



Prevention and Control of Legionella

1 July 2003

Report to the City Council

Prevention and Control of Legionella in City Council Owned and Occupied Buildings

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Prevention and Control of Legionella

Preface

By Councillor Sue Anderson

Chair of the Licensing and Public Protection
Overview and Scrutiny Sub-Committee until June 2003



The task of the scrutiny exercise was to ensure that the Code of Practice was being adhered to by all council departments who had responsibility for its buildings and so ensuring the safety of users and employees.

The evidence was initially collected by sending a questionnaire to all departments. This method not only collected the information required but also immediately raised awareness of the issues and enabled departments to examine their procedures and to identify gaps. There was an increase in the number of buildings, which had been through a risk assessment following the receipt of the survey form. Verbal evidence enabled us to be reassured that work was being done to ensure compliance. Departments have been rigorous in their investigations and have either carried out work or produced action plans to ensure compliance with the Code of Practice. There is a recommendation within the report that there needs to be effective monitoring to ensure that action plans are adhered to. As the Council works towards devolution of services it is important to recognise that in future there will be multi departmental use of buildings and so the responsibility of adhering to the Code of Practice could become less precise. A system needs to be in place in order to check that responsibility for compliance to the Code of Practice is in place in all buildings.

The scrutiny committee members recommend that this Council introduces a corporate policy for dealing with the prevention and control of Legionella and that there is effective monitoring in place.

The members of the scrutiny committee are confident that the recommendations of the Code of Practice are being implemented in the majority of departments and will be in place in all departments by the end of the calendar year. It is important that there is a system of monitoring and control to ensure that this continues to be the case and that all users of our buildings are safe.

I would like to thank everyone who contributed to and participated in this scrutiny review.

Sue Anderson



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1: Summary

1.1.1 Recent cases of Legionnaires disease in the UK have raised concerns by staff and the public as to what the City Council is doing to control and prevent outbreaks in the buildings it owns and occupies. Although there are some very good regimes in place for the prevention of Legionella in some buildings, there was concern that not all buildings were being checked. Most departments responded very quickly to questions asked in the review. As awareness increased, positive actions were taken by many departments to deal with the issues raised and this should be commended.

1.1.2 The following key points were identified in the review:-

- The review itself prompted individual clients to have risk assessments carried out that had previously been missed
- By failing to carry out risk assessments on all its buildings the City Council is leaving itself open to prosecution
- Without any central register or monitoring it was difficult to gather and collate information from across the departments
- The City Council does not have a corporate policy for dealing with the prevention or control of Legionella
- In the event of a breakout of Legionella, the City Council does have robust procedures in place for dealing with emergencies, which have been tried and tested in the past
- The City Council has experts on risk assessment and prevention within Urban Design but this resource is not being fully used
- Other local authorities have recognised similar problems

1.1.3 As a result the following recommendations are made:-

- The City Council should establish a corporate policy for the prevention and control of Legionella
- A corporate register should be established to monitor that appropriate measures have been taken. This



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process should be managed centrally by the Corporate Asset Management Team and should include schools.

- Every building should have a nominated person who is responsible for ensuring that risk assessments and any corrective/preventative works are carried out. In addition, the nominated person would be responsible for holding and updating the site logbook (as required under the Code of Practice). It would be the responsibility of the Chief Officer to nominate, for all buildings they are responsible for, a competent person who has undertaken some basic awareness training on Legionella. The nominated person would not need to have an in-depth knowledge of the subject. It would however be their responsibility to ensure that risk assessments are carried out by an appropriate person.



2: Summary of Recommendations

	Recommendation	Responsibility	Completion Date
1	Establish a corporate policy for the control and prevention of Legionella	Deputy Leader	November 2003
2	Request that all Chief Officers and Head Teachers confirm in writing that risk assessments and preventative works are in place	All Cabinet Members	November 2003
3	Establish a central corporate register to monitor Legionella	Deputy Leader	November 2003
4	Nominate a person for every building to ensure that risk assessments are carried out	All Cabinet Members	November 2003
5	Report to the Local Services, Community Safety and Leisure O & S Committee on progress made	Deputy Leader	January 2004



