

Wednesday, 15 May 2024



Corporate Health and Safety

Purpose of report:

To provide an update on the progress made implementing the actions from the Orbis internal audit report published in October 2023 on Health and Safety Governance Arrangements.

To provide an update on the improvements made to comply with the Health and Safety Executive (HSE) Improvement Notice dated 11 April 2023. In addition, the report includes a review of health and safety performance across schools and care homes.

Introduction:

1. The purpose of the internal audit was to provide assurance that effective governance arrangements were in place to embed health and safety within the organisation, with clearly defined roles and responsibilities for officers and elected members. The audit report provided partial assurance, meaning there were weaknesses in the system or levels of non-compliance.
2. During September 2022 and March 2023, the HSE carried out a programme of asbestos inspections across 400 primary and secondary schools in England, Scotland, and Wales. The purpose of the inspections were to assess how schools were managing risks from asbestos.

Following a visit to Oakwood community school in March 2023, an Improvement Notice was issued to Surrey County Council on 11 April 2023. The notice was issued for failure to effectively manage the risks arising from asbestos containing materials present in 104 schools where Surrey County Council is the employer. Since the notice was issued, the number of schools has reduced to 97 due to schools converting to academies.

3. The focus of this report will be to update the Committee on implementing the actions from the audit report, compliance with the Improvement Notice and a general update on health and safety performance across schools and care homes where Surrey County Council is the employer.

Internal Audit Report

4. There were 10 findings; 2 categorised as high risk, meaning there was a major weakness and 8 categorised as medium risk, meaning existing procedures have a negative impact on internal control. Each action has a responsible officer and target implementation date.

High risk actions

- a. Health, safety and wellbeing strategy and action plan. A draft strategy and action plan for the period April 2024 to March 2026 has been developed and will be presented to the Central Joint Health, Safety and Wellbeing Committee on 16 May 2024 for approval and monitoring.
- b. Reporting to Elected Members. A health and safety update will be provided to the May Resources and Performance Select Committee.

Medium risk actions

- c. 7 of the 8 actions have been completed:
 - The 2023 Health, Safety and Welfare policy was signed by The Leader and the Chief Executive. The policy is reviewed annually and has now been replaced with a signed 2024 policy.
 - The Central Joint Health and Safety Committee has been renamed the Central Joint Health, Safety and Wellbeing Committee, with a revised Terms of Reference, membership, and a standing agenda. It is chaired by a member of the Corporate Leadership Team (CLT). CLT will rotate the chair of the committee annually.
 - The agenda for the Central Joint Health, Safety and Wellbeing Committee includes an update on inspections and audits completed, which incorporate risk assessments from high-risk areas.
 - The minutes of the Central Joint Health, Safety and Wellbeing Committee are provided to the Corporate Leadership team and an annual update will be delivered on Health, Safety and Wellbeing performance from May 2024, once the strategy has been approved.
 - New health and safety key performance indicators were included in the March 2024 Organisational Effectiveness report. These will be reported quarterly.

- Reporting of Injuries, Diseases and Dangerous Occurrence Regulations (RIDDOR) to the HSE are reported monthly in the Resources Activity and Demand report.
 - Health and safety training for elected members was delivered on 25 March 2024, in a Member Development Session. 26 Members attended, with the session recorded and uploaded onto the Member Portal for the councillors who were unable to attend.
- d. The remaining action is health and safety training for senior management. Health and safety refresher training for executive leaders will be delivered when the new Chief Executive starts.

Health and Safety Executive Improvement Notice

5. The Improvement Notice detailed 9 areas where effective arrangements to manage asbestos in SCC schools were required:
- a. Identification of roles and responsibilities
 - b. Site-specific Asbestos Management Plans (AMPs)
 - c. Training
 - d. Identification of Asbestos Containing Materials (ACMs)
 - e. Asbestos registers
 - f. Asbestos condition monitoring
 - g. Asbestos remedial works
 - h. Work liable to disturb Asbestos Containing Materials
 - i. Monitoring and audit arrangements

Additionally, SCC were unable to provide information to the HSE about the arrangements to manage asbestos in schools where it is the employer, who were not buying asbestos re-inspections through the Council.

6. A letter was sent to the health and safety inspector on 5 June 2023, outlining the Council's response to the 9 points and its progress on addressing these areas:
- a. A review of roles and responsibilities identifying the joint duty holder actions.

