



Warrington Primary Academy Trust
Premises Management and Compliance Procedure

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1. Background

WPAT has a duty to ensure that buildings under their control comply with appropriate statutory, regulatory and corporate standards. Paper records have historically been used to record and check premises compliance but a new electronic real time monitoring system, called Parago, was implemented during 2022/23.

All WPAT schools employ the services of independent external Health and Safety Auditors to undertake annual audits. These are reported to Local Governing Committees and improvements overseen by the Health and Safety Governor.

In addition the Estates Manager at WPAT also conducts a full compliance inspection (in the form of a RAG report) at all sites 3 times per year. The summary is reported to Audit Committee and Trust termly.

Trusts now regularly face challenges in terms of their ability to control and manage what goes on in buildings which they lease from the Local Authority for 125 years and which are used by staff or clients for which they have legal responsibility.

In addition to this Trusts, are faced with a wide range of Health and Safety responsibilities that are shared with building occupiers. WPAT have policies and procedures in place to ensure everyone is aware of their responsibility for compliance, e.g. this document. This sometimes needs to be delegated to school staff in individual properties but wherever possible the central team led by the Estates Manager will reduce the burden on the school.

This document highlights the key areas of premises compliance monitoring. It establishes the status of each area (e.g. statutory, recommended good practice), suggests good practice frequencies and provides links to further information.

This document is not a legal document and should be read as a guidance note for those responsible for the management of the WPAT estate. The aim of the document is to provide a summary of relevant responsibilities and to assist Maintenance Officers to organise appropriate testing and inspection of systems and equipment within their premises.

A great deal of the content of this document can be related to all building types however, there are specific items, that require monitoring in schools and they are specifically covered in this guide.

This document cannot replace professional advice and all staff with specific estate responsibilities are strongly advised to obtain such advice.

Please note that this document only covers English Law.

2. Introduction to Legislation

The basis of British health and safety law is the Health and Safety at Work etc. Act 1974 (HSWA). This HSWA sets out the broad principles for managing health and safety legislation in most workplaces. The HSWA which came into force on 1st April 1975, still remains the main health and safety legislation in existence today.

The HSWA places a general duty on employers to "ensure so far as is reasonably practicable the health, safety and welfare at work of all their employees"¹. Section 3 of the Act, General Duty to Others requires employers to conduct their undertaking in a way that does not pose

risk to the health and safety of non-employees. This section is designed to give protection to the general public and other non-employees such as children at school and contractors. A Trusts activities are ones to which Section 3 of the HSWA is likely to be particularly relevant as the majority of premises occupied by the Trust are open to the general public. Section 3 of the HSWA imposes a clear duty on the Trust to conduct their undertakings in such a way as to ensure, so far as is reasonably practicable the safety of the public using the premises.

The HSWA states that all employees have health and safety responsibility and must take reasonable care by not putting others at risk by what they do or do not do at work. There is a shared responsibility that everyone must report hazardous instances or risks to their manager. In addition to the Health and Safety at Work Act there are Approved Codes of Practice (ACOPs) and Health and Safety Executive (HSE) guidance documents and standards to be considered. ACOPs are codes of practice which are approved by the Health and Safety Commission on consent of the Secretary of State. ACOPs give guidance with regard to the intentions of Acts and Regulations. Non-compliance with an ACOP is not in itself an offence although failure to observe an ACOP can be used in evidence in criminal proceedings.

If a contravention of an ACOP relevant to an offence is proved, the court must regard the offence as proved unless the defendant can show that the law was complied with otherwise than by following the ACOP. ACOPs are often regarded as an extension of the law. HSE guidance documents contain advice on requirements to be followed and actions that an employer should take in order to comply with the law. HSE guidance itself does not have any legal status.

Although following HSE guidance does not in itself guarantee safety at work nor will it prevent prosecution under HSWA, it is regarded as reflecting best practice at the time of its publication. Care should be taken however to ensure that guidance documents referred to are not out of date or have been superseded by higher standards of practice.

The Health and Safety (Offences) Act 2008 came into force in January 2009 and amends section 33 of the Health and Safety at Work, etc Act 1974. The 2008 Act does not introduce any new legal duties or change any existing ones. It does however give the courts greater powers of sentencing including an increase in the level of penalties for those caught not complying with the existing duties.

Source: <http://www.hse.gov.uk/legislation/hswa.htm>

The main implications of the 2008 Act are:

- There is a widened range of offences for which an individual can be imprisoned. Length of prison sentences from the magistrates' courts have increased from 6 months to 12 months
- Maximum penalties that can be imposed have increased from £5,000 to £20,000 for breaches in the lower courts.

- Certain offences which could previously only go to trial in lower courts are now triable in either the lower or higher courts

The Corporate Manslaughter and Corporate Homicide Act 2007 introduced a new statutory offence of 'Corporate Manslaughter'. This new offence came into force on 6th April 2008. The Corporate Manslaughter and Corporate Homicide Act 2007 does not in itself impose any specific new health and safety duties.

The offence of 'Corporate Manslaughter' applies where an organisation owes a duty of care to the victim. For Trust this 'duty of care' falls within the following broad categories:

1. To its employees, pupils, visitors or to others working for it e.g. contactors
2. As the occupier of premises
3. When constructing or maintaining buildings, infrastructure or vehicles or when using plant or vehicles
4. In connection with the supply of goods or services
5. When carrying out other activities on a commercial basis

Public policy decisions made by a Public Authority are excluded from being a relevant duty of care. Section 1 (3) of the Corporate Manslaughter and Corporate Homicide Act 2007 states that:

"An organisation is guilty of an offence under this section only if the way in which its activities are managed or organised by its senior management is a substantial element in the breach referred to in subsection (1).

'Senior Management' is defined in Section 1 (4) (c) as the persons who play significant roles in:

- The making of decisions about how the whole or a substantial part of its activities are to be managed or organised; or
- The actual managing or organising of the whole or a substantial part of those activities.

