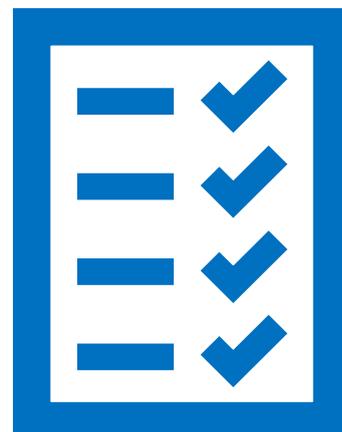


Welwyn Hatfield Borough Council

Compliance Review Report

25 February 2022



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1. **Background**

- 1.1 Eversheds Sutherland was instructed by Welwyn Hatfield Borough Council ("**the Council**") in early 2022 to commence a Compliance Process Review ("**the Review**"). The Review has taken place over January and February 2022.
- 1.2 The Review follows the Council's self-referral to the Regulator for Social Housing ("**the Regulator**") in May 2021. The self-referral focused on the findings of a report produced by BDO in February 2020 ("**the BDO Report**") which highlighted a number of shortcomings in the way that property compliance was managed within the Council.
- 1.3 The BDO Report was commissioned in late 2019 following an incident which required the interrogation of the Council's approach to managing the water systems within a Council-owned building.
- 1.4 The Regulator's assessment of the information provided by the Council was that the Council had failed to meet statutory health and safety requirements in relation to fire, water, electrical and asbestos safety.¹ The Council was found to have breached part 1.2 of the Home Standard and as a consequence, there was the potential for serious detriment to the Council's tenants.
- 1.5 The Council put in place a rectification programme and is considered to be making progress with the same. The Regulator has decided against taking statutory enforcement action thus far on the basis of an assurance that the breach of standard is being remedied. There is regular correspondence between the Council and the Regulator to track progress.
- 1.6 It is intended that the contents of this Report will be shared with the Regulator as further assurance that historic concerns have been identified and that the remedial measures being pursued by the Council will be effective.

¹ Decision – Regulatory Notice: Welwyn Hatfield Borough Council – 28 July 2021

2. **Executive Summary**

- 2.1 The Council has a plethora of reporting mechanisms, committees and meetings that seek to review and discuss various aspects of its operation. Unfortunately, the concerns regarding housing compliance identified by BDO in early 2020 were not identified by any of the operational parts of the Council. They were, therefore, not reported to the Corporate Management Team ("**CMT**") or the Cabinet.
- 2.2 There appear to be a number of reasons why housing compliance issues were not at the forefront of the Council's thought process until 2020/21. Among other matters, there were ongoing changes in personnel at all levels within the Council, a number of different systems were being used to capture property data, and roles and responsibilities between different teams and individuals were not clear.
- 2.3 Following publication of the report by BDO in early 2020 there was an opportunity to reflect, share the findings and seek a resolution that was in the interests of service users. Unfortunately, the evidence available during 2020 does not suggest that immediate action was taken. Those that received the BDO Report do not appear to have shared its findings widely, and information streams to the CMT and Cabinet during 2020 do not appear to reflect the reality reported within the document, maintaining the status quo that compliance was being achieved.
- 2.4 Efforts were made to address the findings of the BDO Report during 2020, including the instruction of additional consultants and the recruitment of a new Compliance Manager. Unfortunately, the apparent lack of communication meant that the true state of compliance came as a shock to many in 2021 when the scale was fully understood. Those that should have been informed sooner were left concerned as to what else might have been missed.
- 2.5 We are confident that the changes made during 2021/22 have put the Council in a much stronger position. The changes have created a sustainable solution to achieve compliance whilst also recognising the resource pressures and other challenges that exist in local government. There is now a transparency and frankness around matters of compliance that appears to have been missing.
- 2.6 It will be noted from a review of this Report that there is little reference to good practices and where the Council has suitably controlled risk. This was not the focus of the Review, albeit there are many examples of success within the Council and its approach to keeping its residents safe.

3. **Instructions**

3.1 The nature of the instruction to Eversheds Sutherland is captured within the Review Proposal document submitted to the Council. A number of questions require consideration as part of the Review:

- How was the compliance of the Council's social housing portfolio able to deteriorate to the condition reported by way of the BDO Report in early 2020?
- Were the findings of the BDO Report suitably communicated within the Council?
- Are the changes made since the issues have been uncovered suitable and sufficient to assist with future compliance?

3.2 Whilst we have focused on the above questions for the purposes of the Review, we have also investigated any other related avenues that have arisen. If there is an opportunity to learn and prevent a recurrence then that should be pursued.

3.3 We have focused on the years 2020 to 2022 for the most part of our Review, being the period when the BDO Report was produced, the issues were uncovered, and remedial actions taken. However, we have considered documents and discussions dating back to 2016/17 onwards in trying to identify root causes and underlying issues.

4. **Assumptions and Limitations**

- 4.1 For the purposes of the Review, we have assumed that the findings of the BDO Report are correct. The BDO Report remains in draft form and we have not sought to establish why a finalised version is not available. Nevertheless, we have no reason to doubt the findings of BDO based on our work on this Review. Indeed, many of the issues identified within the BDO Report have culminated in the situation that was ultimately reported to the Regulator in 2021.
- 4.2 We have been provided with a large number of documents as part of our Review having requested the same as part of broad requests made to the Council's Chief Executive. We have reviewed all of the documents provided. We have assumed that the documents are accurate and that where they record what was said (meeting minutes, for example) that they are agreed. We have had the opportunity to discuss those documents with the individuals spoken to as part of this Review.
- 4.3 We have not been able to recover and review email accounts, nor have we sought to review such correspondence beyond limited email chains that we have been provided with.
- 4.4 There has been a significant turnover of personnel within the Housing Property Services Team of the Council, something which we return to later within this Report. This has meant that we have not been able to speak to all individuals involved in the historic fact pattern. We have not sought to approach individuals who are no longer employed within the Council. Indeed, the purpose of this Review is to consider the internal processes for assurance within the Council, it is not intended to explore the faults of particular individuals.
- 4.5 For those individuals that we have spoken to, this has been part of a discussion process rather than a formal interview. Whilst some individuals have assisted with the response to the Regulator and the associated remedial actions, we have approached each discussion neutrally and without assumption. Where we have been provided with information by an individual, we have taken this information at face value. It is important that we reflect on each individual's perceptions, even if it is shown through other evidence that the perception is based on a mistaken or incomplete view.
- 4.6 Reflecting on the purpose of our Review, we consider that the above limitations do not compromise the effectiveness of the exercise.

5. **Legal Position – Housing Compliance**

5.1 We have included below an overview of some of the key health and safety duties and offences that apply to the Council and its employees. Our Review was not intended to identify any potential legal breaches, but we believe it assists to understand the nature of the legal duties when assessing the fact pattern under discussion.

5.2 **Duties on the organisation**

5.3 The Council has a range of duties captured, primarily, under the Health and Safety at Work etc. Act 1974 (“**HSWA**”). Section 3 of the HSWA imposes a duty on the Council to ensure that its undertaking (including the provision of social housing) does not expose individual users, visitors, contractors or members of the public to risks to their health and safety.

5.4 The duty under Section 3 of the HSWA extends ‘as far as reasonably practicable’. This requires the Council to balance the risks that its undertaking poses against the sacrifice (in terms of money, time and expertise) necessary to control those risks. The law does not require a risk free environment, but it should be appropriately managed.

5.5 Given the legal context, we have not approached this Review expecting a standard of perfection, and neither does the law. We have sought to consider the decisions and actions of the Council in managing housing compliance in the context of the risks posed, as well as the resources of the Council and the other demands on them. We have used our experience of working with other clients in Local Government to consider what is ‘reasonably practicable’.