3: Introduction

3.1 Background

- 3.1.1 The Health and Safety Commission introduced an Approved Code of Practice, entitled Legionnaires disease, on 23 November 1999, which came into practice on 8 January 2001. It dealt with the control of Legionella bacteria in water systems.
- 3.1.2 The code applies to the risk from Legionella bacteria and states that in order to comply with their legal duty employers and those with the responsibilities for the control of premises should:
- Identify and assess sources of risk;
 - Prepare a scheme for preventing and controlling the risk;
 - Implement, manage and monitor precautions if control measures are to remain effective;
 - Ensure regular monitoring of these systems and maintain essential control measures;
 - Keep records of precautions;
 - Appoint a person managerially responsible.
- 3.1.3 The recent cases of Legionnaires disease in the UK have raised concerns by staff and the public as to what the City Council is doing to control and prevent outbreaks in the buildings it occupies. Although there are some very good regimes in place for prevention in some of its buildings, there was concern that not all buildings were being checked or treated. In addition it appeared that the City Council had no overall policy or strategy to deal either with the prevention or control of the disease.
- 3.1.4 Based on these concerns it was therefore decided to conduct a Scrutiny Review into how the City Council carries out prevention and control of Legionella.



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3.2 Committee Membership

3.2.1 Members of the Sub Committee conducting the review were: -

- Councillor Sue Anderson (Chair)
- Councillor Reginald Corns
- Councillor Gordon Green
- Councillor Susan Burfoot
- Councillor Fiona Williams

3.3 Terms of Reference

3.3.1 The following terms of reference were agreed for the review.

- The City Council should be able to demonstrate that the health of the citizens of Birmingham is being protected and that the Council's policy captured all buildings over which the Council has control, including rented buildings such as Alpha Tower.
- Citizens and users, including City Council employees, should not be exposed to health dangers as a result of the Council's failure to comply with the recognised Code of Practice.
- Ensure that the City Council is operating within the law.
- Examine emergency planning arrangements within the Council to deal with an outbreak of the disease.

3.4 Method of Investigation

3.4.1 The Methodology for carrying out the review consisted of three stages:

- Firstly a desktop exercise was carried out where all Chief Officers were contacted and requested to supply information on what measures were in place for the control and prevention of Legionella within their departments. A random selection of schools who had opted out of the schools emergency repair scheme was also contacted. At the same time, relevant officers were contacted to supply information on the City Council's legal, health and emergency planning position. Other large Metropolitan Authorities were contacted to



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establish how they were approaching the subject. A questionnaire was constructed for this purpose.

- The second stage involved analysing the information received and following this up with both written and verbal requests, where necessary, for further information.
- Finally, where responses were still inadequate, Chief Officers were called in person to give evidence to the Licensing & Public Protection O & S Committee.

3.4.2 Copies of the requests together with the questionnaire are in Appendix A.



4: Findings

4.1 Position Within the City Council

- 4.1.1 Most departments responded very quickly to questions asked in the review. As awareness increased, positive actions were taken by many departments to deal with the issues raised and this should be commended. The review itself has prompted a considerable number of risk assessments to be carried out which had previously been missed.
- 4.1.2 The City Council currently does not have a policy on the prevention and control of Legionella. Nor does it have a policy on the overall management of risk assessments. There are, however, some very good practices in different parts of the Council. In particular, Leisure Services have a very good approach. However the review highlighted an overall disjointed and inconsistent approach to the subject by the City Council.
- 4.1.3 A summary of the responses from each of the departments is in Appendix B. Housing is one area worth highlighting, as it is in the process of carrying out risk assessments, which were not finished when this review was completed. However, it has presented a comprehensive action plan as part of the evidence gathering process and although the relative risks are likely to be low, particularly for domestic dwellings, given the scale of properties involved, over 80,000, some concerns remain until these are complete.
- 4.1.4 Responsibility for property is split, resting either with respective departments such as Housing or Education or it is managed corporately as with the Council House or Lancaster Circus. In addition there are buildings the Council currently leases such as Alpha Tower and others that it leases out to tenants such as those managed by Birmingham Property Services. Because of this fragmented scenario, collation of information was very difficult. There is no overall management or monitoring on the assessment of risks, prevention or control of Legionella across the City Council's buildings. Also there are areas where this leads



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to confusion as to where responsibility for statutory functions lies.

