maintenance activities Building Services are responsible for ensuring that all relevant test records and compliance certificates are available in a shared drive which Asset Management has access to. Asset Management uses this data to demonstrate compliance with the contract and statutory maintenance requirements.
- 2.1.4 Building Services manage and monitor the performance of their external contractors via spreadsheets of key performance indicators (KPI's). These record whether services have been delivered within 30 days of target date and whether the job has been invoiced within 30 days of the completion date have been met. The spreadsheet analysis shows the amount of jobs done per month and year along with a percentage where appropriate that the contractor has not met the required standards. Where targets are not met these are brought up at monthly review meetings and explanations sought.
- 2.1.5 Invoices received for specified activities are checked and passed to the property inspector for approval. If approved these are passed to the Assistant Contract Manager for payment authorisation and updated on Confirm with budget charge codes. A Confirm report is passed to the E-Finance Team for payment.

2.2 Written Procedures / Policies

- 2.2.1 Comprehensive written procedures which are easily accessible by all members of staff can reduce the risk of errors and inconsistency. They are beneficial for the training of current and new employees and provide management with assurance of correct and consistent practices being followed, especially in the event of an experienced employee being absent or leaving.
- 2.2.2 A Service Level Agreement was developed, though this was not formally implemented prior to the Services being assumed into Land & Property Assets in 2014/15. Asset Management has a draft Land & Property Assets Compliance Monitoring Procedure which although current has yet to be formally agreed.
- 2.2.3 Building Services has clear procedures and process maps in place for each of the cyclical maintenance activities. Reliance is however placed on Asset Management to instruct that these activities should take place. In the absence of formal procedures or a finalised Service Level Agreement, there is a risk of activities not being scheduled as required to meet the Responsibilities of the Council.

Recommendation

The Service should formalise the procedures used to demonstrate compliance with its Corporate Landlord Responsibilities and other cyclical maintenance activities.

Service Response / Action

Agreed. Timing of the action to formalise procedures will be dependent on implementation of digital systems rationalisation.

Implementation Date

June 2018

Responsible Officer

Head of Land & Property
Assets

Grading

Significant within audited
area

- 2.2.4 As noted above Asset Management adopts a commissioning role, with Building Services carrying out and applying specified directives. This might represent an additional process to the minimum requirement, given delivery is within one Service.

Recommendation

The Service should review whether management of cyclical maintenance could be delegated to one or other Service, or the two Services combined.

Service Response / Action

Agreed. This will be reviewed as part of the Council's structural changes.

Implementation Date

March 2018

Responsible Officer

Head of Land & Property
Assets

Grading

Significant within audited
area

- 2.2.5 The current managers work to service procedures which require to be referenced to the Corporate Health and Safety Policies on Gas Safety, Fire Safety, Fire Safety Management, Management of Legionella Bacteria, Asbestos Safety and the Corporate Procedure on the inspection and Maintenance of Portable Electrical Appliances.

- 2.2.6 This can lead to some elements of these policies not being applied. For example, in 3 cases examined Services occupying the buildings did not maintain an inventory of electrical items as required under the Corporate Procedure "Inspection and Maintenance of Electrical Portable Appliances". There is therefore a risk that not all equipment may have been presented and tested, though the other processes in place including the testing regime itself should ensure statutory compliance. It is important that the Corporate and Service processes are aligned to avoid errors or misunderstanding over their operation.

Recommendation

Asset Management should work with the Health & Safety Team to align Service and Corporate Policies.

Service Response / Action

Agreed.

Implementation Date

March 2018

Responsible Officer

Head of Land & Property
Assets

Grading

Significant within audited
area

- 2.2.7 The Service has trained and registered employees to produce Energy Performance Certificates (EPC) for the Council's non-housing property portfolio. There are 2 employees completing EPC's, trained and registered with an appropriate accreditation body. Each has their own list of EPC's due and completed, as the requirements are different for Council occupied and leased out properties, though Asset Management does

not hold a single complete list. Whilst for commercially let properties there is assurance over EPC completion, as this is checked by solicitors prior to entry, records indicate that further work is required to fully meet the requirements which changed in 2015 to require additional public buildings to have an EPC.