5.6 For each of the compliance areas with which this Review is concerned, there are specific regulations dealing with what is expected:

5.6.1 **Regulatory Reform (Fire Safety) Order 2005 (“the Order”)**

5.6.2 Regulation 9 of the Order requires the ‘responsible person’ to make a suitable and sufficient assessment of the risks to which relevant persons are exposed for the purpose of identifying the general fire precautions he needs to take, typically referred to as a Fire Risk Assessment (“**FRA**”).

5.6.3 A FRA must be reviewed by the responsible person regularly so as to keep it up to date and particularly if:

- there is reason to suspect that it is no longer valid; or
- there has been a significant change in the matters to which it relates including when the premises, special, technical and organisational measures, or organisation of the work undergo significant changes, extensions, or conversions.

5.6.4 Where a FRA identifies the need for control measures, it is expected that they are implemented as appropriate.

5.6.5 **Control of Asbestos Regulations 2012**

5.6.6 In communal areas, there is a requirement on the dutyholder under Regulation 4 to ensure that a suitable and sufficient assessment is carried out as to whether asbestos is or is liable to be present in the premises. The dutyholder must ensure that the assessment is reviewed without delay if:

- there is reason to suspect that the assessment is no longer valid;
or
- there has been a significant change in the premises to which the assessment relates.

5.6.7 Where asbestos is identified, there is a requirement for a plan to be drawn up in order to ensure that asbestos is removed, repaired and otherwise monitored to ensure that it does not pose a risk.

5.6.8 **Gas Safety (Installation and Use) Regulations 1998**

5.6.9 The regulations require annual gas safety checks on every gas appliance or flue within a premises. Such work must be performed by a Gas Safe registered engineer.

5.6.10 Records of such checks must be communicated to tenants.

5.6.11 **Control of Substances Hazardous to Health Regulations 2002**

5.6.12 If the management of water systems is not properly assessed, with identified control measures implemented, there is the risk of legionella bacteria building up. Such bacteria is rightly considered a hazardous substance for the purpose of these regulations.

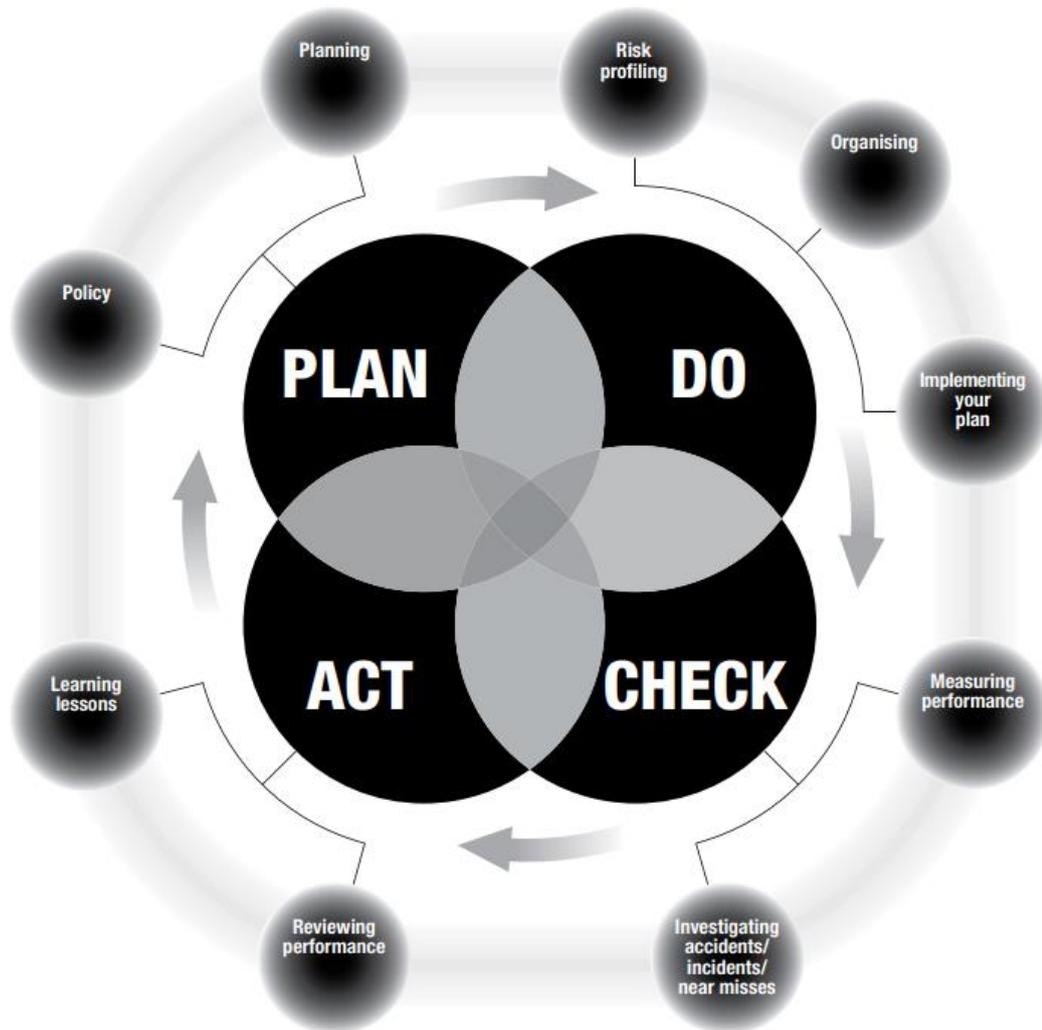
5.6.13 A water risk assessment should be completed for every premises in order to identify the risks presented by each water system (e.g. dead ends, rarely used outlets, etc.). The assessment should also identify control measures to manage the risk, which will likely include flushing of rarely used outlets, temperature checks, etc.

5.6.14 Water risk assessments (typically referred to as legionella risk assessments) should be reviewed regularly and, in particular, when there have been changes to the building or the water system involved.

5.6.15 **Electrical**

5.6.16 There are a range of different regulations governing the approach to electrical installations in rented properties. It is commonly accepted practice that tests of electrical installations in premises should be conducted every five years.

5.7 Our Review has focused on the above five elements of housing compliance, as they will often pose the greatest risk to occupants. However, we have not ignored the overall duty of care that rests on the Council to ensure the safety of residents. We have considered the general approach to health and safety management of social housing and compared this to the expectations of the HSE in its guidance document INDG 275², from which the below flow diagram is extracted:



2 [indg275.pdf \(hse.gov.uk\)](http://indg275.pdf(hse.gov.uk))

5.8 **Duties on individuals**

5.9 Section 7 of the HSWA is an offence that can only be committed by individuals, not organisations. The offence relates to the conduct of every employee whilst at work, and requires employees:

- to take reasonable care for the health and safety of themselves and of other persons who may be affected by their acts or omissions at work, such as residents or contractors; and
- as regards any duty or requirement imposed on the Council, to cooperate with the Council so far as is necessary to enable that duty or requirement to be performed / complied with.

5.10 All employees of the Council are expected to exhibit a standard of reasonable care whilst at work, meeting the requirements of their role, complying with instructions of the organisation / management and raising any concerns regarding their health and safety or that of others.

5.11 Section 37 of the HSWA sets out a further offence that is made out when an 'organisational' offence is committed, i.e. an offence under Section 2 or 3 HSWA (or a regulatory offence) and that offence is shown to have been committed through the consent, connivance or neglect of a senior individual working within the Council.

5.12 The offence captured under section 37 imparts a duty on senior individuals to take action when they become aware of failures, and to follow the expectations of their role in order to identify other potential concerns.