- 4.1.5 The City Council does have within Urban Design a dedicated team who manage risk assessments and the subsequent prevention and control measures on behalf of departments. In total they manage 300 to 400 assessments per year and employ specialist contractors to both carry out risk assessments and remedial and preventive works. Departments or schools can choose to make their own arrangements, which some do, although the review did identify some areas where this was not taking place.

4.2 Legal Position

- 4.2.1 The Health and Safety Commission have published an approved Code of Practice (L8) for the control of Legionella bacteria in water systems. This states that –

'A suitable and sufficient assessment is required to identify and assess the risk of exposure to Legionella bacteria from work activities and water systems on the premises and any necessary precautionary measures'

- 4.2.2 It also states that -

'In conducting the assessment the person on whom the statutory duty falls is required to have access to competent help to assess the risks of exposure to Legionella bacteria'

- 4.2.3 The assessment should include identification and evaluation of potential sources of risk and:

'The particular means in which exposure is to be prevented or controlled'

- 4.2.4 Where the assessment demonstrates there is no foreseeable risk or that the risk is insignificant no further measures are necessary.

- 4.2.5 Legal Services have advised that the ramifications for failing to follow the code could leave the Authority open to prosecution. Whilst this needs to be kept in perspective, the fact that the review has revealed a significant number of buildings where risk assessments were not being carried out shows that the potential is very real. This has now been addressed.



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4.3 Emergency Planning Arrangements

- 4.3.1 The City Council has a generic emergency plan to deal with any major emergency/accident. Although Legionella is not specifically mentioned the plan would cover any emergency arrangements. Environmental and Consumer Services Department would be the main contact with the Health Authority.
- 4.3.2 A copy of the plan for dealing with outbreaks of infectious diseases is attached to this report. (Appendix C)

4.4 Comparisons With Other Local Authorities

- 4.4.1 Responses were received from Liverpool, Sheffield, Newcastle Nottingham and Manchester. Generally speaking most of the authorities contacted experienced the same problems as Birmingham in terms of a lack of both a central policy and a means for checking and monitoring progress. Likewise, most were in the process of developing or looking at ways of improving the management of Legionella.
- 4.4.2 One Authority, Nottingham, did have a policy, which covered all aspects of prevention and control of Legionella. It is recommended this is used as a reference document.



5: Conclusions

- 5.1.1 Historically the City Council has only considered Legionella in installations where the risk was considered to be greatest, such as in water cooled air conditioning systems or in buildings with high risk occupants such as elderly persons homes or nurseries. Elsewhere the situation has been patchy. There is a legal requirement for risk assessments to be carried out on all buildings the City Council owns and occupies.
- 5.1.2 The Council does not have in place a corporate policy on the control and prevention of Legionella. This has resulted in a wide range of approaches across the Council. In some areas there have been very good regimes in place – in others risk assessments are only now being considered as a result of this review. It is difficult to gain an overall position as there is no central monitoring.
- 5.1.3 There is a need to improve the clarity of who is responsible for every building.
- 5.1.4 There are some good emergency planning arrangements in place in the event of a breakout.



6: Recommendations

- 6.1.1 The City Council should establish a corporate policy for the control and prevention of Legionella, which applies to every building it owns and occupies. This is particularly relevant with the implementation of devolved services where shared buildings will become more common. This will allow for a coherent and consistent approach to be adopted. It is recommended that Corporate Finance Asset Management draft the policy with help from the departments' property representatives and technical advice from Urban Design and Environmental Services.

	Recommendation	Responsibility	Completion Date
1	Establish a corporate policy for the control and prevention of Legionella	Deputy Leader	November 2003

- 6.1.2 Requests that all Chief Officers and Head Teachers confirm in writing that risk assessments and control mechanisms are in place for all buildings.

	Recommendation	Responsibility	Completion Date
2	Request that all Chief Officers and Head Teachers confirm in writing that risk assessments and preventative works are in place	All Cabinet Members	November 2003

- 6.1.3 A central register is established which monitors that risk assessments and checks/tests are carried out. It would be the responsibility of the Chief Officer to ensure an annual return is made. This would allow the City Council to satisfy itself that it is complying with the law. Where this is not the case, the City Council would have the opportunity to identify and take action. If carried out electronically, e.g. using Lotus Notes, then it should not be a particularly onerous task. This would cover all buildings and could be a model for all statutory testing. It is recommended that the Strategic Director of Resources take on this duty on behalf of the City Council. It is recognised that there may be



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resource implications as a result of taking on this corporate duty although it should not be significant. Where buildings are leased copies of records of risk assessments should be requested from the Landlord and kept on the central register so as to reassure staff that as an employer all reasonable steps are being taken to protect the safety of its employees.