- b. A review of the current AMP used by SCC to incorporate the changes the HSE made to their AMP template. These will be provided to all schools where SCC is the employer, including those not buying back re-inspections through the Council.
 - c. The delivery of mandatory duty holder and responsible person training to cover legislation, local policy and management of asbestos.
 - d. Access to SCC's asbestos contractors electronic register that holds both historical and current information on ACMs for each school.
 - e. Each school also has access to its specific asbestos register through the electronic asbestos management system.
 - f. Where schools are in SCC's asbestos re-inspection scheme, surveys are undertaken to monitor the condition of asbestos. Schools where SCC is the employer who were not purchasing re-inspections through the Council were contacted to review their arrangements.
 - g. SCC will receive updated copies of reinspection/monitoring surveys. Where ACMs have been identified for removal SCC will action the removal.
 - h. Where asbestos is clearly identified around an area where work is to be undertaken, it will be specifically highlighted in the project specification.
 - i. The 23 employer schools not in the asbestos reinspection scheme will be inspected by SCC to review their asbestos management arrangements. Targeted inspections of sites will be brought forward with monitoring inspections undertaken over the next two years.
7. The HSE emailed a reply on 5 September 2023, acknowledging SCC's progress towards compliance in all but one area: ensuring effective monitoring and auditing of arrangements at the 23 schools not buying asbestos re-inspections through the Council.

Clarification on the approach to monitoring was sent in a follow up letter to the HSE on 29 September 2023:

- The two-year timescale is to undertake asbestos monitoring inspections in all schools where SCC is the employer.
- Where a school is not buying back inspections through SCC and their management plan identifies Asbestos Containing Materials, they will be monitored annually.

The Council has not received any further correspondence related to this letter.

8. All the actions identified in the response to the inspector have been implemented.
9. On 27 February 2024 the HSE contacted SCC requesting a meeting to follow up on their previous contact. The meeting was held on 25 March 2024. As a result of this meeting, the Health and Safety and Land and Property Workforce and Facilities teams are working on a joint approach to audit and monitoring in schools where SCC is the employer. This will commence in the summer term (15 April to 22 July 2024).

Health and safety performance in schools and care homes

10. Surrey County Council is the employer in 97 schools. It has 12 children's homes, 3 that opened in 2024.
There were 3 adult care homes, 2 for older people and 1 for people with learning disabilities in June 2023. All 3 homes closed at the end of December 2023. As the employer, the Council holds overall accountability for health and safety.
11. Children's homes and schools are regulated by the Office for Standards in Education, Children's Services and Skills (Ofsted) and subject to an inspection framework, which includes a review of the premises and management of risk. Adult care services are regulated by the Care Quality Commission (CQC).
12. In a school the responsibility for the health and safety of staff and pupils is delegated to the head teacher and school management team. They have a key role in making sure risks are effectively managed on site.
13. The Council provides a dedicated health and safety resources hub and competent person(s) to support schools manage health and safety risks.
14. The health and safety team implemented a programme of monitoring visits across its schools and children's homes in October 2023. This is a 2-year rolling programme to check health and safety risks are being managed effectively. It completed 25 visits during the period October 2023 to March 2024.
15. Health and safety for adult care homes prior to their closure was managed by the service delivery team in the Adults, Health and Wellbeing Partnerships Directorate.
16. All workplace health and safety incidents involving employees and service users are recorded on OSHENS, SCC's online accident incident reporting system. Work-related deaths, specified injuries, and dangerous occurrences must be reported to the HSE as prescribed by the Reporting of Injuries, Diseases and Dangerous Occurrences Regulations (RIDDOR) 2013.

Children's home data June 2023 to March 2024

- Number of health and safety inspections conducted = 10
- Total number of incidents reported on OSHENS = 119
- Incidents by type:
 - Abuse/threat/violence (non-injury): 14
 - Near-miss: 18
 - Injury: 87
- Number of RIDDOR reports = 1

Adult care home data June 2023 to December 2023

- Number of health and safety inspections conducted = 4
- Total number of incidents reported on OSHENS = 20
- Incidents by type:
 - Injury: 12
 - Dangerous occurrence: 8
- Number of RIDDOR reports = 0

Conclusions:

17. Effective governance structures are now in place to further embed health and safety within all areas of the Council.
18. Effective reporting and oversight arrangements through the Council's committee arrangements has been established, ensuring the Council can meet its health and safety duties and manage significant health and safety risks.
19. The health, safety and wellbeing strategy and action plan for 2024 to 2026 sets out the areas of focus and activities that will further improve health and safety performance.
20. The focus on reducing work-related ill health is an important addition to this strategy, and a priority area of focus for the Council and the Health and Safety Executive.

