

**EAST KENT HOSPITALS UNIVERSITY NHS FOUNDATION TRUST**

REPORT TO:	<b>BOARD OF DIRECTORS</b>
DATE:	<b>7 AUGUST 2015</b>
SUBJECT:	<b>SIX MONTHLY HEALTH &amp; SAFETY AND ESTATES STATUTORY COMPLIANCE REPORT</b>
REPORT FROM:	<b>DIRECTOR OF STRATEGIC DEVELOPMENT AND CAPITAL PLANNING</b>
PURPOSE:	<b>Discussion</b>

**CONTEXT / REVIEW HISTORY / STAKEHOLDER ENGAGEMENT**

East Kent Hospitals University Foundation Trust (EKHUFT), like many similar organisations, operates from a wide range of buildings which, because of the way they were constructed, or because they were constructed some time ago and are now too expensive to adapt to meet modern legislation, pose on going H&S and compliance issues for the Trust.

This is made all the more difficult by historical service growth within the NHS – often undertaken in the context of “mend and make do” or through adding additional space to existing facilities.

This report updates the Trust Board on issues arising and progress made since our last report.

**SUMMARY:**

The Trust being an organisation within the NHS and a place from which health care is delivered, is required under Department of Health (DoH) guidance and Health & Safety Executive law to be fully compliant with statutory law and guidance in relation to safe working environments and safe places for the public to visit and be treated in.

Key areas to note in this report:

- No HSE Notices or visits in the last 6 month
- Of the 3 Improvement Notices, from the Oct 15 visit, two have been complied with and the remaining notice has a deadline of September 2015.
- No H&S related RIDDOR reportable incidents or issues to escalate to Board
- No compliance claims made against the Trust in this period.

The Corporate H&S Committee has formed a subgroup to develop key H&S KPIs for the Trust, these will be developed following the H&S summit day in Sept.

**RECOMMENDATIONS:**

To note the report

**NEXT STEPS:**

N/A

**IMPACT ON TRUST'S STRATEGIC OBJECTIVES:**

SO1: Deliver excellence in the quality of care and experience of every person, every time they access our services

**LINKS TO BOARD ASSURANCE FRAMEWORK:**

AO1: Delivering the improvements identified in the Quality Strategy in relation to patient safety, patient experience and clinical effectiveness

AO2: Embedding the improvements in the High Level Improvement Plan to ensure the Trust provides care to its patients that exceeds the fundamental standards expected

AO3: Delivering Improvements in patient access performance to meet the standards expected by patients as outlined in the NHS Constitution and our Provider Licence with Monitor.

AO4: Improving the Trust's financial performance through delivery of the 2015/16 Cost Improvement Programme and effective cost control

**IDENTIFIED RISKS AND RISK MANAGEMENT ACTIONS:**

Failure to ensure adequate H&S management could see the Trust exposed to statutory fines and negative reputational damage

**FINANCIAL AND RESOURCE IMPLICATIONS:**

£625,000 has been allocated for legionella works at all sites for 15/16

£600,000 allocated to statutory compliance within total Backlog Maintenance budget of £2.3m.

Failure to satisfy the HSE of significant improvements made in the areas that Notices have been served could result in fines being imposed

£1m Asbestos claims contingency funding in place

**LEGAL IMPLICATIONS / IMPACT ON THE PUBLIC SECTOR EQUALITY DUTY:**

The Trust has a statutory duty as a health care provider and employer to safeguard patients and staff and to provide Health & Safety compliant environments.

The Trust is at risk of litigation from both Patients and Staff if found to be negligent in these areas.

**PROFESSIONAL ADVICE TAKEN ON ANY NOVEL OR CONTENTIOUS ISSUES**

Legionella advice is provided by Hertel Solutions as UKAS accredited specialists

Asbestos Surveying and professional support is provided by Asbestos Management Services (AMS) as UKAS accredited specialists

The Trust has in place its Statutory - Fire Authorised Engineer

The Trust has in place its Statutory Authorised Engineer (AE) for Compliance

The Trust has in place its Water Quality & Safety Group

The Trust has in place its Corporate H&S Committee with exec chair and divisional representation

Occupational Health Clinicians have been advising the Estates department in relation to staff health

**ACTION REQUIRED:**

**(a) To note**

**CONSEQUENCES OF NOT TAKING ACTION:**

The Trust will be in series breach of its Statutory duties in terms of H&S and Estates Compliance, relating to staff and patients. This could result in legal, financial and reputational damage in addition to DoH and CQC intervention. The HSE continues to take breaches in statutory compliance within the NHS seriously with several recently reported cases receiving considerable negative press and fines.

## 1. REPORT BACKGROUND

- 1.1. This six monthly report updates the Trust Board on the Trust's activities and overall progress, in relation to H&S and the Estates Statutory Compliance work plan.