- 2.2.8 At 31 March 2016 there were 169 Public Buildings occupied by the Council over 250m², of which 117 were compliant and 52 non-compliant. It was intended to instigate a programme to achieve full compliance within 12-18 months, though there is no forward plan set out to meet this target. At 31 July 2017 (16 months) the Service has still to complete EPCs for 20 buildings, presenting a risk of non-compliance.

<u>Recommendation</u>		
The Service should set out a programme and procedures for ensuring EPC compliance, then coordinate and monitor progress with its implementation.		
<u>Service Response / Action</u>		
Agreed.		
<u>Implementation Date</u>	<u>Responsible Officer</u>	<u>Grading</u>
March 2018	Energy Manager	Significant within audited area

2.3 Safety Certificates / Testing

- 2.3.1 Internal Audit reviewed 11 different properties to ensure they were compliant with relevant requirements. All had the appropriate Corporate Landlord compliant tests and certificates in place.

- 2.3.2 In some instances however the contractors did not get the appropriate paperwork signed by a representative of the Council, or had not signed it themselves, to confirm that the work had taken place at the dates, times and locations indicated.

Certificates reviewed	Council not signed	Contractor not signed
Emergency Lighting (105)	14	3
Fire Alarms (37)	8	-
Fire Fighting Equipment (8)	2	1
Gas Safety (7)	1	-

- 2.3.3 Although the certificates and log books indicate activities have taken place, signatures provide additional assurance and serve to demonstrate that an appropriate and competent person has undertaken the work.

<u>Recommendation</u>		
The Service should remind all Contractors that all paperwork should be signed by the engineer and a representative of the Council.		
<u>Service Response / Action</u>		
Agreed. The Service is however considering implementation of electronic workflow systems which would negate the requirement for signatures.		
<u>Implementation Date</u>	<u>Responsible Officer</u>	<u>Grading</u>
November 2017	Head of Land & Property Assets	Important within audited area

- 2.3.4 There were 9 establishments within the sample for which Portable Appliance Testing (PAT) was required. An annual full test of all equipment was carried out in each case, which is more than required under regulation.
- 2.3.5 The risk of Legionella in water supplies is increased within specified temperature ranges. A monthly temperature spreadsheet is maintained by the Service, however at June 2017 this only recorded readings up to February 2017 due to lack of resources. This spreadsheet has now been updated.
- 2.3.6 Asbestos data is held on the Modus system, which has only been introduced in the last year and not all data which pre-dates the system has yet been transferred into it, due to lack of resources within Asset Management. There was also an instance where a follow up of an Asbestos Management Survey was not completed within 12 months as recommended by HSE and the engineer. Asset Management advised that this was prior to using the Modus system, and a re-inspection has since been undertaken. If data is not up to date on the system, and reliance is being placed on it to inform contractors (internal and external) of the risk of asbestos in areas in which they carry out works, there is a risk of inadvertent exposure, presenting a reputational risk to the Council.
- 2.3.7 There were 2 instances where the summary spreadsheet of completed EPC's did not match the information on the actual EPC; 1 showed the wrong date and 1 showed the wrong EPC rating.
- 2.3.8 It is important that all information is stored accurately and up to date, to reduce the chances of any duplication or something being missed.

Recommendation

The Service should ensure data regarding its Corporate Landlord Responsibilities is maintained centrally, accurately and up to date.

Service Response / Action

Agreed. The Service is committed to investing in the most appropriate systems to manage its compliance data.

Implementation Date

June 2018

Responsible Officer

Head of Land & Property
Assets

Grading

Significant within audited
area

- 2.3.9 The Service provided copies of fixed electrical installation tests which had taken place. Whilst it was able to demonstrate that these had taken place within the last 5 years as required, in 7 of 9 cases where a test was required and completed the results were unsatisfactory – with “potentially dangerous” conditions identified, and with a recommendation that the next review should be within 5 years conditional on these defects being rectified. The Service has provided evidence to demonstrate that defects had been rectified within a reasonable timeframe in 3 of the 7 properties. Although defects in other properties were addressed, works orders were not raised promptly on the system following the tests. If defects are not rectified timeously, the Council could be considered in breach of its duty of care to users of these buildings.

Recommendation

The Service should ensure that critical faults are rectified promptly and actions documented.

Service Response / Action

Agreed. The Service recognises that procedures need to be tightened up to ensure defects are prioritised and registered as such. A review of procedures and response

times will be undertaken.