A key factor in establishing an individual's responsibility will be what amounts to a 'substantial part' of an organisation's activities. Senior management could cover both those in direct operational management as well as those in strategic or regulatory compliance roles.

The Corporate Manslaughter and Corporate Homicide Act does not require any proof of an individual being guilty of an offence. Additionally under the Act failures of a number of senior managers can be aggregated rather than relying on the conduct of one single 'directing mind'.

3. The Management of Health and Safety

The general duties imposed by the HSWA are supported by more detailed provisions in the Management of Health and Safety at Work Regulations 1999 (MHSWR). Under the MHSWR (regulation 7) employers need to appoint one or more competent persons to assist in

undertaking the measures necessary for compliance with the requirements and prohibitions imposed by legislation. These shall be known as the Duty Holder for the Trust is the CEO and Duty Holder for each site will be the Headteacher. All sites also employ officers with specific training and responsibility as the 'competent person' to deal with compliance on a day to day basis. Many of these competent person duties will be undertaken by the Maintenance Officer at each site.

Under the MHSWR a person is deemed to be competent if they have an adequate combination of training and experience or knowledge. Regulation 7 (8) requires employers to consider appointing a competent person who is in their employment, this is in preference to one who is not.

There are three main areas in terms of what constitutes a competent person:

1. Core knowledge of the subject
2. Experience to apply that knowledge correctly
3. Personal qualities needed to undertake functions effectively:

Once a person is deemed to be competent, arrangements must be put in place to ensure that this level of competence is retained e.g. through regular training. WPAT requires that the Duty holder and/or competent person hold a level 3 Health and Safety qualification, to be reviewed every two years.

In order to ensure that the health and safety arrangements within an organisation are effective then there must be systems in place to ensure that the risks which arise from the organisation's activities are identified and controlled.

Management of Health and Safety at Work Regulations 1999 require employers to manage health and safety by assessing risk.

4. Risk Assessment

Where a risk assessment is required it should be "a suitable and sufficient assessment of the risks". A suitable and sufficient assessment of risks would:

- Correctly identify any significant risk that is reasonably foreseeable
- Enables the assessor to decide what action needs to be taken and what the priorities should be
- Is appropriate for the type of activity
- Will remain valid for a reasonable time but be updated annually
- Reflects what employers may reasonably practicably be expected to know about the risks associated with their undertaking.

Risk assessments can be time consuming however, the time and effort put into an assessment should be broadly proportional to the degree of risk. It is difficult however to provide precise guidelines as to what would be considered to be "a suitable and sufficient assessment of risks"

as this has not yet been tested in a court of law and therefore the aforementioned suggested areas can merely be used as guidance.

A risk assessment must be reviewed and updated where necessary, for example if there are developments that could possibly suggest that the risk assessment is no longer valid, or where the original circumstances have changed to a significant extent, or a new or changed use of the premises is introduced, this need not necessarily be a changed use for the entire premises. An example where a part change of use of a premises may trigger the need for a risk assessment to be reviewed and updated could be where school introduces a childcare facility or out of hours club. It is regarded as good practice to carry out a regular review of any risk assessment regardless of whether any changes have occurred. The Health and Safety Executive have produced a useful guide "Five Steps to Risk Assessment"

As mentioned above in cases taken under the HSWA it is up to the defendant to prove that it was not reasonably practicable or practicable to do something. In practice this can be very difficult to satisfy as at the time of the prosecution there is the benefit of 'hindsight'. It is vital therefore that risk assessments and the decisions to implement or reject certain safety measures are correctly recorded and retained for future reference.

Under the Management of Health and Safety Regulations 1999 employers have a duty to ensure that the necessary arrangements are in place to monitor and review any preventative and protective measures that have been implemented. The Approved Code of Practice recommends that proactive measures are taken for periodically monitoring and reviewing the health and safety management system employed. This implies that there is a need for the organisation to carry out audits on the arrangements that it has put in place.

A safety audit will examine the organisation's systems and the implementation of these systems to determine if and where they are failing. An audit is not the appropriate tool to use if there is no safe system in place or if it already knows that there are weaknesses in the systems.

5. Duties on Managers and Directors

Where an offence is committed under the HSWA, within the Trust, and with the "consent, connivance or neglect" of any director, manager, or similar officer, that person may be prosecuted as well as the Trust. This means that senior personnel such as managers, directors and indeed the Trust Finance and Operations Director, have special responsibilities to ensure that health and safety is properly managed within their organisation and in areas under their remit. Enforcement inspectors tend to look closely at the role of directors and managers when carrying out inspections.

It is worth therefore, considering in a little more detail what is meant by the words "Consent", "connivance" and "neglect"¹:

- Consent – the director/manager is aware that an offence is being committed but agrees to it.
- Connivance – the director/manager is equally aware of what is going on and, while not directly encouraging the offence allows it to carry on (effectively turns a blind eye)
- Neglect – the director/manager is under a duty to do something but fails to do so

In cases taken under the HSWA the burden of proof is on the employer to prove that they have done everything “reasonably practicable” or “everything practicable” to safeguard the health and safety of employees, non-employees or members of the public.

This document provides a brief explanation of the main areas of compliance monitoring that a premises manager would be expected to be aware of and implement. It now focuses more on risk based assessments which can be very much dependent upon individual circumstances such as; the use the building is put to, the users groups, the construction, age and condition of the building, previous maintenance regimes, and the building location.

6. Duty Holder

Throughout this document the term duty holder is used and it is worthwhile defining exactly what is meant by this term. Often the duty holder is the person or organisation that has clear responsibility for the maintenance or repair of the premises (non-domestic) through an explicit agreement such as a lease or contract. The actual extent of the duty will depend on the specific details of the agreement. However where there is no agreement or contract or where one exists but it is silent on such matters, the duty is placed on whoever has control of the premises, or part of the premises.