	Recommendation	Responsibility	Completion Date
3	Establish a central corporate register to monitor Legionella	Deputy Leader	November 2003

- 6.1.4 Every building should have a nominated person who is responsible for ensuring that risk assessments and any corrective / preventative works are carried out. In addition, the nominated person would be responsible for the keeping and updating of the site logbook (as required under the Code of Practice L8). This would be the responsibility of Chief Officers to nominate, for all buildings, which they are responsible. The nominated person would be required to have a basic awareness of Legionella. The policy will need to ensure this is carried out and that regular monitoring and reporting processes are complied with.

	Recommendation	Responsibility	Completion Date
4	Nominate a person for every building to ensure that risk assessments are carried out	All Cabinet Members	November 2003

- 6.1.5 A report be produced six monthly to update on this.

	Recommendation	Responsibility	Completion Date
5	Report to the Local Services, Community Safety and Leisure O & S Committee on progress made	Deputy Leader	January 2004



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Appendix 1: Desk Top Research

A1.1 Questions sent out

Our Ref: AR110226/AMS

Date: 26th November 2002

Chief Officers

Birmingham City Council

Dear

Prevention & Control of Legionella in City Council Owned & Occupied Buildings

I am the Lead Officer undertaking a Scrutiny Review on behalf of the Licensing and Public Protection Scrutiny Sub Committee which is chaired by Councillor Sue Anderson.

As part of the evidence gathering process, I need to obtain information from all City Council departments on the practices of the city in the management and control of Legionella. With this in mind could you therefore forward the following information, with supporting evidence, no later than Friday 13th December 2002.

- What arrangements does your department have for carrying out Legionella Risk Assessments in the properties managed / owned by them?
- Are all the properties managed by your department covered by this policy?
- Details of the reporting and monitoring processes undertaken by your department in this process.
- Information relating to the 'competent' staff (as outlined in the HSC's Approved Code of Practice & Guidance) undertaking Legionella risk assessments and evidence of the assessments undertaken?
- Details of the external contractors responsible for undertaking risk assessments for your department along with supporting data outlining the risk assessments undertaken by them.

This information will be used for analysis and based on the information supplied by your department you may be called to give evidence to the Licensing and Public Protection Sub Committee on one of the following dates:

- 19th December 2002
- 7th January 2003

Should you need to discuss this issue further please feel free to contact me either by telephone or lotus notes.

Yours sincerely



Prevention and Control of Legionella

Our Ref: AR110226/AMS1

Date: 26th November 2002

Mirza Ahmad
Chief Legal Officer
Birmingham City Council

Dear

Prevention & Control of Legionella in City Council Owned & Occupied Buildings

I am the Lead Officer undertaking a Scrutiny Review on behalf of the Licensing and Public Protection Scrutiny Sub Committee which is chaired by Councillor Sue Anderson.

As part of the evidence gathering process, I need to obtain information from all City Council departments on the practices of the city in the management and control of Legionella. With this in mind could you therefore forward information about the City Council's legal obligations, with supporting evidence, no later than Friday 13th December 2002.

- Compliance with the procedures outlined in the HSC's Approved Code of Practice and Guidance.
- Legal ramifications for failing to comply with the identified specifications outlined in the code.
- Legal obligations for the City as Landlords
- Legal obligations for the City for Educational establishments who have opted out of the fair funding agreement
- Details of the reporting and monitoring processes undertaken by your department.
- Legal obligations in the use of external contractors with responsibility for undertaking risk assessments for the city.

This information will be used for analysis and based on the information supplied by your department you may be called to give evidence to the Licensing and Public Protection Sub Committee on one of the following dates:

- 19th December 2002
- 7th January 2003

Should you need to discuss this issue further please feel free to contact me either by telephone or lotus notes.