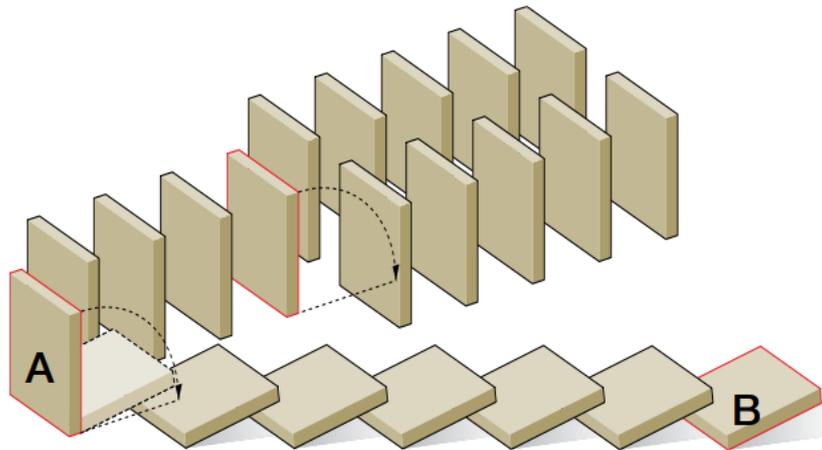
5.13 The regulator for health and safety in England, the Health and Safety Executive ("**HSE**"), has produced guidance³ which provides that the following are relevant considerations when assessing if an offence is made out under section 37 of the HSWA:

- was the matter, in practice, clearly within the manager's effective control;
- did the manager have personal awareness of the circumstances surrounding, or leading to, the offence;
- did the manager fail to take obvious steps to prevent the offence; and
- were there previous warnings or advice to the manager.

³ [Proceedings against director, manager, secretary or other similar officer - Investigation - Enforcement Guide \(England & Wales\) \(hse.gov.uk\)](https://www.hse.gov.uk/investigation/enforcementguide/)

6. Approach

- 6.1 We understand the purpose of this Review is part of the Council's overall plan to improve its management of housing compliance. We are therefore instructed to consider the root causes of the issues reported to the Regulator, and whether the Council's planned improvements will sufficiently deal with the areas of concern.
- 6.2 Whilst the fact pattern involved does not strictly revolve around an incident or accident, we are guided in our approach by the guidance produced by the HSE. The HSE has produced Health and Safety Guidance document 245 titled 'Investigating accidents and incidents'.⁴
- 6.3 The guidance uses a domino analogy to highlight the importance of identifying the root causes of problems, in Figure 4 of the guidance document:



- 6.4 The note that accompanies the above image advises us: *"Each domino represents a failing or error which can combine with other failings and errors to cause an adverse event. Dealing with the immediate cause (B) will only prevent his sequence. Dealing with all causes, especially root causes (A) can prevent a whole series of adverse events."*
- 6.5 We have adopted the above approach for the purposes of our Review. There were immediate causes to the issues reported to the Regulator. However, we need to understand the root causes in order to prevent a recurrence as noted within the HSE guidance: *"Simply dealing with the immediate causes of an adverse event may provide a short-term fix. But, in time, the underlying/root causes that were not addressed will allow conditions to develop where further adverse events are likely, possibly with more serious consequences. It is essential that the immediate, underlying causes and root causes are all identified and remedied."*

⁴

A free copy can be obtained at: [Investigating accidents and incidents: A workbook for employers, unions, safety representatives and safety professionals HSG245 \(hse.gov.uk\)](https://www.hse.gov.uk/hsg245/)

- 6.6 Our involvement in similar reviews has highlighted to us the risk of trying to identify and focus on individual human errors. In the current scenario, individuals may not have behaved the way that the Council would have expected or wanted them to and we understand that other internal processes have been followed in this regard. However, a review that solely focuses on identifying and punishing human error will not achieve the Council's ultimate aim for the current exercise.
- 6.7 From our discussions with the senior leadership of the Council, we are agreed that the Review is an exercise in reflection. Rather than trying to identify how individuals may have let the Council down, the Council sees the value in understanding why its processes for assurance failed to identify and deal with the issues sooner. To the extent that there is human error, the Council sees the value in focusing on the circumstances in which that error occurred. We are guided once again by the HSE guidance on the risks associated with an investigatory slant towards human error: *"Underpinning the 'human error' there will be a number of underlying causes that created the environment in which human errors were inevitable. For example inadequate training and supervision, poor equipment design, lack of management commitment, poor attitude to health and safety."*
- 6.8 We are grateful for the assistance of the Council and its staff during the course of the Review, including the candour they expressed during our discussions, and the willingness to support our various requests.

7. **Historic Position**

7.1 We have investigated the period prior to 2020/21 to consider whether there are lessons to be learned or particularly relevant background. We have included our findings below.

7.2 **Management under the Housing Trust**

7.2.1 Prior to 2016/17, the social housing with which we are concerned was managed by the Welwyn Hatfield Community Housing Trust ("**the Housing Trust**"). The Housing Trust was incorporated on 9 January 2009 and dissolved on 14 August 2018.⁵

7.2.2 The Housing Trust was an arms-length management organisation wholly owned by the Council which commenced operations on 1 April 2010. The Council had delegated management of its housing stock to the Trust and the Trust agreed, among other things, to: "*manage and maintain the housing stock*".⁶ We interpret this obligation to include the management of housing compliance.

7.2.3 The Council monitored the work of the Housing Trust by the use of key performance indicators ("**KPI**") specified through the annual delivery plan agreed with the Council. The KPI were said to have been reported to the Council's Cabinet Housing and Planning Panel.

7.2.4 We have had the opportunity to review the meeting minutes and supporting documents associated with meetings of the Cabinet Housing and Planning Panel. Prior to its reintegration, a meeting was held on 9 February 2017 at which the Executive Director (Housing and Communities) presented a summary of the Housing Trust's key performance for Q3. The report deals with gas safety, noting that 99.98% of properties have had the appropriate gas safety check. There is no reporting of any of the other compliance metrics with which this Review is concerned.

7.2.5 Whilst the above information is of interest, and will be relevant in later findings, our Review has not focused on the management of compliance whilst under the control of the Housing Trust. Housing was under the direct control of the Council (following reintegration) for at least two years before the review conducted by BDO. Our interest, however, arises in the process of reintegration.

7.3 **Reintegration of the Housing Trust**

7.3.1 As reported in the Directors Report and Financial Statements for the Housing Trust in 2015/16, the Council completed a review of the Housing Trust and had

⁵ Companies House Records for Welwyn Hatfield Community Housing Trust Limited

⁶ Strategic Report contained within the Directors Report and Financial Statements 2015/16

taken the decision to integrate management back in to the Council’s existing structures. It is noteworthy that there is recognition of: *“budget pressures facing both housing and non-housing budgets”* with the reintegration intended to: *“attempt to seek efficiencies through the merging of back office functions like human resources, accountancy and governance support.”* We shall explore these issues in more detail later within this Report.

7.3.2 The reintegration was subject to significant planning and oversight. Timelines were prepared to track progress and a Task Group of key stakeholders and Council representatives was established to provide oversight.⁷ In October 2016, it was agreed that: *“a risk assessment be carried out to identify the potential impact of the reintegration of the housing service and the winding-up of the Trust.”*⁸

7.3.3 **Findings** – Our Review has uncovered the following which we consider to be of relevance during the reintegration:

- Beyond the ongoing reporting of KPI, there appears to have been very little consideration given by the Council to the state of housing compliance prior to the transition from the Housing Trust. We understand that a legal advice was provided to the Council, along with a due diligence questionnaire, but this did not highlight compliance matters.⁹ It was, in essence, to be ‘business as usual’.
- It was decided to merge relevant policies and edit them over time.¹⁰ However, during the BDO review two years later some Housing Trust documents were provided to BDO with the assumption that they remained ‘live’ documents within the Council. This would suggest a lack of ownership of the change, which was required to ensure that processes were still being followed post-reintegration. To the extent that new documents did exist, the fact that Housing Trust versions were provided during the BDO review raises questions as to whether the new version had been suitably communicated.

