

Audit & Governance Committee
12 March 2025

Tree Management Update report

Purpose of the report:

To provide an update to the Committee in relation to progress against the outstanding actions from the Tree Management Internal Audit report completed in February 2023 and the follow up review in April 2024.

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Recommendations:

It is recommended that:

1. The committee note that the outstanding actions in the Tree Risk Management Internal Audit for the service are now complete.
2. The committee acknowledge the legal discharge of all legal liabilities in relation to Tree Risk Management to Academy schools via lease clauses could depend on individual circumstances and whether the Council has acted reasonably.

Introduction:

1. A review of tree management was completed by Internal Audit in January 2023 the following areas identified to address were:

High Priority

- 1.1. The Council's Tree Risk Management Policy
- 1.2. Adoption and publication of the policy
- 1.3. Reporting of tree management risks
- 1.4. Review of school leases, and
- 1.5. Liaison with the Corporate Health and Safety Officer

Medium Priority

- 1.6. The Joint Tree Risk Management Policy with Hampshire County Council for the Basingstoke Canal

2. Partial assurance was given as actions 1.3, 1.4 and 1.6 had incurred delays. A follow up review in April 2024 also resulted in an audit opinion of partial assurance as the expected actions still needed to be updated.
3. This report provides an update on progress made in relation to addressing those areas that were given partial assurance.

Tree Risk Management

4. The Internal Audit report concluded that functionality of the current tree management system in use, Kaarbontech, lacked high level reporting abilities. This had an impact on the ability to provide reporting to senior management as part of internal escalation processes. The original action was to transfer all tree management data onto the new Confirm Management system.
5. A delay was incurred whilst the new Confirm reporting system was implemented and then evaluated for tree risk reporting purposes. This review concluded Kaarbontech remained the optimal system for tree management, and reports would be best provided using a dashboard approach. A dashboard has now been created to draw data from the Kaarbontech system to enable reporting on the following key performance indicators:
 1. How many inspections have not been completed with the policy timeframe, specifically identifying how many of these are for schools; and
 2. How many actions or works are complete within the recommended time frame by priority level or level of urgency.
6. The data from Kaarbontech can be downloaded at any time but will be drawn quarterly for regular reporting via senior managers to Directorate Leadership Teams. The first update was provided on 19th February (see Appendix A) and the next one is due by mid-April for the final quarter of 2024/25. The same system is used by Highways and whilst this doesn't currently preclude joint reporting, the two Kaarbontech systems are being integrated this summer to reduce costs and streamline practices.
7. Reporting on these key performance indicators will be included in reports to the Performance Outcome Groups and Boards in 2025/26.

Review of School Leases

8. The Internal Audit identified a risk relating to the management of trees in academy schools and concerned Council liability if there were an accident. There was uncertainty as to which of the leases contain a clause absolving the Council of their responsibilities in relation to tree management.
9. An action to review all school and academy leases to identify where risk continued to sit with the Council had not taken place due to lack of

resource within the legal team and the need to request all 165 leases from storage.

10. The follow up review set actions for the legal team to review all leases for provision of a clause on tree management. This was later amended to include a review of a clause for Health and Safety. This review has been completed and the risk of liability associated with tree management on academy sites is covered by a generic health and safety clause present in all of the leases.

11. For reference, clause 3.7.2 in the Statutory Obligations section of the lease says:

*'As soon as reasonably practicable to give written notice to the Landlord of anything arising or being in the Property **which may endanger or adversely affect health or safety** and which might give rise to a duty of care imposed by common law or statute on the Landlord in favour of the Tenant or any other person;'*

12. Health & Safety (H&S) risk from trees is not specifically referred to in most leases, but the threat and liability associated with tree risk to health and safety under common law and statute is covered in clause 3.7.2. To ensure this is clear to the 165 Academies with leases from SCC, each school was sent a letter in February 2025 clarifying the requirement and their responsibilities under the relevant clause. It explains the Council's minimum recommendation to carry out tree inspections every two years. A copy of the letter is included as Appendix B. All new leases will continue to contain this clause, with communication to reflect the above.
13. Whilst all actions owned by the Natural Capital team have now been completed (the Internal Audit team are in agreement with this statement in their latest draft report), the team is not able to provide assurance on how robustly academies are responding in practice. Some assurance can be provided by integrating questions on tree risk to the questionnaire issued to academies annually on their compliance by the Land and Property Team. This will be included in the questionnaire in 2025/26.
14. The 9 schools currently negotiating leases with SCC as part of the "academisation" process are being treated in the same way as SCC maintained schools with inspections continuing by SCC inspectors. The schools are then responsible for any works recommended.
15. Providing absolute assurance that schools are fully liable for all health and safety matters will depend on the strength of the clauses in their leases and relevant legal precedent. It will also depend on the circumstances surrounding an individual case and whether the Council has acted reasonably as a landlord. These legal points are being tested using appropriate legal counsel as needed.