<u>Implementation Date</u>	<u>Responsible Officer</u>	<u>Grading</u>
December 2017	Head of Land & Property Assets	Significant within audited area

- 2.3.10 The Service, taking advice from Legal & Democratic Services, advised that the terms of the Council's commercial leases typically provide that all statutory maintenance responsibilities are the responsibility of the tenant, therefore there is no need to identify statutory responsibilities separately. Therefore, Corporate Landlord Responsibilities are not considered applicable to leases of Council property to external tenants. The examples of lease conditions provided by the Service contain clauses to this effect.
- 2.3.11 For some leases, including Community Centres, the Service has elected to mitigate against potential risks and deal with some or all of the statutory requirements directly. The Service has indicated that these arrangements are in the process of being reviewed.
- 2.3.12 In one instance a Grounds Maintenance Depot had no record of tests completed. Building Services undertake testing of equipment for various Services, including Grounds Maintenance, Roads and Building Service depots, on instruction and receipt of a financial code. Although these may be run as trading operations, they are not external tenants, and Internal Audit anticipated that corporate responsibility for conducting tests, and recording compliance, would rest with Land & Property Assets.
- 2.3.13 Leased in operational property will fall within the council's statutory maintenance schedules.

Recommendation

The Service should ensure it has assurance that all property in which the Council has an interest is statutorily compliant.

Service Response / Action

Agreed. A programme of work clarifying leasing arrangements with internal and external tenants is ongoing.

<u>Implementation Date</u>	<u>Responsible Officer</u>	<u>Grading</u>
June 2018	Head of Land & Property Assets	Significant within audited area

2.4 Monitoring

- 2.4.1 Monitoring of KPI's by Building Services is well presented, including data on delivery of services within 30 days of the target date, and invoicing within 30 days of delivery. However, reliance is placed on contractors to update and return this data.
- 2.4.2 There is no written procedure outlining how the KPI returns are processed or any checks as to their accuracy. In many cases the spreadsheets indicated that targets were not being met, with results as low as 15% in some cases, though substantial subsequent improvements were then shown (increasing to 86% in this instance). The Service has stated that this was due to a system error, which has since been corrected, rather than work being subject to unacceptable delays. Delays are categorised as either the Council or Contractor's issue. Delays could impact on statutory compliance, depending on how far in advance statutory checks are scheduled.
- 2.4.3 Although current practice may be considered administratively efficient for the Service, there is a risk in placing reliance on contractors to provide data on their own performance,

as there is an incentive for them to present positive data. If the Service can update its records (e.g. on Confirm) with services delivered and invoiced, then it should be able to generate reports from the system to manage contracts by exception, and independently verify the KPI's against which it measures its contractors. It should already have this data in order to match services invoiced against those ordered and delivered.

Recommendation

The Service should review the process for obtaining assurance that cyclical maintenance services have been delivered as planned for the purposes of verifying payments, contractors' performance, and statutory compliance.

Service Response / Action

Agreed. A review will be initiated with a view to developing an action plan with implementation targets.

Implementation Date

March 2018

Responsible Officer

Head of Land & Property
Assets

Grading

Significant within audited
area

- 2.4.4 Asset Management carries out checks on a proportion of activities undertaken by or on behalf of Building Services. The draft Land & Property Assets Compliance Monitoring Procedure sets out a requirement for a check of 15% of the work carried out to ensure work was carried out within 30 days of the set target, and evidence has been filed within 4 weeks. As discussed in section 2.2 above, this has not been formally implemented, and may affect the efficiency of the operation.

AUDITORS: D Hughes
C Harvey
J Galloway

Appendix 1 – Grading of Recommendations

GRADE	DEFINITION
Major at a Corporate Level	The absence of, or failure to comply with, an appropriate internal control which could result in, for example, a material financial loss, or loss of reputation, to the Council.
Major at a Service Level	<p>The absence of, or failure to comply with, an appropriate internal control which could result in, for example, a material financial loss to the Service/area audited.</p> <p>Financial Regulations have been consistently breached.</p>
Significant within audited area	<p>Addressing this issue will enhance internal controls.</p> <p>An element of control is missing or only partial in nature.</p> <p>The existence of the weakness identified has an impact on a system's adequacy and effectiveness.</p> <p>Financial Regulations have been breached.</p>
Important within audited area	Although the element of internal control is satisfactory, a control weakness was identified, the existence of the weakness, taken independently or with other findings does not impair the overall system of internal control.