In Multi – Academy Trusts with a growing number of schools it can often be unclear as to who the ‘duty holder’ is and in order to avoid such confusion the duty holder post at each establishment will be the Executive Headteacher/Headteacher. See diagram below.

Hierarchy of Compliance Responsibilities



7. Air-Conditioning Systems

Under The Energy Performance of Buildings (Certificates and Inspections) (England and Wales) Regulations 2007 an air conditioning system should be inspected by an energy assessor at regular intervals not exceeding 5 years, although bi annual checks and an annual maintenance schedule as described above should continue as best practice, see Appendix A for WPATs Estate Maintenance Schedule.

Once the inspection has taken place the Maintenance Officer should retain a copy of the report.

8. Asbestos

The Control of Asbestos Regulations 2012 requires employers to prevent the exposure of their employees to asbestos as far as is reasonably practicable. If this cannot be achieved then employers must take measures to reduce the employee's exposure to asbestos to the lowest level reasonably practicable. The duty to manage asbestos in non-domestic premises falls under Regulation 4 of the Control of Asbestos Regulations (CAR 2012). See Schools Asbestos Registers – WPAT.

Under Regulation 4 the "duty holder" (see earlier section), must ensure that a suitable and sufficient assessment in the form of an asbestos survey is undertaken to determine whether asbestos is on the premises, the assessment should take into account the likely condition of any asbestos. Once the assessment has been completed then the conclusions from the assessment and any subsequent reviews must be recorded. In addition to this the duty holder must also consider building plans, other relevant information and the age of the premises, and inspect reasonably accessible parts of the premises monthly. An asbestos demolition survey must be undertaken before carrying out any intrusive works.

Where asbestos is identified or suspected WPAT have a dedicated Asbestos Management Plan and Register within each school which:

- Determines the risk from asbestos
- Identifies the areas of the premises concerned and the measures necessary for managing the asbestos risk (this is updated every 12 months).
- Implements the measures in the plan
- Record the measures taken to implement the plan
- Ensure all staff sign register every 12 months
- Ensure any contractors attending site sign register
- Monitors the condition of any asbestos or suspected asbestos
- Plans regarding maintaining the asbestos or safely removing it
- Providing information which identifies the location and condition of identified asbestos to any person likely to disturb it. This includes Maintenance Officers and contractors working on the premises, the information is also be made available to the emergency services as per the Business Continuity Plan.
- Duty holder for each site, competent person for each site and any other relevant staff should receive Asbestos training every 2 years

The assessment and written plan is both be reviewed annually or if there have been significant changes to the premises.

If employees are likely to carry out work that is liable to expose them to asbestos, then under Regulation 5 employers must identify the type of asbestos they are likely to be exposed to or if this is not done then the assumption must be made that the asbestos is not solely chrysotile.

Under Regulation 5 employers must also undertake an assessment of any health risks to employees exposed to asbestos at work. This assessment should identify the steps that need to be taken to meet the Control of Asbestos Regulation 2012 and these steps must then be implemented.

The assessment described above will:

- Identify the type of asbestos which the employee is liable to be exposed. Assess the nature and degree of likely exposure
- Consider the effectiveness of control measures
- Take into account the results of air monitoring and medical surveillance
- Identify the measure necessary to prevent or deduce asbestos exposure to the lowest level reasonably practicable.

Any significant findings from this assessment are recorded and then reviewed regularly. In particular if there are any reasons to suspect that the situation has changed or to suggest that the original assessment was inaccurate then the assessment will be reviewed as soon as possible.

Under Regulation 7 of the CAR 2012 WPAT will prepare a written plan of work prior to any work commencing that may expose their employees to asbestos. This plan will include details of how the asbestos work will be undertaken and a copy of the plan must be kept on the premises.

It should be noted that under Regulations 8 & 9 of the CAP 2012 work with asbestos cannot be carried out unless the employer holds a license granted by the Health and Safety Executive. Further details can be obtained from the HSE website.

Under Regulation 10 of the CAR 2012 employees that are liable to be exposed to asbestos, who supervise asbestos work or who undertake work in connection with their employer's duties under the regulations must be given adequate and regular information, instruction and training. This is to ensure their own and other employees' safety.

9. Car Parking and Pedestrian/Vehicle Segregation

The Workplace (Health, Safety and Welfare) Regulations 1992 (regulation 17) covers the layout of traffic routes, traffic management systems and the provision of signage. The main areas of the regulation are:

- Every workplace shall be organised in such a way that pedestrians and vehicles can circulate in a safe manner.

- Traffic routes in a workplace shall be suitable for the persons or vehicles using them, sufficient in number, suitable positions and of sufficient size. It may sometimes be difficult to provide “sufficient separation” between pedestrians and vehicles where layouts and traffic routes have already be constructed, therefore the regulation is qualified by the statement “so far as is reasonably practicable”
- All traffic routes shall be suitably indicated, where necessary, for reasons of health and safety.

A risk assessment should therefore be carried out to include, traffic movement within the site, pedestrian/vehicle segregation, car parking and how the routes are signed. This risk assessment should consider these areas at different key times in the day e.g. if the property is a school at pupil arrival/departure times. The risk assessment should be updated every 12 months.

10. Compulsory Display of Notices

There are a number of notices and documents that employers have to display on their notice board or anywhere where the information is easily accessible to employees. There are some very specific requirements depending on the type of property however in general terms employers are required to post the following:

- Schools Safeguarding staff and contacts.
- HSE poster with correct and up to date information.
- Details of the person in charge of the first aid box / boxes within the school.
- Any information necessary to comply with fire legislation (including Fire Wardens).
- Emergency Certificate
- Insurance certificates.
- Safeguarding Information.
- Health & Safety Policy
- A thermometer on each floor.
- A copy or abstract of relevant regulations

11. Construction (Design and Management) Regulations 2015

The Construction (Design and Management) Regulations 2015 (CDM 2015) replace the previous Construction (Design and Management) Regulations 2007.