Yours sincerely



Prevention and Control of Legionella

Our Ref: AR110226/AMS2

Date: 26th November 2002

Carmel Morris
Principal Emergency Planning Officer
Birmingham City Council

Dear

Prevention & Control of Legionella in City Council Owned & Occupied Buildings

I am the Lead Officer undertaking a Scrutiny Review on behalf of the Licensing and Public Protection Scrutiny Sub Committee which is chaired by Councillor Sue Anderson.

As part of the evidence gathering process, I need to obtain information from all City Council departments on the practices of the city in the management and control of Legionella. With this in mind could you therefore forward information and evidence about the Corporate Emergency Planning Arrangements along with details of reporting and monitoring mechanisms, no later than Friday 13th December 2002.

This information will be used for analysis and based on the information supplied by your department you may be called to give evidence to the Licensing and Public Protection Sub Committee on one of the following dates:

- 19th December 2002
- 7th January 2003

Should you need to discuss this issue further please feel free to contact me either by telephone or lotus notes.

Yours sincerely



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Dear Head Teacher

Prevention & Control of Legionella in City Council Owned & Occupied Buildings

Further to the Licensing & Public Protection Scrutiny Sub Committee meeting held 26th November, the chairperson, Councillor Sue Anderson has requested the information outlined below. I am the Lead Officer undertaking the Scrutiny Review on behalf of the Licensing and Public Protection Scrutiny Sub Committee.

As part of the evidence gathering process, I need to obtain information from all City Council departments on the practices of the city in the management and control of Legionella. With this in mind could you therefore forward the following information, with supporting evidence, no later than Friday 13th December 2002.

- What arrangements does your school have for carrying out Legionella Risk Assessments in the properties managed / owned by them?
- Are all the buildings managed by your school covered by this policy?
- Details of the reporting and monitoring processes undertaken by your school in this process.
- Information relating to the 'competent' staff (as outlined in the HSC's Approved Code of Practice & Guidance) undertaking legionella risk assessments and evidence of the assessments undertaken?
- Details of the external contractors responsible for undertaking risk assessments for your school along with supporting data outlining the risk assessments undertaken by them.

This information will be used for analysis and based on the information supplied by your department you may be called to give evidence to the Licensing and Public Protection Sub Committee on one of the following dates:

- 19th December 2002
- 7th January 2003

Should you need to discuss this further please feel free to contact me (as detailed below) or Ann-Marie Scarlett (0121 303 1726, ann.marie.scarlett@birmingham.gov.uk) or Jeff Woolston (0121 303 7673, jeff.woolston@birmingham.gov.uk) by telephone or email.

Yours sincerely



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A1.2 Questionnaire sent to Local authorities

Our Ref: AR110226/AMS3

Date: 26th November 2002

Local Authorities

Dear

Scrutiny Review of the Prevention & Control of Legionella in City Council Owned & Occupied Buildings

I am the Lead Officer undertaking the above Scrutiny Review on behalf of the Licensing and Public Protection Scrutiny Sub Committee which is chaired by Councillor Sue Anderson.

As part of the evidence gathering process, I need to obtain information from other Local Authorities on their practices and procedures in the management and control of Legionella a view to gathering data on good practices to help shape our future service delivery in this field. Specific areas that require your input are outlined in the questionnaire attached to this document and I would be grateful if you could respond to this no later than Friday 13th December 2002.

The evidence gathered would be used for analysis and form part of the report to the Licensing and Public Protection Sub Committee and the final report to City Council in April 2003. If you would like a copy of my findings please let me know any information gained from this piece of work will be shared with all interested parties.

Should you need to discuss this further please feel free to contact me either by telephone or email (as listed below).

Yours sincerely



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QUESTIONNAIRE

What actions have the authority taken as employers and landlords with responsibility for the control of premises in complying with the requirements of the Code of Practice on Legionnaires Disease (L8).