The decision not to conduct a fresh review of housing compliance policies and processes was a missed opportunity to reset the

⁷ Minutes of Housing Trust Management Board meeting – 11 October 2016

⁸ Minutes of Housing Trust Management Board meeting – 11 October 2016

⁹ Due Diligence Questionnaire dated 9 January 2017

¹⁰ Minutes of Housing Trust Management Board meeting – 7 December 2016

Council's approach and ensure that the reintegration was as seamless as possible.

It is not until recently that there is now a Policy Review Forum involving the Risk and Resilience Manager, the Health and Safety Officer, Compliance Manager, among others.

8. **Awareness of Compliance Issues – Reporting**

8.1 We have reviewed a significant number of meeting minutes and reports generated for various other meetings to understand the picture of compliance that was painted within the Council, and whether such revealed the need to investigate further.

8.2 **Meetings of the CMT**

8.3 We have reviewed the minutes of CMT meetings and reports provided to the same to review the knowledge of that body of people, and whether there was an opportunity to intervene. From a responsibility and control perspective, it is essential that the CMT is well informed about matters of compliance and has regular visibility of performance.

8.4 Nevertheless, the CMT is reliant upon appropriate reporting from those teams that sit below it within the Council. It would not be reasonably practicable for a body such as the CMT to investigate the accuracy of all data reported to it, absent a particular concern or trend.

8.5 We have broken down any salient points from our study of the CMT meeting minutes in the years leading up to the publication of the BDO Report in February 2020. In particular the receipt of Quarterly Health and Safety Reports produced by the Risk and Resilience Team. We note the explanation given as to purpose of the reports: *"The Corporate Management Team can be assured that the council takes a mature attitude to managing health and safety risks, concentrating our efforts on the identification and management of real foreseeable risks and not focussing on the trivial."* The awareness and actions of the CMT have to be seen in the context of this statement.

8.6 A number of KPIs were agreed as part of the Council's 2019 health and safety policy. The KPIs were intended to provide assurance to the CMT that the Council is meeting its statutory duty. We have selected particular highlights between 2017 and 2019 as indicated below:

8.6.1 **2017**

8.6.2 A Quarterly Health and Safety Report (for Q1 of 2017) was produced to update the CMT. It does not identify any significant non-compliances.

8.6.3 **2018**

8.6.4 A Quarterly Health and Safety Report (for Q1 of 2018) was produced to update the CMT. The report provides Q3 of 2017 performance for a range of housing health and safety matters. The statistics present a very favourable picture in relation to ongoing housing compliance.

8.6.5 A Quarterly Health and Safety Report (for Q2 of 2018) was produced to update the CMT. Again, there are no particular areas for concern raised.

8.6.6 **2019**

8.6.7 The meetings that took place in 2019, and the information provided to those meetings, is arguably more relevant to our Review. The meetings occur at a time proximate to the situation investigation by BDO. We have therefore spent significant time interrogating the figures provided in 2019.

8.6.8 We have reviewed the KPI statistics given to the CMT on 17 July 2019 which cover the period 1 April 2019 to 30 June 2019 and we can summarise as follows:

- Asbestos - From a housing stock of 8,893 properties with 444 communal areas requiring re-inspections, from 2018, 47 properties required urgent remediation. 37 of those had been completed with 10 remaining, of which 6 are identified as to be completed as part of ongoing works;
- Asbestos - 100% of communal areas, sheltered schemes, community centres had asbestos management plans and surveys;
- Fire - 100% of fire risk assessments have been completed. All 'Category A' actions have been completed and the balance are 'Category C' items;
- Gas Safety - There are three properties that do not have a valid and in date gas certificate, giving a compliance figure of 99.97%. All remaining cases have been referred to the legal team to obtain access;
- Electrical Safety - The communal areas do not require a re-test for another five years and suitable progress is being made in testing dwellings; and
- Water Hygiene - 44 remedial actions are outstanding but are said to be awaiting the completion of the required Section 20 process due to relatively high costs. It is confirmed that constant monitoring is being effected to ensure that the residual risk to the Council is minimal.

8.6.9 It is difficult to align the relatively good performance set out above with the findings of BDO and the work that was required during 2020/21. It may simply be that the lack of data ownership has resulted in an inaccurate picture being presented.

8.6.10 **Findings** - Having considered the reporting to CMT, we make the following findings:

- There was no specific minuted discussion of a property compliance issue within the minutes between 2018 and 2020, either to confirm compliance of the housing portfolio or otherwise. The CMT fell into the trap of being reactionary, and may only have become aware by way of exception reporting.
- The reports regarding property compliance were held on a virtual platform and there was no guarantee that they had been properly read and understood by CMT members.
- The KPI statistics provided to the CMT did not immediately flag significant issues with property compliance.
- The way that the compliance statistics were reported was not particularly user friendly, and would take a level of understanding to interpret whether the reported information gives rise to a particular issue.

8.7 **Reporting to the Cabinet**

8.7.1 The information that is passed from the CMT to Cabinet in September 2019 is particularly close in time to the findings of BDO, and represents the time period during which BDO's findings occurred. We note the following:

8.7.2 The KPI figures provided to the Cabinet for Q1 of 2019 report relatively minor issues with gas compliance: *"At the end of Quarter 1 there were 3 properties that did not have a valid and in date gas safety certificate from a housing stock of 8,893 properties containing gas."* This represented a performance of 99.97% and even for those properties, they: *"were all referred to the council's legal team to secure access through injunctions."*¹¹ With a housing portfolio exceeding 8,500 properties, it would be reasonable to assume that 99.97% compliance was not a cause for concern, especially as the remaining properties were being dealt with.

8.7.3 The same Cabinet meeting also considered a report produced by the Risk and Resilience Team referred to as 'Risk Management' which: *"brings to Members' attention the current strategic and top operational risks facing the Council, as determined by Corporate Management Team and Heads of Service. These risks*

¹¹ Key Performance Indicators – Quarter 1, as reported to the Cabinet

have been reviewed at the performance clinic in August 2019 and reflect the assessments in place for the quarter July 2019 to September 2019.”

8.7.4 In relation to the strategic risk of managing the Council’s housing assets, a score of ‘32’ is provided, with a probability score of ‘2’ and impact score of ‘4’ which gives an ‘amber’ rating. It is noted that the papers produced to the Cabinet do not include the scale or logic behind the score, which may have been explored in previous Cabinet meetings. Importantly, the comments section associated with this score makes no mention of issues relating to housing compliance.

8.8 **Findings** - Through our review of the reports sent to CMT, the minutes of those meetings, and the information passed from the CMT to the Cabinet, we are able to conclude:

- The information provided to the Cabinet during 2019 does not suggest any significant issues relating to housing compliance. At worst, a ‘low’ amber rating is given to housing compliance, with an associated explanation that matters are under control and improvements have been identified.

8.9 **Quarterly Performance Clinics**

8.9.1 We understand that a scale for rating top operational risks is used to indicate the following:

Red – High Risk (over 50)
Amber – Medium Risk (26-50)
Yellow – Low Risk (12-25)
Green – Very Low Risk (1-11)

8.9.2 We have seen what was reported to us as a draft Risk Report shared by the Risk and Resilience Manager which records Property Services (Housing) Compliance as having a current score of ‘Red’, being ‘75’ and well within the ‘High Risk’ category. The comment associated with that score states that no comment was made at a performance clinic in February 2018. The comment was recorded as having been last updated on 13 February 2018.¹²

8.9.3 We have sought to identify how long the ‘Red’ rating had been applied to this matter. The risk report for Quarter 2 (2017/18) delivered to the Cabinet on 5 December 2017 does not indicate a ‘Red’ rating.¹³ Similarly, the risk report for Quarter 3 (2017/18) delivered to the Cabinet on 6 March 2018 does not indicate a ‘Red’ rating.