The CDM Regulations have far-reaching implications for duty holders in particular the client and cover all construction work (except domestic) to some extent.

Under the CDM 2015 Regulations a client is defined as any person for whom a project is carried out. This is irrespective of whether the project is carried out by another person or in-house.

For any project the client has an overriding duty to ensure that arrangement made for managing it would be carried out, as far as it reasonably practicable, without risk to the health and safety of any person. The Estates Manager should be notified of any CDM works prior to commencement.

The client must also ensure that there are suitable welfare arrangements for the workers and if the work involves the construction of a building that will be used as a workplace the client must ensure that once completed it will comply with the Workplace (Health, Safety and Welfare) Regulations 1992.

It is important that those managing premises have an understanding of the requirements of CDM 2015 Regulations however this is a detailed area and requires specialist knowledge. Indeed under regulation 14 there is a requirement for the client to appoint a CDM co-ordinator and principle contractor where the construction project is deemed to be notifiable under the CDM Regulations.

For all works Risk Assessments and Method Statements should be completed.

12. Contractor Qualification Checks

Where a person responsible for the management of the Trust appoints a contractor, this should be carried out in accordance with WPAT'S procurement procedures, or in consultation with the WPAT Finance and Operations Director, to ascertain whether call off contracts are already in place to cover such areas of work. Where this is not possible, that person must ensure that the contractor that is proposed for carrying out the work has a current health and safety policy approved by the Local Governing Committees, has current suitable insurances in place (Minimum of £10m for "hot works" and civils/ major construction works), and where necessary has the appropriate qualifications, for example CORGI or NICIEC registered for work in connection with gas and electrical installations respectively. See Appendix B Appointing and Managing Contractors on WPAT School sites.

13. Control of Substances Hazardous to Health (COSHH)

The Control of Substances Hazardous to Health Regulations 2002 (COSHH) (as amended) place a duty on employers to control the risks to employees and others which arise from exposure to substances hazardous to their health that are associated with the employers' work activities. This can be done through identifying, assessing and where possible preventing or adequately controlling exposure to the hazardous substances. The purpose of the regulation is to prevent ill health.

The Control of Substances Hazardous to Health (Amendment) Regulation 2004 (COSHH 2004) introduced changes to the regulations; a simpler exposure limit was introduced so that workplace exposure limits now replace occupational exposure standards and maximum exposure limits.

In addition to this eight new principles of good practice were introduced by the amendment regulations¹ which apply regardless of whether a substance has an occupational exposure standard or maximum exposure limit.

From April 2005 employers are required to:

- Apply the eight principles of good practice to control substances hazardous to health;

¹ Source: The Control of Substances Hazardous to Health (Amendment) Regulations 2004
Source: http://www.opsi.gov.uk/acts/acts1995/ukpga_19950050_en_1

- Ensure that the workplace exposure limit is not exceeded and
- Ensure that exposure to substances which can cause occupational asthma, cancer or damage to genes that can be passed on from one generation to another are reduced as low as is reasonable practicable

The eight principles of good practice are:

1. Design and operate processes and activities to minimise emission, release and spread of substances hazardous to health.
2. Take into account all relevant routes of exposure- inhalation, skin absorption and ingestion- when developing control measures.
3. Control exposure by measures that are proportionate to the health risk
4. Choose the most effective and reliable control options which minimise the escape and spread of substances hazardous to health.
5. Where adequate control of exposure cannot be achieved by other means, provide, in combination with other control measures, suitable personal protective equipment.
6. Check and review regularly all elements of control measures for their continuing effectiveness.
7. Inform and train all employees on the hazards and risks from the substances with which they work and the use of control measures developed to minimise the risks.
8. Ensure that the introduction of control measures does not increase the overall risk to health and safety."

The Maintenance Officers should keep a record (updated every 12 months) of all substances used in the school.

Links to Other Information Sources:

[HSE Publication: COSHH A brief guide to the regulations](#)

14. The Equality Act 2010

The Disability Discrimination Act 1995 (DDA)⁴ was introduced to prevent discrimination in employment, provision of goods, services and facilities, the selling or letting of land and property, education and transport. Under Part 111 of the DDA service providers had to address any physical features which make it impossible or unreasonably difficult for disabled people to use their services'.

This Act was been significantly extended by the Disability Discrimination Act 2005 and has now been replaced with The Equality Act 2010. It now gives people rights in the areas of:

- Employment, education, access to goods, facilities and services, including larger private clubs and transport services.
- Buying or renting land or property, including making it easier for disabled people to rent property and for tenants to make disability-related adaptations.
- Functions of public bodies, for example issuing of licenses.

The DDA Act 2005 was superseded by the Equality Act 2010. The Equality Act 2010 was intended to simplify the numerous regulations, statutory orders and codes within the DDA in connection with the duty to make reasonable adjustments to physical features at premises, however in reality the Equality Act has not made any real changes to the requirements on "service providers".

The DDA was aimed at protecting the rights of a wide range of disabled people including:

- Blind and partially sighted people
- deaf and hearing-impaired people
- facially disfigured people
- people with long-term illnesses or hidden impairments, for example, those with arthritis, asthma, diabetes, or Alzheimer's Disease
- people with learning disabilities, for example, those with dyslexia
- people with mental illness
- Wheelchair users

Under the DDA people who had disabilities in the past were also protected from discrimination even if they no longer had the disability. Only a court can decide what constitutes disability under the terms of the DDA: if **in doubt** then it is best to assume that someone is protected by the Act.

Under the Act service providers had to make reasonable adjustments to their premises to overcome physical barriers to access. They had to ensure that as far as possible, disabled "customers" are treated in the same way as non-disabled customers.