## 2. Progress against priority H&S and Compliance issues

- 2.1. As outlined in the last report, the Trust identified its three highest priority areas in relation to H&S and estates compliance, these were;

- Legionella and water quality infections
- Asbestos
- Fire (specifically compartmentalisation)

### Legionella and water quality infections update

- 2.2. In Summary, Legionella remains the primary H&S and compliance risk for the Trust within the Estates' arena. As previously reported, the Trust continues to make good management advances in maintaining a safe water system for our staff and patients. The Trust continues to have legionella within its water system, but with the on-going management program in place the positive levels are being maintained within safe and manageable parameters. The Water Quality Group maintains its governance of legionella (along with other water borne infections) and no issues need to be escalated to Management Board from the group.
- 2.3. The Trust's management of Legionella and the potential risk issues are supported with the support of external resource and specialists at Hertel Solutions along with engineering professionals. A tender is shortly to be awarded for professional water engineering services and a second tender to award engineering works is in the market place for award later this year.
- 2.4. The Estates' teams and Hospital Managers have completed City and Guilds Legionella training to ensure a consistent and enhanced level of understanding and management knowledge across all teams. The Trust's management of the Legionella risk, remains focused on those activities outlined by the HPA and HSE as the correct approach to on-going management and include:
- accurate L8 Risk assessments of each site;
  - temperature management – cold and hot water systems must be maintained and monitored at below and above optimum growing temperatures respectively;
  - maintaining circulation to all parts of the systems;
  - removing all dead-legs and blind-ends – where Legionella can grow;
  - re-engineering parts of the system where required;
  - maintaining, flushing and descaling (Serco) of outlets; and
  - chemical treatment when warranted;
- 2.5 The decision to outsource water quality testing continues to be monitored but to date no issues need escalating to Management Board and results/quality continue to be monitored by the Trust's laboratory specialist.

- 2.6. Since the last report there have been 2 cases of babies testing positive for pseudomonas; both infections were not acquired from the Trust and no follow up is required.

### **Asbestos update**

- 2.7. As outlined in the last report, Asbestos materials, historically used widely in construction prior to the year 2000, remain an ongoing operational management issue for the Trust. This is not unique to EKHUFT, with the majority of similar organisations occupying complex older estates having the same ongoing and long term compliance, H&S and management issue.
- 2.8. Asbestos is best managed by remaining in situ, with a detailed covering survey minimising risk and exposure. All work is therefore referred through the site survey before approval to commence is granted and where significant projects are planned, detailed R&D surveys are conducted. When work is required in areas of high risk, particularly if significant amounts of material are to be disturbed, the Trust employs specialist licensed contractors to safely remove the material from site, prior to work commencing.
- 2.9 The three key management tools in place at EKHUFT are as follows:
1. Asbestos Management Plan (including surveys);
  2. Asbestos Training – all high risk staff have had training and all managers of high risk staff have had training. Further general awareness training, for low risk staff, is being considered for 14/15; and
  3. Asbestos emergency plan and procedures.
- 2.10. One issue of note for the Trust Board is that we have commissioned updated surveys of high risk areas at QEQM and to a lesser extent at other sites, given that the original surveys are now 10 years old in some locations. These older survey remain valid but over time infrastructure does deteriorate and therefore the surveys need updating.
- 2.11. The implementation of new management software (CAFM) into the estates team, as part of the FM service transformation, will greatly enhance our day to day management of asbestos and will support our management of potential staff exposure. The full asbestos surveys of all our sites will for the first time be available on hand held devices by operatives. Estates “jobs” including maintenance will require all staff to review and acknowledge the asbestos risk of an area before being able to proceed with the “job”, therefore providing a critical step in ensuring workforce knowledge and management of risk.
- 2.12. There are no specific Asbestos related issues to escalate to Management Board.

### **Fire compartmentalisation update**

- 2.13. As outlined in the previous report the Trust has identified a program of activity to address the estates fire compartmentalisation breaches. It is important that the Trust address any known areas of weakness and, as already reported, has commissioned a full survey across the Trust’s five main sites.
- 2.14. Since the last report each site has now been compartmentally mapped, with the respective areas being populated onto Micad (this step ensures that future breaches are managed and designed so as to ensure fire safety is

maintained). Much remedial work has been completed and identified breaches are being closed. This work is being monitored by the Strategic Fire Committee.

- 2.15. The Trust is also reviewing its Trust Fire Strategy, although all sites have valid fire evacuation plans and have been risk assessed, a coherent and interrelated Strategy is now required to inform future planning and fire management. The new strategy is underway and should be completed by the end of Q2.

### **3. COMPETENCIES AND GOVERNANCE UPDATE**

- 3.1 In summary the Trust continues to progress through its priority areas and the H&S work streams identified. Whilst reacting to HSE reviews and inspections, the Trust has ensured it remains focused on its long term strategy and through the framework outlined, is over time addressing ongoing and emerging H&S and Compliance issues.
- 3.2 As a result of continued Corporate H&S Committee activity, new governance documents have begun to help inform decision making within the Trust. Additionally new H&S policies have been ratified and uploaded to Share-point.
- 3.3 The key governance development relates to the H&S Summit being organised for September. A letter from the CEO, inviting Divisions, senior leadership and the HSE to a half day summit is a key commitment made by the Trust to the HSE. Essentiality the summit will focus on:
- developing and embedding H&S management into Trust governance;
  - address divisional H&S roles and responsibilities;
  - create H&S structures within Divisions; and
  - at the end of the work sessions make substantial progress towards achieve these goals.

### **4. RECOMMENDATION**

- 4.1. The Board is asked to note the report.