¹² Top Operational Risks Report from April 2018

¹³ Performance Exception Report – Quarter 2 (2017-18)

- 8.9.4 We have also been provided with (what appear to be draft) records of a Quarterly Performance Clinic ("**the Clinic**") from May 2018 for Planning, Housing and Community. The report captures a range of information, including a section for reviewing Performance Indicators over the past two years.
- 8.9.5 This report provides a score of '27' and therefore 'Medium Risk' for Property Services (Housing) Compliance. The comment next to the score requests that the colour of the box entry (currently red) is changed, presumably because the score necessitates an 'Amber' colour.
- 8.9.6 As to why the change occurred, we understand from reviewing written correspondence from the Head of Property Services (Housing) on 30 April 2018 that there was an agreement with the Executive Director for Housing and Communities to reduce to 'Amber' and '27'. As both individuals are no longer employed by the Council, we have been unable to establish on what basis this agreement was reached.

8.10 **Annual Governance Statement**

- 8.11 We note the requirement for the Council to provide an Annual Governance Statement. Based on the information provided to the CMT and the Cabinet prior to early 2020, we can see no reason why the Council would not consider its governance arrangements to be fit for purpose.

9. **Awareness of Compliance Issues – The BDO Report**

9.1 As acknowledged within the self-referral to the Regulator, the findings of the BDO Report are not disputed. A question remains, however, around how a document generated in February 2020 did not appear to generate a significant response within the Council until some time later.

9.2 **Instruction of BDO**

9.2.1 The instruction of consultants such as BDO generates the need for approval within organisations such as the Council. It is an expense that needs careful consideration, both in terms of appointing a competent consultant, as well as agreeing a suitable scope of work and price in order to obtain best value.

9.2.2 The desire to appoint a consultant arose in later 2019. We understand from correspondence that we have seen that at least two members of the CMT at the time (and no longer working at the Council) were aware of, or involved in, discussions around the appointment.

9.2.3 BDO was appointed by way of a Letter of Engagement dated 9 December 2019. The letter was addressed to the Head of Legal and Governance Services and it is signed by someone described as a 'duly authorised representative of Welwyn Hatfield Council'. It is therefore assumed that there was at least one person within the Council, who had authority to sign-off an instruction worth approximately £16,000, that was aware of the work being undertaken.

9.2.4 It is our view that anyone involved in the instruction at a management or accountability level would then have been on notice to enquire as to the outcome of the same. However, we also note that those in procurement and legal functions may sign off a large number of consultant-based instructions and it would not be reasonable to expect the same individuals to inform themselves of the outcome of every one.

9.3 **Work of BDO**

9.3.1 It is noted within the BDO Report that 14 individuals were interviewed by BDO, at very senior levels within the Council including the Head of Property Services (Housing), the Risk and Resilience Manager, the Asset Manager, the Head of Public Health and Protection and the Corporate Director for Housing and Communities.

9.3.2 We expect that the role of BDO and the purpose of the discussion would have been explained, or the individual being spoken to would have enquired as to the same. It would have been for each of these individuals to raise queries regarding the outcome.

9.3.3 **Findings** – Having considered the instruction and work of BDO, we are able to conclude:

- A significant range of senior individuals, with responsibility for housing compliance, were aware of the work being conducted by BDO.
- Two members of the CMT (no longer employed by the Council) were aware of the instruction of BDO.

9.3.4 Many of the individuals spoken to by BDO have now left the Council and we have therefore been unable to ask them what follow-up was present, and whether they subsequently enquired as to the outcome of the work.

9.4 **Original Communication of the BDO Report**

9.4.1 We have sought to establish how the findings of the BDO Report were shared within the Council.

9.4.2 The distribution list included within the report notes four individuals, including the Corporate Director for Housing and Communities, Head of Property Services (Housing), Asset Manager and M&E Manager who were in post in February 2020.

9.4.3 The BDO Report was shared with the Compliance Manager towards the end of 2020 as remedial actions were being identified. It was also shared with a further consultant, Pennington Choices, which was appointed at the end of 2020 to carry out a data validation exercise, and to help the Council implement a robust roadmap towards full compliance. We understand why these two recipients did not question the communication of the BDO Report; having been appointed some months after the release of the 'draft' version, it would not seem to be an inquiry that needed to be pursued given their individual remits.

9.4.4 We have also spoken to a number of individuals who we would expect to have had knowledge of the findings in early 2020, but they report being denied access at that time on the grounds of confidentiality or were simply not aware of its creation until much later on.

9.4.5 **Findings** – In terms of the communication of the BDO Report and knowledge of its findings, we are able to conclude:

- The BDO Report was, to an extent, shared within the Council. The actions that occurred during 2020 could not have occurred without such sharing.

- At least one member of the CMT (no longer employed by the Council) received the BDO Report although we are satisfied that not all members of the CMT were aware of the report until Spring 2021.

9.4.6 Given the matters raised within the BDO Report, we have considered whether it was necessary to share the document more widely than it appears to have been in early 2020. In our opinion, the findings within the document, and the proposed action plan, were of such seriousness that they warranted being escalated to the CMT and Cabinet during 2020. Whilst many of the individuals within those forums did not have direct responsibility for housing compliance, they should have been informed because:

- there is a collective responsibility on the members of the CMT to assure the health and safety of members of the public; and
- the BDO Report corrected what was a misleading impression created by the previous internal reports generated and referred to above that housing compliance was a 'medium' priority at best.

9.5 **Knowledge of the CMT**

9.6 We have reviewed the CMT minutes for evidence of serious property compliance issues (being the ultimate conclusion of the BDO Report) being reported within the minutes of CMT discussions, or within the reports submitted to the CMT. This becomes even more important following the release of the BDO Report in February 2020.

9.7 We have reviewed the Health and Safety quarterly reports produced by the Risk and Resilience Team that were submitted via the CMT virtual clearance system which we understand is a digital platform where various reports can be accessed if an individual so wishes.

9.7.1 **May 2020**

9.7.2 The Risk Report was signed off for Cabinet during the meeting of the CMT held on 27 May 2020. Despite the BDO Report having been in existence for a number of months, the assessment of the relevant risk reported for the quarter of April to July 2020 remains at a score of '32' which provides an 'amber' rating. The comment associated with that scoring is of concern in light of the picture reported by BDO: *"We continue with our robust approach to stock condition surveying, to ensure that the planned maintenance programme is optimised, for the benefit of our tenants and council's housing asset."*

9.7.3 Whilst the report relates to the period of April to July 2020, it is noted that the comment was last updated on 15 January 2020. It is also noted that the Risk

Manager (being the Head of Housing Property Services) whose role appears alongside the figures is one of the recipients noted on the BDO Report. It is not clear if the rating reflects the findings captured within Q1, as per the Quarterly Health and Safety Report discussed immediately below.

9.7.4 **October 2020**

9.7.5 A Quarterly Health and Safety Report (for Q1 and 2 of 2020/21) was produced to update the CMT: "*on the health and safety work activities of the Risk and Resilience Team*". The main author was the Risk and Resilience Manager and the period covered was 1 April 2020 to 30 September 2020. As with previous reports, the CMT is: "*assured that the council takes a mature attitude to managing health and safety risks, concentrating our efforts on the identification and management of more significant and foreseeable risks and not focusing on the trivial.*"

9.7.6 The report document specifically refers to health and safety audit and review projects, but does not mention the work of BDO.