Service providers and those responsible for managing buildings need to ensure that all customers can use their service effectively. An access audit should be carried out to identify those areas where there are physical features which make it impossible or unreasonably difficult for a disabled person, to use the service, whether or not this is related to the building from which the service is being provided.

The access audit forms the basis of an action plan to consider issues such as physical constraints, alternative ways of providing the service and the reasonableness of making the adjustments identified by the access audit.

This may include the provision of any necessary extra help or special equipment as well as for example, adjustments to stairways; building entrances and exits; internal and external doors; gates; toilet, washing, and public facilities etc.

The service provider can remove, alter, or bypass the physical feature causing difficulty to a disabled person. Alternatively the service could be provided in an alternative way, this may include management solutions.

Whichever course of action the service provider decides to take the action plan should contain clear details of what is being done and what is not in terms of adjustments and the reasoning behind such decisions. This will help in the event of a customer complaint and assist in monitoring the premises should the facilities or services change in the future.

The access audit and action plan should be reviewed if there are alterations made to the premises or if the use of the premises is changed. See WPAT Accessibility Plan

Under The Equality Act 2010 a single 'objective justification test' has been introduced although the requirement to make reasonable adjustments still remains. Through the single 'objective justification test' the organisation must show that its conduct was a 'proportionate means of achieving a legitimate aim' (s15 and s19 of Equality Act. It is difficult to carry out a direct comparison with the requirements under the DDA.

The Equality Act (para 5.28-5.29 of Service Code) provides information on what is a legitimate aim:

- Should be legal
- Should not be discriminatory in itself and must represent a real, objective consideration.
- A service provider solely aiming to reduce costs cannot expect to satisfy the test.
- The Equality Act furthermore clarifies 'proportionate', in para 5.31 – 5.33 of the Service Code:
- A tribunal or court may wish to conduct a proper evaluation of the discriminatory effect of the action as against the employer's reasons for it, taking into account all the relevant facts.
- European law views treatment as proportionate if it is "an appropriate and necessary" means of achieving a **legitimate aim**.
- "Necessary" does not mean that the action is the only possible way of achieving the legitimate aim, it is sufficient that the same aim could not be achieved by less discriminatory means.

If there is a greater financial cost of providing a less discriminatory approach then this in itself cannot provide justification for the course of action taken. If the duty to make reasonable adjustments is not complied with then it will be difficult to show that the treatment was proportionate.

The Act provides some examples of what a 'legitimate aim' might be:

- Ensuring that services and benefits are targeted at those who most need them
- The fair exercise of powers
- Ensuring the health and safety of those using the service of others, providing risks are clearly specified
- Preventing fraud or other forms of abuse or inappropriate use of services provided but by the service provider
- Ensuring the wellbeing and dignity of those using the service.

The Equality Act 2010 has made no real change to the requirements on the duty holders to make reasonable adjustments and the duty is set out in Part 2 of the Act which is summarised below:

- Where a provision, criterion or practice puts a disabled person at a substantial disadvantage compared with people who are not disabled, the duty holder should take reasonable steps to avoid the disadvantage

- Where a physical feature puts a disabled person at a substantial disadvantage compared with people who are not disabled, the duty holder should take reasonable steps to avoid the disadvantage
- Where a disabled person would be put at a substantial disadvantage, compared with people who are not disabled, without the provision of an auxiliary aid, the duty holder should take reasonable steps to provide the auxiliary aid.

Typical factors that should be considered when considering if an adjustment is reasonable, include the:

- Type of business
- Size (and turnover) of the business
- Cost of the adjustment
- Level of disruption to the business while the work is being carried out
- Practicality of carrying out the adjustment
- Level of benefit to the disabled customers and employees

If a building is listed then the planning issues associated with this can override the requirement to make reasonable adjustments. An access audit of premises will form the basis for preparing an action plan; consider issues such as physical constraints, alternative ways of providing the service and the reasonableness of making the adjustments identified by the access audit (see earlier).

15. Electrical Safety

Electrical safety in all work places and/or work activities is specifically legislated for over and above the general duty of care owed by employers to their employees, pupils and members of the public under ss2 and 3 of the Health and Safety at Work etc. Act (1974). This expansion of responsibility for electrical safety was brought about by The Electricity at Work Regulations 1989 which came into effect on 1st April 1990

15:1 Portable Appliance Testing (PAT)

Both Ditton and Kingsway use Halton BC as a service provider for PAT testing which is carried out annually. For all other schools PAT testing will be carried out every 2 years.

A portable electrical appliance can be defined as an electrical appliance which is normally connected to a lead and a plug and which can usually be easily moved.

The Provision and Use of Work Equipment Regulations 1998 (PUWER) covers the safe provision and use of all work equipment including portable electrical appliances, the maintenance of such equipment falls under the Electricity at Work Regulations 1989.

(EWR) (PAT testing) and is part of the duty holders responsibility under PUWER.

There are three main electrical equipment classifications:

1. Class 1 equipment has its live components protected by basic insulation and is surrounded by a metal enclosure. This metal enclosure could become live in the case of the basic insulation failure and is protected by being earthed. The supply cable will

have an earth wire in addition to the normal live and neutral. Examples of this sort of equipment include electric cookers, free standing electric heaters and some kettles, toasters and IT equipment.

2. Class 11 equipment separates the user from live conductors by two sets of insulation.
3. Class 111 equipment is supplied from a safety isolation transformer and will not exceed 50V, typical uses include IT equipment such as answering machines and chargers for mobile phones.

As there is such a wide range of portable electric equipment available which can be used in very varied environments the risks that are present can be very different and therefore a range of control measures is required. It is necessary to carry out a risk assessment to determine the maintenance requirement for each piece of equipment and the following five steps should be followed:

Identify all portable appliances that need to be maintained and tested. An inventory of this equipment should be made.