Basingstoke Canal

16. The joint policy with Hampshire County Council (HCC) in relation to tree management on the canal was delayed due to changes in the governance of the Basingstoke Canal Authority, and the mutual adopting of new arrangements to simplify processes and allow for joint policies. Formerly all operations on the Basingstoke Canal adhered to HCC policies. The joint policy which integrates and reflects Surrey County Council's Tree Risk Policy principles, was formally agreed in October 2024.

Conclusions:

17. There has been substantial progress since the last internal audit review, and all outstanding actions are now complete.

Financial and value for money implications:

18. None, all actions were completed and there are no financial implications beyond those already costed with service budget envelopes for tree risk management.

Equalities and Diversity Implications:

19. An EIA is not required for this update.

Risk Management Implications:

20. Tree Risk is regularly reviewed by the Directorate Leadership Team, as well as through a collaborative working group between Highways and Environment. It is a standing item on the Place Directorate's Risk Register.

Legal Implications – Monitoring Officer:

21. Academy Trusts are required to comply with health and safety legislation in their own right. Existing leases already contain provisions which require individual academies to notify the Council as landlord of any issues that have implications for health and safety. It is recognised however, that a landlord cannot simply divest health and safety obligations to a third party. Appropriate advice is being sought as to the extent to which the Council can take comfort from the existing lease provisions and whether there is anything further that can be done to ensure health and safety compliance in academy schools.

Next steps:

22. All outstanding actions are now complete. No further action required.

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Appendices:

- Appendix A: Email to Executive Director 19th February 2025
 - Appendix B: Letter sent to all Academy Schools by 24th February 2025
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Appendix A Email to Executive Director 19th February 2025

Dear Simon and Carolyn,

Please find below two tables which set out the current position in relation to tree risk management on land owned and managed by SCC (excl Highways). The tables set out two key risk factors: the number of inspections we are behind on by type of property and works outstanding for the three main areas of activity recommended by inspections:

Inspections:

No. of inspections by district we are behind on (let's highlight how many of these are schools)

Borough/ District	Number of properties total due 2025	Number of properties overdue (L&P / Countryside)	Number of schools overdue
Elmbridge	34	3	1
Epsom and Ewell	17	0	1
Guildford	64	6	0
Mole Valley	76	3	1
Out of County	3	1	0
Reigate and Banstead	53	2	10
Runnymede	29	9	0
Spelthorne	29	14	0
Surrey Heath	24	10	0
Tandridge	46	0	1
Waverley	57	5	0
Woking	41	7	1

Inspections operate in a cyclical manner within the calendar year, and we aim to have them all up to date by the end of the financial year. The Council's Arboricultural Inspectors are allocated specific districts. The team are currently one officer short and down 20% on inspection resource. Whilst the rest of the team try to prioritise

urgent inspections to cover the area with no Arb, this is still behind the others. Due to the freeze on spend at the end of this year, external support has not been brought in to carry out inspections where they have fallen behind, and the replacement post will not begin until after the 1st April 2025.

Status of Three Key types of Works Recommended:

No. of actions by 'Priority' number

Action	P1	P2	P3	P4	P5	P6
Recommended						
All types of Felling	0	8	168	171	298	115
Remove all deadwood	0	1	35	110	108	5
Reduce Crown	0	2	4	18	31	6

P1 to P3 actions are of most concern and prioritised in budgets. They are recommended to be completed within three months of the inspection report.

This report delivers one of the actions in the Audit on Tree Risk Management and will be reported to you quarterly. To bring them in line with financial quarters, we will report to you in April at the end of the fourth quarter of 2024/25 and then in July, October, January and April of each year.

Please do let me know if you have any queries, happy to discuss and bring in James on the detail.

Regards
Katie

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Please note that in the interests of open government, all correspondence may be disclosed to the public and may be summarised for inclusion in committee reports. If you do not wish for your personal details (i.e. name and address details) to be made public please notify me of your intentions in your response.

Appendix B: Letter sent to all Academy Schools by 24th February 2025

Dear X,

Tree Risk Management

I write further to the County Council's survey issued during summer 2024.

The survey aimed to provide the Council with assurance tree safety measures were in place, with trees regularly being inspected and any recommended works being undertaken. It also asked whether you were interested in procuring these services from the Council's Arboricultural team. Unfortunately, we have not received many responses to the survey, despite several follow emails. Therefore, the Council is writing to remind all Academy schools of their obligations with regard to tree safety.

Whilst the management of tree risk is for the school to determine, the Council recommends tree inspections by a qualified Arboriculturalist of all school grounds are undertaken no less than every two years and that any recommendations for works are carried out within the prescribed timeframe to British Standards.

A list of approved Contractors can be found on the Arboricultural Association website: [Arboricultural Association - ARB Approved Contractor Directory](#).

If you have any questions or queries about this email, please do contact me.