9.7.7 The Housing and Health and Safety KPI Statistics raise a number of areas of non-compliance:

- 101 'Medium' asbestos remedial actions are noted, but are scheduled for Autumn 2020;
- 2,408 FRA remedial actions are identified as of 30 June 2020; and
- a delay caused by Covid-19 is noted as a reason for the lack of electrical installation tests completed in Q1, with a recovery plan to be mobilised.

9.7.8 The above information contrasts with the information that was provided to the Cabinet by way of the Risk Report during the Cabinet meeting on 14 October 2020 (and signed off by the CMT in September). Again, this rated matters of housing compliance between July and September 2020 at '32' and 'Amber' from a maximum score of '125'. The comment associated with this score was: "*Property Services continues with its programme of stock condition assessments.*" It is not clear why the rating given to Cabinet did not change as a result of the Health and Safety KPI Statistics referred to above.

9.7.9 **Findings** – Having considered the formal reporting that took place following the delivery of the BDO Report, we can conclude:

- The BDO Report was not discussed in CMT or Cabinet meetings.

- The Risk and Resilience Manager who authorised the Quarterly Health and Safety Reports had not had sight of the BDO Report.
- Despite the above, the contents of the report to the CMT in October 2020 were sufficient to warrant attention in relation to the state of compliance across the property portfolio. This information does not appear to have generated any change in approach to the way the risk was reported to Cabinet.

9.7.10 We have sought to understand why the Quarterly Health and Safety Report considered by the CMT in September 2020 did not flag potential compliance issues amongst the CMT. A number of reasons may be relevant:

- Members of the CMT did not read the Quarterly Health and Safety Report. The document is held within the virtual clearance section of the CMT minutes. There is no guarantee that it has been read.
- Members of the CMT that did read the Quarterly Health and Safety Report did not appreciate its implications. Without context and a competence in health and safety management, the reporting of pure statistics may not assist those who have to formulate an understanding of the potential risk. We understand that there is no requirement for any health and safety qualification as a member of the CMT, albeit there may be some members from time to time who hold such competence as a result of their role or background.

9.7.11 It is our view that it is more likely to be the latter of the above. In the absence of a specific issue being highlighted and reported directly to Council, the statistics contained within the Quarterly Health and Safety Report and submitted via virtual clearance would not have raised a particular concern with the CMT.

9.7.12 If there was considered to be a particular issue that required the attention of the CMT within its meeting, there was a process for such matters to be raised. We have seen evidence throughout the CMT minutes of such a process being used effectively.

9.7.13 **November 2020**

9.7.14 By November 2020, the BDO Report has been in existence for at least nine months, the Council has commenced the procurement of Pennington Choices and a Compliance Manager has been hired and charged with the resolution of the issues found.

9.7.15 There is no update or discussion of housing compliance progress evident within the CMT minutes for its meeting on 11 November 2020.

9.7.16 **2021**

9.7.17 The CMT minutes for early 2021 repeat the same patterns of information as the year prior. Housing property compliance is not raised as an area for major concern or intervention by the CMT.

9.7.18 It is noted that the minutes for the CMT on 3 February 2021 refer to changes that may be required in the housing and corporate compliance policies. It refers to a meeting with Pennington Choices to look at housing policies and corporate policies: *"in order to establish consistency across the board"*.

9.7.19 It is evident within the meeting minutes that an awareness of compliance issues becomes widespread from April 2021, with a range of actions and reporting then dealing with aspects of housing compliance. It suggests swift action and investment once the problems become known. It also suggests that the lack of mention of compliance problems prior to April 2021 is not due to poor minute keeping, but a lack of active discussion in the years prior due to the absence of awareness among some members.

9.7.20 We have not considered all of the actions taken by the CMT during 2021 in relation to housing compliance. There were significant changes made to reporting and monitoring from April 2021 onwards, as the Council sought to take control of compliance matters and engage with the Regulator on the same.

9.8 **Reporting to Cabinet**

9.9 We note the sensible decision to report the status of electrical, fire, water and asbestos checks to the Cabinet Housing Panel from November 2021, in addition to the exception report relating to gas safety already reported to Cabinet.

10. Identifying Root Causes

10.1 As noted at the beginning of this Report, we consider it important to identify, where possible, some of the root causes of the issues experienced within the Council. By seeking to identify and remedy the same the Council may prevent future similar occurrences.

10.2 We consider the following to have been causal factors:

10.3 Focus on Gas Safety

10.3.1 It is noteworthy that even within the Directors Report and Financial Statements 2015/16 for the Housing Trust, the only compliance KPI related to the percentage of gas servicing completed within the last 12 months.

10.3.2 Towards the end of 2020, the only compliance-specific role 'in post' reporting to the Compliance Manager position was the Gas Manager. The only other similar resource for areas of housing compliance was an Electrical Manager post that had been vacant since May 2020.

10.3.3 It should therefore serve as no surprise to learn that gas was one of the only areas of acceptable compliance when subsequently reviewed in 2020/21.

10.3.4 We have considered, and discussed with others, why gas may have come to the forefront. There are a number of possibilities:

- other areas of compliance were simply missed and / or forgotten;
- the Council employed a Gas Manager who historically sat within the Property Services Team, whereas other matters of compliance were managed by others without such a dedicated role;
- gas safety regulation is more widely known, and easier to audit and check; or
- the emphasis for statutory reporting is placed on gas safety, and therefore it is the area of compliance for which Council performance is most visible.

10.3.5 **Findings** – Having considered all of the above, we find:

- The focus on gas safety created an inaccurately positive picture of the way that housing compliance more generally was being managed. The exception reports communicated to the CMT and upwards to the Cabinet focused on gas, and showed rates of compliance above 99%. It may have been assumed that all other areas of compliance were of a similar standard.

- Compliance in other areas was capable of being achieved within the Council if they were given the same attention as gas safety. There was no insurmountable reason why compliance could not have been arrived at.

10.4 On a similar theme, a Fire Safety Management Group was established within the Council. We have not seen evidence of similar groups being set up for other property compliance risks.

10.5 **Lack of Complete Records**

10.5.1 The BDO Report highlighted the difficulties within the Council of having an accurate record of the properties for which it was responsible.

10.5.2 It was noted in meeting minutes from September 2019¹⁴ that an asbestos consultant had identified a discrepancy between the 452 properties identified with communal areas and the 438 properties that had been produced from interrogating Clearwater. The request is clear: *"We require a definitive listing, to assure Compliancy [sic]"*. Other issues were also uncovered, in relation to the asbestos survey reports that may have led to inaccuracies, including:

- surveys were available for a number of buildings but the original data had not been uploaded to Lifespan;
- there were instances where multiple blocks were surveyed in one report but all of the data was uploaded against the first block on Lifespan, with no data added to the other blocks; and
- there were instances of surveys completed for individual blocks but several blocks were grouped together on Lifespan.

10.5.3 The overall picture is then further confused in the same meeting a month later.¹⁵ A further list of all communal areas records 522 such locations, beyond the two numbers given the month prior. In any event it was noted that only 304 asbestos re-inspections had been performed out of (an assumed) 455 (changing from the previous month. The intention was to finalise the work by the end of December 2019.

10.5.4 Matters of compliance can only be assured if there are accurate records on which to base the reporting. We have concluded that such records did not exist within the Council until 2021.