1. Carry out an assessment of the risk posed by each type of equipment,
2. Categorise into high, medium or low risk.
3. Determine if the appliance needs to be tested and examined or examined only, taking into account the tests that can be carried out on Class 11 and 111 appliances are very limited
4. Determine the frequency of examination/testing.

There are three types of maintenance activities that are usually carried out on portable electrical appliances:

1. User checks should be carried out on hand held appliances, Class 1 (earthed) and frequently moved equipment and in particular, on cable leads and extension leads.
2. Formal visual examination – this is a more formal examination of the equipment than a user check. All electrical appliances should be subject to such an examination at pre-determined intervals and only a competent person should carry them out.
3. Combined inspection and test; Class 1 apparatus and leads and extension leads should be subject to a routine test in conjunction with the formal examination. A purpose made portable appliance tester should be used. Any competent person can normally carry out testing using such devices but some formal training is recommended. A record should be made and kept of the tests.

Unfortunately there are no statutory frequencies for any of the above maintenance measures, however in order to satisfy the general legal requirement to prevent "danger" some, all or a combination of the maintenance activities as set out above should be carried out. See WPAT Estate Maintenance Schedule Appendix A.

The risk assessment carried out on the equipment will determine any further measures that will be required to be implemented.

Links to other information sources: Maintaining portable electrical equipment in offices and other low-risk environments

INDG236 HSE Books 1996 (single copies free or priced packs of 10 ISBN 0 7176 12724)

15:2 Fixed Electrical Installation

The Electricity at Work Regulations 1989 state that all electrical systems and equipment used in the working environment should be in a safe condition. The installations should be maintained to prevent danger; the Health & Safety Executive recommend that to comply with the regulations, an appropriate system of periodic visual inspection and testing by a competent person should be implemented at all places of work (WPAT inspection is annual). The frequency of inspection must be determined taking into account:

1. the type of installation
2. its use and operation
3. the frequency and quality of maintenance
4. the external influences to which it is subjected

[Electrical Safety Council at www.esc.org.uk](http://www.esc.org.uk)

16. Emergency Lighting

Emergency lighting is lighting that is installed in a building to provide a degree of illumination when the normal lighting fails. In terms of fire safety the most important component of an emergency lighting is the "escape lighting" which is provided to illuminate escape routes to an extent sufficient to enable occupants to evacuate the building in safety. Under BS 5266 Part 1, there are recommendations for routine inspection and testing of emergency lighting. This includes monthly, six monthly and three hour run down test annually.

Currently testing is carried out monthly by the Estates Manager and annually there is a 3 hour run down test carried out by the service provider (this includes smoke alarms).

17. Extraction Systems

The Health and Safety at Work etc. Act 1974 requires employers to provide and maintain working conditions that are safe and without risk to the health of employees, so far as is reasonably practicable. COSHH (see earlier section) expands on this general duty and requires employers to prevent worker exposure to hazardous substances or, where this is not reasonably practicable, to ensure adequate control. Employees are required to make full and proper use of the control measures provided and to report any defects in them promptly to their employer.

Adequate control may mean the installation of suitable extraction systems. Where such systems are installed they must be adequately maintained to ensure that they are kept in an efficient and effective working order, and they must be examined and tested against their performance standard, records of these checks must be kept for at least five years. Local Exhaust Ventilation Systems (LEVs) must be examined and tested generally every fourteen months.

18. Fire

The Regulatory Reform (Fire Safety) Order 2005 places general fire safety duties on the "responsible person". The responsible person is the employer where the premises are to any extent under his/her control. Where this does not occur then the responsible person is:

- The person who has control of the premises (as occupier or otherwise) in connection with the carrying on by that person of a trade, business or other undertaking.
- The owner, where the person in control of the premises does not have control in connection with the carrying on by that person of a trade, business or other undertaking.

The general fire safety duties placed upon the responsible person are:

- General fire precautions are to be taken that will ensure, as far as is reasonably practicable, the safety of any employees. In relation to relevant persons who are not employees, the responsible person must take general fire precautions "as may be required in the circumstances of the case" to ensure that the premises are safe.
- A suitable and sufficient assessment of the risks to which persons are exposed must be made, this is known as the "fire risk assessment". This should be reviewed every 12 months and any resulting works actioned.
- Appropriate arrangements for the effective planning, organisation, control, monitoring and review of the preventive and protective measures must be undertaken. Where a dangerous substance is present in or on the premises, risks from that dangerous substance must either be eliminated or reduced.
- Premises must be equipped with appropriate fire-fighting equipment and with fire detectors and alarms. Any non-automatic fire-fighting equipment provided must be easily accessible, simple to use and indicated by signs.
- Routes to emergency exits from premises and the exits themselves are to be kept clear at all times and emergency routes and exits must lead as directly as possible to a place of safety,
- Procedures for serious and imminent danger must be established.
- Any facilities, equipment and devices provided must be maintained in an efficient state, working order and good repair.
- The responsible person must appoint one or more competent persons to assist in undertaking the preventive and protective measures.
- Employees must be provided with comprehensible and relevant information.
- The employer of any employees from an outside undertaking who are working in or on the premises must be provided with comprehensible and relevant information on the risks.
- At the time when they are first employed employees must be provided with adequate safety training and if they become exposed to new or increased risks.
- Where two or more responsible persons share, or have duties in respect of the premises, each person must co-operate with the other responsible person concerned

- Every employee must, while at work take reasonable care for the safety of himself and of other relevant persons who may be affected by his acts or omissions at work.