1. *Does the authority have a policy for the control of legionella?*
2. *Are risk assessments carried out at all the authority's premises?*
3. *If not at all of the authority's premises, at which type of premises have risk assessments been carried out or are planned?*
4. *Are management and control measures carried out?*
5. *Does specialist contractor's or the authority's own staff carry out these measures?*
6. *What measures are taken to monitor their performance and effectiveness?*
7. *Is managerial responsibility undertaken at local level in the authority's premises?*
8. *Are monitoring and control records kept locally or centrally?*
9. *Does the Authority have a central point of contact for the management/control measures?*
10. *Are the management/control measures funded centrally or devolved to local budgets?*



Appendix 2: Individual Departmental Responses

A2.1 Social Services

- A2.1.1 Social Services advised they had conducted risk assessments and preventative works on those 'buildings considered to be most at risk'. This constituted a significant number of their buildings. Since the start of the review a further 15 buildings have been added for risk assessments to cover all of its stock.

A2.2 Housing

- A2.2.1 Housing submitted an action plan, which set out its programme for prevention and control of Legionella in the two areas it is responsible as a landlord for: -
- All its tenanted properties (80,000 properties)
 - Its operational buildings for staff i.e. depots and offices (64 properties)
- A2.2.2 The plan identifies work to be done, dates and nominated officers for both functions and programmes risk assessments and corrective works to be complete by July 2003. The plan was comprehensive and well thought through. However, the committee remained a little concerned that the work was only just starting as the review was completing primarily because of the scale of the exercise.

A2.3 Environmental and Commercial Services

- A2.3.1 Environmental and Commercial Services advised that prior to this review their department had received a comprehensive report on Legionella, which recommended that all of its buildings occupied by departmental employees should have risk assessments carried



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out. The dept advised these recommendations were fully implemented.

A2.4 Transportation

- A2.4.1 Transportation responded that 3 of its depots and 7 multi – storey car parks, (all of which have water systems for kitchens, toilets and showers), were not subject to any assessment or control. Again, as a result of the review, risk assessments have taken place.

A2.5 Education

- A2.5.1 The Education Department advised that for all of its non-school property, Legionella testing is carried out by Urban Design. For school properties, it confirmed that funding and responsibility is delegated to schools under the fair funding scheme. Where schools have joined the school emergency repair scheme, the checks are carried out by Urban Design. Otherwise schools have to make their own arrangements. To assist them the Education Department issues guidance notes on their statutory obligations. They also advised that an annual property visit is carried out and that schools are asked to confirm that statutory testing is carried out.
- A2.5.2 A cross section of schools not in the emergency repairs scheme were contacted direct as part of the research to ascertain what arrangements were being made.
- A2.5.3 The responses from those schools contacted confirmed that there were testing arrangements in place. This was, however, a relatively small sample.

A2.6 Leisure Services

- A2.6.1 This department covers Sport and Leisure, Parks and Nature Conservation, Museums and Heritage Projects, Library and Information Services, Community and Play Centres. It has a very diverse property portfolio with potentially some of the biggest risks. Not surprisingly therefore, Leisure gave by far the most comprehensive response explaining the processes and actions on a division by division basis. In summary they have in place a wide range of assessments and preventive works on all the very high risk buildings. This has now been extended to cover lower



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risk areas. The department also has good monitoring and reporting mechanisms in place to ensure compliance.

A2.7 Birmingham Property Services (Economic Development)

- A2.7.1 Birmingham Property Services advised that prior to the review there were no formal arrangements in place. However, they have now identified a total of 83 properties (out of a total of 7000) where there is a need for Birmingham Property Services to conduct risk assessments. These are currently being carried out. They also advised that where buildings are let commercially to a single occupier the liability for statutory testing rests with that occupier. Birmingham Property Services clarified the tenancy agreements with legal services to ensure this was explicit in the document. Legal services confirmed they were satisfied that this responsibility was clearly defined within the tenancy agreements.

A2.8 Corporate Finance and Asset Management (CFAM)

- A2.8.1 CFAM advised there are 46 buildings in the Central Administrative portfolio. CFAM play a strategic role on policy and advice. Budgets and day to day management responsibility's transferred to lead departments for the majority of the 46 buildings. The Lead Department is usually the department with the biggest occupancy within the building and they act on behalf of the rest of the occupants are the main tenant. CFAM have, however, retained the lead for a small number of buildings.
- A2.8.2 For those buildings which are leased, the responsibility for carrying out risk assessments and preventative work is split, with some buildings being the tenant's responsibility and others resting with the private landlord. In both cases, however, it is the lead department.



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Appendix 3: Copy of the Emergency Plan to Deal with Infectious Diseases Breakout