¹⁴ Property Services Bi-Monthly Asbestos Management Plan Update – 20 September 2019

¹⁵ Property Services Bi-Monthly Asbestos Management Plan Update – 18 October 2019

10.6 Reliance on Exceptions Reporting

10.6.1 Given the range of activities that occur within the Council, senior leadership understandably does not have the resource to actively monitor performance of every single one. In many cases, it is reasonable to rely on an element of exception reporting, proceeding on an assumption that matters are in hand, unless the contrary is specifically raised. This is, however, on the basis that the reporting exists within a system with suitably robust governance and assurance processes.

10.6.2 A SIAS audit conducted into fire safety reported in August 2018 and provided overall 'satisfactory' assurance on the controls in relation to fire safety. SIAS only sampled 15 properties which appears to be a relatively low proportion of Council premises. Despite the fact that only a small number of properties were sampled, three 'medium' priorities were nonetheless raised:

- not all FRAs had been uploaded to Lifespan;
- actions resulting from FRAs are not being monitored for completion on a regular basis; and
- there are no formalised governance controls where performance is monitored and challenged at a local and board level.

10.6.3 Finding:

- Having considered the above, it seems unfortunate that there are significant parallels between the above findings, and those of BDO in early 2020. It would seem that an early opportunity to identify problems was missed. However, we are not critical of the matters not having been picked up as a report that concludes 'satisfactory' assurance would not have generated the necessary interest. It is also noted from the follow-up report (see below) that some remedial actions were taken.

10.6.4 A document that appears to have been created within the Housing Property Service in March 2019 set out the position of compliance at that point. It was noted that only eight per cent of FRA actions had been completed. We have not been provided with any other information as to how the document was communicated or why it was generated, other than a reference within the BDO Report to it being a FRA actions tracker.

10.6.5 A final follow-up report on fire safety was issued by SIAS in October 2019. The original report in October 2018 noted the need to ensure that all FRAs were loaded on to Lifespan. Additional resource was recruited in order to do so. There

was also a requirement to ensure that all actions are identified on Lifespan, allocated action owners and completion dates, and reported to the CMT. The Council also proposed setting up a Fire Safety Management Group to be attended by the Housing Property Services Head of Service, Compliance Manager, Housing Operations Head of Service and Asset Manager.

10.7 **The Impact of Covid-19**

- 10.7.1 When considering the response of the Council to the issue of housing compliance, the impact of the Covid-19 pandemic cannot be ignored. It had an impact on the availability of service providers and the ability to carry out face-to-face work.
- 10.7.2 Nevertheless, the guidance from the HSE throughout the pandemic is to continue with work that is legally required. We do not consider that the pandemic can be used as a reason for poor compliance performance in the context of housing.
- 10.7.3 We have noted the Health and Safety Q1 and Q2 combined report for 2020/21 which refers to the suspension of auditing and training as a result of the pandemic.
- 10.7.4 There is a feeling held by some within the Council that the Covid-19 pandemic has been used as an excuse for failing to progress compliance issues. A further example cited to us was a delay in completing legionella risk assessments.
- 10.7.5 We understand from other discussions, however, that business critical activities were identified during the pandemic and it was confirmed that there was no impact on such activities. There therefore appears to be a misalignment.

10.8 **High Staff Turnover**

- 10.8.1 We recognise that there will be turnover within any organisation, particularly during a pandemic where priorities and working lives may change. It was noteworthy, however, that the Council recognised it had a significantly high turnover issue, particularly during the CMT meetings held in 2021.
- 10.8.2 With regard to compliance, the crucial role of Risk and Resilience Officer / Health and Safety Officer was unfilled between 22 November 2019 and March 2020. We understand that recruitment was progressed and underway during that period. We have not seen any evidence to suggest that this gap was filled or covered in the interim. The post was subsequently redesignated as a Health and Safety Officer, with the role filled on 23 March 2020.¹⁶ The CMT was made aware in November 2020 that the deficit in staffing resource had a substantial

¹⁶

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effect on the achievement of the work programme within the team, and much routine work had slipped (albeit all urgent and responsive work had been addressed). It is assumed that the reference to a deficit is a reference to that in early 2020. It would seem that the collation of the reports for Q1 and Q2 means that this information is not formally provided to the CMT until later in the year.

10.8.3 It is also noted from the BDO Report that the Compliance Manager and Gas Manager were unavailable from October 2019 until the publication of the report in February 2020. It is said that the M&E Manager and Asset Manager had taken on their responsibilities.

10.8.4 If it is accepted that high turnover is simply the nature of the industry then the Council needs to ensure it has robust handover and interim processes. Particularly when dealing with matters such as compliance, the corporate memory of the organisation needs to be passed from the departing employee to the new starter. We have not found evidence that handovers were suitable and sufficient. In some cases, they appear to have been non-existent.

10.9 **Broad Job Descriptions**

10.9.1 Job descriptions for various roles fail to properly set out the relevant expectations with regard to housing compliance. Whilst we acknowledge the wider performance management processes within the Council including one-to-one meetings and appraisals, the formal job description document is nonetheless important in capturing role expectations and creating proper accountability.

10.9.2 Other job descriptions are unhelpfully onerous. We take the extract below from the job description for the Risk and Resilience Manager, where safety is only one part of the role:

"1. Ensure the council's compliance with the Health and Safety at Work Act 1974, including subsidiary legislation, regulations and guidance.

2. Ensure that the council's safety management system is adequate and effective, including arrangements for monitoring the health and safety performance of contractors.

3. Maintain a fit for purpose policy framework to ensure compliance with health and safety legislation.

4. Ensure the provision of an effective and timely safety advice and support to departments.

*5. To line manage the Risk and Resilience Officer.*¹⁷

- 10.9.3 It should be noted that the above role does not require any formal health and safety qualification, despite the safety-related responsibilities.
- 10.9.4 Some job descriptions fail to refer to housing compliance, when it should form an important part of the role. We note the job description for the Head of Property Services (Housing) which is skewed towards repair and maintenance rather than matters of compliance.
- 10.9.5 The requirements of the role of Health and Safety Officer are too broad for one person in a relatively low grade role. The CMT meeting minutes from 16 January 2020 refer to authority to recruit for two vacant Health and Safety Officer posts, but we have only ever seen one person in post and have assumed that the second post is a reference to the Risk and Resilience Apprentice role.
- 10.9.6 The role profile for the Health and Safety Officer includes:
- being the Council's statutory 'competent person' for the purposes of the Management of Health and Safety at Work Regulations 1999;
 - providing in-depth occupational safety and health expertise across the entirety of council operations;
 - carrying out auditing and monitoring across the full breadth of the council's operations and activities (including those carried out by third parties);
 - respond to and investigate work related accidents and near misses; and
 - organise and deliver health and safety training activities.
- 10.9.7 The required qualification is a Level 3 NEBOSH General Certificate in Health and Safety, which is a relatively basic course for such a role.
- 10.9.8 We also spoke to one individual who had been in post for 18 months and reported to us that they had yet to be provided with a role description. This appears unusual given the Council requirements for role descriptions to be generated as part of the recruitment and interview process, but either the document was not provided or communication of it was such that it did not have resonance with the individual concerned.

10.9.9 **Finding** – Having spoken to a range of individuals working within the Council, both new and old, we are able to conclude:

- Job description documents do not accurately capture the role, expectations and competency of each individual within the Council. This may lead to individuals being assigned duties beyond their ability and gaps developing that they are unable to fill.

10.9.10 We understand that some of the above concerns are being addressed through the issuing of role profiles that focus on key objectives and expectations of each role, rather than becoming too detailed with the minutiae of individual tasks.

10.10 **The Purpose of 'Risk and Resilience'**

10.10.1 We have some concerns over the use of the term 'risk and resilience' and whether it adequately captures the perceived role and functions of the individuals within the Risk and Resilience Team.

10.10.2 In early 2020, we understand that the compliance figures produced in the Quarterly Report from the Risk and Resilience team were provided by the Property Services Team. We understand that there was no interrogation of the figures.