18:1 Fire Risk Assessment and Management: See WPAT Accessibility Plan

As stated above "a suitable and sufficient assessment" of the risks to which persons are exposed must be undertaken, this is known as the fire risk assessment and it should be carried out to help determine the chances of a fire occurring and determine the control measures that will be required. The Home Office publication, Fire Safety: An Employers Guide, recommends, a five stage approach to carrying out a risk assessment:

1. Identify the fire hazards.
2. Identify people at risk
3. Evaluate and remove or reduce the risk where possible
4. Record the findings
5. Review and revise the assessment

Consideration needs to be given to those employees that have physical or sensory impairment and the risk to the disabled person should be assessed. Factors such as the inability of the person to recognise alarms/evacuate the building without assistance, length of time for them to evacuate the building must be taken into consideration. Any potential adjustments and/or systems required to ensure the safety of the individual need to be identified and implemented. The Fire Risk Assessment will be reviewed annually and any resulting works actioned.

<http://www.communities.gov.uk/documents/fire/pdf/150949>

18:2 Fire Detection and Alarm Systems

Fire detection and alarm systems should have a weekly alarm test by the Maintenance Officer, with all call points being tested over a 13 week cycle (this should also include a check that the mag. Locks drop). The system should also be subject to quarterly and annual inspections and tests by a competent person and a six month hard wire inspection by the service provider.

Full school fire drills should be carried out termly.

18:3 Fire Doors

All fire doors and associated hardware must remain in efficient working order and should be checked and maintained weekly by a competent person (Maintenance Officer) in accordance with the relevant British Standard and the manufacturer's recommendations; it is advisable to keep a record of any maintenance. The inspection of fire doors should include some or all of the following:

- Self-closing device operate properly.
- Hold open device release when the fire alarm operates.
- Glazed panels are intact and undamaged.
- Warning signs are in place "Automatic Fire Door – Keep Clear.
- Doors open and close freely and there is no physical damage to the door.
- There is no distortion or warping of the door or frame.

- Seals and smoke strips are in place and not damaged.
- Hinges and locks are properly lubricated.

18:4 Fire Fighting Equipment

Should be checked annually by service providers and weekly by the Maintenance Officer.

Extinguishers

These should be maintained and inspected by a competent person at least once a year. This involves a visual inspection of the extinguisher and a check of the contents and stored pressure. A written record should be kept of the date of the last maintenance examination and this should usually be attached to the body of the extinguisher.

Hose Reels

Hose reels are for the use of the fire service and staff should not normally be trained in the use of this equipment. All hose reels should be inspected on a yearly basis by a competent person.

Fixed Systems

Fixed systems are those which when activated by the warning/alarm system, release the extinguishing medium e.g. sprinkler systems. All fixed systems should be inspected on a yearly basis or to manufacturer's guidelines. It is advisable to keep a record of any maintenance and testing.

Fire Service Facilities

Facilities for the fire service may include dry riser, access for emergency vehicles, emergency switches for installations and information in respect of the premises and its contents. Where these facilities are provided they should be maintained and kept in good order.

Links

Sector guides on the RRO e.g., Risk Assessment Guide for Educational Premises 2006
www.communities.gov.uk/publications/fire/firesafetyrisk6

19. Fuel Oil Storage (Frodsham only)

The Control of Pollution (Oil Storage) (England) Regulations 2001 cover the storage of oil at industrial, commercial and institutional premises where the amount stored is more than 200 litres and it is stored outside and above ground. This includes storage at schools, museums, offices, businesses and warehouses.

All tanks, bunds and pipework should be regularly checked for signs of damage and it is recommended that they are checked at least weekly with a more detailed annual inspection and service by qualified inspectors to ensure that any potential defects are found and rectified

There are security issues regarding oil storage areas and these areas should be as resistant as possible to unauthorised interference and vandalism. If there are any permanent taps or valves through which oil can be discharged from the tank to open areas then these should be fitted with a lock and should be locked shut when not in use. Where appropriate, notices

should be displayed telling users to keep valves and trigger guns locked when they are not in use. Pumps should also be protected from unauthorised use, taps and valves should be marked to show whether they are open or closed. Where these are not in use then they should be fitted with a blanking cap or plug.

20. First Aid Equipment

Under the Health and Safety (First Aid) Regulation 1981 all establishments should provide at least one first-aid box. All first aid boxes, first aid kits and first aid rooms (where provided) should be checked weekly to ensure no contents are outside their expiry date and a record kept.

First aid boxes should be made of suitable material, protect the contents and be clearly marked. It should be noted that first aid does not include the treatment of minor illnesses e.g. headaches – therefore headache pills and/or other medications must not be kept in the first aid box.

An adequate and appropriate number of 'suitable (named) persons' must be provided to render first-aid treatment at work. The decision on what is adequate and appropriate should be based on a risk assessment. There is no ratio for the number of first aider to employees although the Approved Code of Practice does offer some guidance:

- Low risk workplaces such as office one trained first aider to every 50 employees with an additional first aider for every 100 employees.
- High risk workplaces one trained first aider for five or more employees, with an additional first aider for every 100 employees.

In terms of what constitutes a 'suitable person' this is defined as a person who holds a Health and Safety Executive approved first-aid course certificate. Consideration must also be given to any temporary or exceptional absence of trained first-aid personnel.

21. Gas Safety

The Gas Safety (Installation and Use) Regulations 1998 place duties on gas consumers, installer, suppliers and landlords. It is the duty of the employer to ensure any gas appliance associated pipe work and flues in the work places are maintained in a safe condition. These regulations link with other safety controls on combustion equipment, such as the Building Regulations, which provide standards for ventilation and flues.

By law anyone carrying out work on gas appliance or fittings as part of their business must be registered and have a valid certificate of competence relevant to the particular type of gas work involved see section also on [Contractor Qualification Checks](#). Gas Safety Register replaced CORGI as the register of approved gas engineers in the UK from 1st April 2009. By law a gas appliance or fittings must not be used if it is known or suspected that they are unsafe. In the HSE Approved Code of practice it is recommended that periodic routine maintenance is carried out gas appliances, pipe work and flues by a registered person. Routine maintenance would normally involve ongoing regular periodic examination of the installation/appliance and remedial action taken where necessary. Reference should be made to the manufactures

installation instructions for servicing intervals, however where this is not available the physical condition of the flue, air vents and pipe work should be checked for deterioration and performance checks carried out, where necessary remedial should be taken.