Recommendations:

21. The Committee is asked to note the progress made to implement an effective health and safety governance framework.
22. The Committee is asked to note the progress made to improve health and safety performance and manage the significant health and safety risks to the organisation.

Next steps:

23. The health, safety and wellbeing strategy and action plan for April 2024 to March 2026 will be presented to the Central Joint Health, Safety and Wellbeing Committee on 16 May 2024 for approval and monitoring.

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Sources/background papers

- Internal audit report – Health and Safety Governance Arrangements
- HSE Improvement Notice and Council's letters of response
- OSHENS incident reporting system

Appendices

Appendix 1: Audit report summary to Audit and Governance Committee November 2023 - **Health and Safety Governance Arrangements**

- 1.1 Health and Safety governance arrangements are a fundamental part of an organisation's governance framework. Effective governance relies on both an appropriate culture within the organisation that recognises the importance of the function, together with robust underpinning processes and procedures to facilitate the management of it.
- 1.2 We were asked by management to review arrangements and added this review to our agreed audit plan. The specific scope of our review was to ensure that:
- Effective governance structures were in place to embed health and safety within the organisation, with clearly defined roles and responsibilities;
 - Effective reporting provided senior leaders with the necessary information to scrutinise the organisation's significant health & safety risks and incidents; and
 - The Council's committee arrangements allowed for effective oversight and scrutiny of the function.
- 1.3 Key findings from our audit included:
- Refresher training had not been provided to the Corporate Leadership Team (CLT) or to Members in over twelve months;
 - Procedures for escalating serious health and safety incidents to senior management were inconsistent across directorates;
 - The absence of regularly reported key information could result in decisions being made without full oversight of relevant information;
 - Existing Key Performance Indicators had not been recently reviewed to consider if they remained useful;
 - There was minimal reporting of information on health and safety to elected members (apart from the Cabinet Member) to allow for strategic scrutiny and challenge; and
 - At the time of our audit the refreshed Health & Safety Policy had not been signed and formally ratified as expected.
- 1.4 We concluded that our final opinion was borderline between Reasonable and Partial Assurance. However, taking into account the criticality of effective health and safety management, we determined that an overall opinion of **Partial Assurance** over the controls operating within the area under review was appropriate. We agreed ten actions with management to address identified weaknesses, of which two were of high priority and eight were of medium priority.
- 1.5 We will undertake a follow-up audit in this area in due course to ensure the expected improvements have been implemented.

Appendix 2 HSE Improvement Notice



Health and Safety
Executive

Health and Safety at Work etc Act 1974, Sections 21, 23 and 24

Serial Number **IN/SDP/110423/01**

Improvement Notice

Name **Surrey County Council**

Address **Woodhatch Place, 11 Cockshot Hill, Woodhatch, Reigate RH2 8EF.**

Trading as

I, *(Inspector's full name)* **Sally Parkes**

one of His Majesty's Inspectors of Health and Safety, being an Inspector appointed by an instrument in writing made pursuant to section 19 of the said Act and entitled to issue this Notice

of **The Council Offices, Station Road East, Oxted, SURREY, RH8 0BT**

Telephone number **N/A**

hereby give you notice that I am of the opinion that

(Location of premises or place of activity)

you, as **an employer**

are contravening the following statutory provisions :

**Management of Health and Safety at Work Regulations 1999, Regulation 5(1)
Control of Asbestos Regulations 2012, Regulation 4(3)**

The reasons for my said opinion are :

You have failed to implement effective arrangements for the planning, organisation, control, monitoring and review of the preventive and protective measures required to effectively manage the risks arising out of asbestos containing materials present in the community schools under your control.

and I hereby require you to remedy the said contraventions or, as the case may be, the matters occasioning them, by

5 June 2023 *(Date for compliance)*

and I direct that the measures specified in the Schedule which forms part of this Notice shall be taken to remedy the said contraventions or matters