10.10.3 The role of the team (captured within a report to the CMT in November 2020, as an example) was described as such: *"The day to day responsibility for assessing and managing risks rests with the Head of Service for the service area which creates the risk. It is the role of the Risk and Resilience team to support and audit this process and to make sure that these risks are being managed to an acceptable level, thereby ensuring senior management can have confidence that risks are being managed within the statutory framework."*¹⁸

10.10.4 **Finding:**

- The role of the Risk and Resilience team did not extend to audit and assurance of every risk, and in some cases it simply acted as a conduit for reporting.

¹⁸

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10.11 **Health and Safety Resource**

10.11.1 For the period in question, there has only been one Health and Safety Officer in post at the Council. This is marked in light of the broad expectations of the role captured elsewhere within this Report.

10.11.2 Organisations of a similar size and risk profile to the Council typically have larger health and safety teams. There was a perception that because of the limitation of resource, the provision of health and safety support was reactionary. This was exacerbated during the Covid-19 pandemic given the demands placed on all individuals within the Council.

10.11.3 With regard to the scope of the role, we understand that one of the incumbents in the Health and Safety Officer role was told that it did not include housing and compliance. Given all of the other demands on the role and the risks around silo working (discussed below), it is not surprising that there was no push back to include it 'within scope'.

10.11.4 The Health and Safety Officer in post at the time of the production of the BDO report did not have sight of it at the time of production. They had also not seen a copy prior to their departure some 18 months later despite requests for the same made to an individual no longer working for the Council.

10.11.5 **Finding:**

- The office of Health and Safety Officer has historically been over-stretched and under-resourced. The true nature of the associated responsibilities has also failed to crystallise in light of all those other Council employees with 'health and safety' as part of their remit.

10.12 **Multiple Systems**

10.12.1 The Housing Trust used a software package in order to record housing compliance.

10.12.2 Over the course of the period under investigation, we have not been satisfied that there is access to one centralised record of the properties under the control of the Council (or Housing Trust as it was) and the status of compliance with each.

10.12.3 With contractors performing work on behalf of the Council, a centralised asset register is vital to ensure that there are no gaps that give rise to risk.

10.12.4 **Finding:**

- The use of a variety of data systems with different inputs and data controllers created the risk of user error, overlaps or gaps in information, and the inability to create one consistent record for the purposes of assurance.

10.13 **Silo Working**

- 10.13.1 There appear to have been issues with the sharing of information and practices between the Risk and Resilience Team and the Housing Property Services Team. Given that there is a commonality when dealing with housing compliance, it does appear that opportunities were missed and the mentality of working in silos was exacerbated.
- 10.13.2 The line between different teams is also at risk of being blurred. By way of example, the fire door replacement project has the hallmarks of a piece of work associated with compliance, but it was in part dealt with as an asset management project.
- 10.13.3 By way of further example, the Fire Safety Policy document approved by the CMT in August 2018 notes that 'Corporate Property' assumes responsibility for managing FRAs in Council residential properties with communal areas. The remainder of the document then seeks to allocate responsibility to the Head of Service (Housing Property Services) and then the Asset Manager.

10.14 **Focus on Visible Issues**

- 10.14.1 Good compliance is often not appreciated until something goes wrong, be it a fire, an explosion, or an exposure to asbestos or legionella. Ideally, compliance is managed and it will not be visible to those occupying relevant premises.
- 10.14.2 Items such as repairs and new kitchens, etc. are much more visible and immediately linked to the enjoyment of premises. We believe that greater emphasis and attention has been placed on these matters by the Council as they are much more likely to give rise to complaints and / or dissatisfaction on which the rating of the Council will often be based.

10.15 **Reluctance to Come Forward**

- 10.15.1 We are concerned that during our Review we spoke to a number of competent individuals that had concerns historically about the way that compliance was being managed. We have asked ourselves why those individuals did not feel empowered to raise those issues.
- 10.15.2 There did appear to be a reluctance to be seen to 'rock the boat' within the Council. We were provided with a further example in relation to a property

within the Council portfolio that was suffering from poor maintenance. When the issues were finally uncovered, a report was found from many years prior detailing the same problems. It would appear that those involved in the original report had not felt the ability to communicate its findings to generate the necessary action.

- 10.15.3 Individuals within the Council have clear reporting routes to line managers, heads of services, the HR team and a whistleblowing line. Nevertheless, it has to be recognised that adapting to 'working from home' during 2020 created challenges to informal conversations and made 'joined up working' between different teams and individuals more difficult to achieve. We understand that the Council is underway with plans to support hybrid working.

11. **Current Compliance Process**

11.1 As part of our Review we have had cause to discuss the changes that have been implemented since the report made to the Regulator, as well as the changes planned to be implemented. Eversheds Sutherland was also instructed to assist with the original self-referral to the Regulator, meaning that we have a good awareness of the Council's intention to achieve compliance and its ongoing improvement journey.

11.2 We summarise the primary recent changes below, as well as our views as to the suitability or sufficiency of the same.

11.2.1 **Accurate housing register**

11.2.2 We are confident that through the work of the current Compliance Manager and the various contractors and assistants within the Council, there is now an accurate register of the property under the control of the Council, and the compliance status of the same.

11.2.3 **Comprehensive reporting**

11.2.4 We have seen various copies of the Compliance Register produced by the current Compliance Manager. It is user friendly and we believe it to be more capable of interrogation than previous iterations generated within the Council.

11.2.5 **Additional resource**

11.2.6 Whilst we believe that resourcing still remains a challenge within the organisation, it has been alleviated through the addition of personnel within the Property Services Team.

11.2.7 It is also helpful to see the instruction of support from ARK Consulting where personnel cannot be brought into the Council immediately.

11.2.8 **Greater communication**

11.2.9 Whilst driven initially by the immediate response to issues being uncovered and the report to the Regulator, we have seen evidence of greater collaboration between the various teams with elements of housing compliance within their remit.

11.2.10 **Enhanced reporting**

11.2.11 In the immediate aftermath of the report to the Regulator, there has been enhanced reporting of property compliance matters to the senior leaders within the Council, the Chief Executive in particular.

11.2.12 Whilst this has to be viewed as a short-term measure to alleviate the various compliance concerns, we are hopeful that the senior team will continue with aspects of this communication channel.

11.2.13 **Improved competence**

11.2.14 We note that various members of the leadership within the Council have attended compliance awareness training sessions. Leaders are not required to have a detailed knowledge of legislation, but an awareness of what questions to ask to gain assurance is vital.

11.3 **Keeping Momentum**

11.4 Organisations are often at their most alert to compliance issues having just identified issues with it. There is an appreciation of its importance and a genuine desire to 'put it right'.

11.5 There is a risk in any organisation that enthusiasm wanes and memories fade, particularly as other matters take priority. We encourage the Council to address how it intends to retain the momentum behind housing compliance.

11.6 We understand that the Council has recently undertaken a review of its management structure. As with the integration of the Housing Trust, any such changes need to be carefully managed to ensure they do not distract from the management of compliance, or create gaps where failures could arise.

12. Glossary

Term	Meaning
BDO Report	The report prepared by BDO in February 2020
CMT	Corporate Management Team
Council	Welwyn Hatfield Borough Council
FRA	Fire Risk Assessment
Housing Trust	Welwyn Hatfield Community Housing Trust
HSE	Health and Safety Executive
HSWA	Health and Safety at Work etc Act 1974
KPI	Key Performance Indicator
Order	Regulatory Reform (Fire Safety) Order 2005
Regulator	Regulator for Social Housing
Review	The review process undertaken by Eversheds Sutherland
SIAS	Shared Internal Audit Service

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