Signature *Spakes* Date **11th April 2023**

An Improvement Notice is also being served on **N/A**

of **N/A**

related to the matters contained in this Notice

This is a relevant notice for the Environment and Safety Information Act 1988

Signature *Spakes* Date **4th April 2023**

NOTES

1. Failure to comply with this Improvement Notice is an offence as provided by section 33(1)(g) of the Health and Safety at Work etc Act 1974. Section 33(2) and Schedule 3A of that Act renders an offender liable, on summary conviction, to imprisonment for a term not exceeding 12 months or to a fine, or both. In England and Wales the fine is not limited. In Scotland any fine imposed summarily may not exceed £20,000. On conviction on indictment, an offender is liable to imprisonment for a term not exceeding 2 years, or an unlimited fine, or both.
2. An Inspector has power to withdraw an Improvement Notice or extend the period specified in the notice, before the end of the period specified in it. If you wish this to be considered you should apply to the Inspector who issued the notice, but you must do so before the end of the period given in it. Such an application is not an appeal against this notice. No extension can be granted where an appeal has been submitted.
3. The issue of this notice does not relieve you of any legal liability for failing to comply with any statutory provision referred to in the notice or to perform any other statutory or common law duty resting on you.
4. You can appeal against this notice to an Employment Tribunal. Details of the method of making an appeal can be found on the GOV.UK website at <https://www.gov.uk/employment-tribunals/make-a-claim>. An appeal can either be submitted online at the above website address, or by downloading form ET1 from that site (or you can use Annex 1 from: [presidential-guidance-statutory-appeals-20210616-003.docx](#)). Completed hard copy forms should be posted to either the Employment Tribunal Central Office (England and Wales), PO Box 10218, Leicester, LE1 8EG; or Employment Tribunal Central Office (Scotland), PO Box 27105, Glasgow, G2 9JR.

If you do not have access to the Internet, contact the person who issued the Notice and ask to be supplied with a hard copy of form ET1 and guidance T420: Making a claim to an Employment Tribunal.

Time limit for appeal

A notice of appeal must be presented to the Employment Tribunal before the end of the period of 21 days beginning with the date of the service of this notice (ie the date of service is day 1). The tribunal has the power to extend this period on its own initiative or on application, including where it was not reasonably practicable for the appeal to have been submitted in time.

The entering of an appeal suspends the Improvement Notice until the appeal has been determined or withdrawn, but does not automatically alter the date given in this notice by which the matters contained in it must be remedied.

The rules for the hearing of an appeal are given in The Employment Tribunals (Constitution and Rules of Procedure) Regulations 2013 (SI 2013 No 1237).

Public availability of information on all enforcement notices

1. The Health and Safety Executive (HSE), for its own purposes, records and monitors trends in the enforcement action it takes, and in the convictions and penalties imposed by the Courts. It is HSE's policy that this information should be brought to the public's attention. HSE also has a statutory obligation under the Environment and Safety Information Act 1988 to maintain a public register of certain notices. Details from this notice will therefore be stored on an electronic database, which is available on HSE's Website (www.hse.gov.uk).
2. Information on a notice will not be entered onto the database until after the right of appeal against the notice has expired. Where a notice is withdrawn or cancelled on appeal no entry will be made. Entries relating to notices served on individuals will be kept on the database for a period of 5 years from the date of issue. Notices served on individuals under the age of 18 will be removed sooner.
3. Personal information is dealt with in accordance with the Data Protection Act 2018.

Schedule

In order to comply with this Notice you should:

1. Put in place effective arrangements to manage asbestos in your schools, to include the following:
 - a) roles and responsibilities for managing the risks arising out of asbestos containing materials (ACMs). This should clearly delineate the actions to be carried out by the local authority and the school leadership teams;
 - b) preparation of site-specific written asbestos management plans which set out the management arrangements identified in this notice;
 - c) how key organisations and individuals with delegated responsibilities to manage ACMs throughout the directorates supporting schools and within each school have sufficient knowledge and training to allow them to carry out their role effectively;
 - d) identification of asbestos containing materials (ACMs), their location and condition, including in those schools which make their own local arrangements;
 - e) preparation of site-specific written asbestos registers which can be updated as required for each school – suitable for use by school employees and visiting contractors;
 - f) periodic monitoring of ACMs to determine the condition and recognise any deterioration, damage or other factors which would impact on the priority risk assessment, and how that is to be recorded;
 - g) how recommendations to remove, repair or encapsulate retained ACMs as identified by the material risk assessment and/or advice of competent person are to be completed. This needs to clearly identify how this work is managed between the local authority and the school leadership teams;
 - h) how work which is liable to disturb ACMs is to be managed, including work on the fabric of the buildings controlled by both schools and the local authority;
 - i) monitoring and audit arrangements to validate the effectiveness of the asbestos management arrangements and ensure that the arrangements are being followed, remain effective and that the risks are being controlled.

OR

2. take any other equally effective measures to remedy the said conventions.

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