Further detailed information is available from HSE publications; Safety in the Installation and Use of Gas Systems and Appliances. Gas safety (Installation and Use) Regulations

1998, Approved Code of Practice and Guidance L56 (Second Edition) HSE Books.

22. Glazing

Glazing requirements are covered under Regulation 14 of the Workplace (Health, Safety and Welfare) Regulations 1992. The duty to comply with the regulations will normally fall to the employer or those in control of the premises. Under the Regulation every window or other transparent or translucent surface in a wall, partition, door or gate should, **where necessary for reasons of health or safety**, be of a safety material or be protected against breakage and be appropriately marked.

As the Regulation only requires action "**where necessary for reasons of health or safety**". It is necessary to assess every window, door etc. to establish whether there is a risk of anyone being hurt if people or objects come into contact with it, or if it breaks.

Glazing should be checked daily by the Maintenance Officer and inspected 3 times per year as part of the RAG reports.

This risk assessment needs to take into account all relevant factors such as the location of the glazing, the activities taking place, the volume of traffic and pedestrians, and any previous experience of incidents. Glazing in some locations may be a higher risk, for example doors and windows which are at or below waist level or in particular areas of a building where the activity taking place may increase the risk e.g. a school hall used for sport.

If it is assessed that there is no risk then it is not necessary to take any further action. Where there is a risk then further action is required in order to comply with the regulations to: prevent people or objects coming into contact with the glazing, or upgrade the glazing so that if it breaks, it breaks safely, and mark large expanses of glazing in some way so that people know it is there Following the risk assessment it may be necessary to take further action however this will depend on the individual circumstances examples of further action that may be required could be to replace the glazing with a safety material, or apply a safety film which prevents the glass from shattering in a dangerous manner.

23. Lifts and Hoists

The maintenance and inspection of lifts and hoists is a complex area covered by numerous pieces of legislation:

- Under regulation 5 of Provision and Use of Work Equipment Regulation 1998 lifts need to be maintained in a safe condition and free from fault and defects

- Under Regulation 9 of Lift and Operations and Lifting Equipment Regulations 1998 (LOLER) lifts must be tested and inspected by a competent person at regular intervals. U
- Under the Management of Health and Safety at Work Regulation 1999 there is a duty placed on employers to carry out a suitable and sufficient assessment of risks associated with their work activities. This includes the risks associated with lifts.
- Under the Health and Safety at Work etc. Act 1974 (HSWA) there is a duty to ensure the health safety and welfare of employees including ensuring that safety risk are not created by the type and use of lifts (and escalator) within the premises. This includes ensuring that lifts are maintained, serviced, checked and inspected as required and otherwise checking that they remain in a good, safe condition.

There are similar duties to non-employees which are created by s3 (1) of the HSWA. Section 4 places similar duties on those in "control" of non-domestic premises that are used as a place of work by someone else's employees. Basically this places duties on landlords/occupiers of non-domestic premises used as a place of work.

Under the Lift Regulations 1997 all lifts supplied after June 1999 must comply with the Lifts Regulations 1997. The regulations require lifts and their associated safety components to satisfy the relevant essential health and safety requirements, meet appropriate national standards, undergo the appropriate conformity assessment procedure, have the CE marking applied (if necessary), have an EC declaration of conformity and be safe.

Under The Lifting Operations and Lifting Equipment Regulations 1998 (LOLER) a duty holder has a legal responsibility to ensure that any lift on the premises is thoroughly examined and safe to use.

A thorough examination will entail a systematic and detailed examination of the lift and all its associated equipment by a competent person. In order to determine the extent of the thorough examination, the competent person should assess the risks, taking into account factors such as where the lift will be used, frequency of use, the weight of loads to be lifted and its age and condition.

Part of the thorough examination may include some testing, if considered necessary, the thorough examination may also be supplemented by an inspection. Inspections should be carried out at suitable interval between thorough examinations.

As well as considering the risks associated with lifts in normal use, it is important to consider the safety of users in the event of the lift breaking down or stopping between floors. It may be appropriate to set up breakdown response contract in addition to normal maintenance contracts. It may be appropriate to train some employees in lift lowering and emergency door opening. In order to alert people to any problem, consideration should be given to providing a suitable means of raising the alarm (e.g. alarm call buttons, emergency telephones). In order to avoid panic in the event of an electrical failure it may also be appropriate to provide emergency lighting.

The Lifting Operations and Lifting Equipment Regulations 1998 require employers to ensure that any equipment that is used for lifting people is thoroughly examined and inspected by a competent person at intervals of no more than six months. Passenger and mixed use lifts and escalators fall into this category. Where a lift is only used to carry goods then this interval can be increased to every twelve months.

A competent person is someone with sufficient technical and practical knowledge of the lift to be able to detect defects and assess how significant they are. The competent person should also be sufficiently independent and impartial to allow them to make an objective assessment of the lift and it is therefore not advisable for the same person who performs routine maintenance to carry out the thorough examination, as this would mean that they would then be responsible for assessing their own work.

As an item of lifting equipment the safe working load of a lift must be determined and displayed in a suitable, prominent place.

An insurance inspection should be carried out every 12 months.

(Guidelines on the thorough examination and testing of lifts (SaFed lifts guidelines) LG1 Safety Assessment Federation, 1998 ISBN 1901212 53 1)

24. Mobile Buildings

Due to the fact that mobile buildings are designed and constructed as temporary structures it is recommended that an annual inspection is carried out on their structural stability.

25. Playground and Gymnasium Equipment

Due to the very use that PE equipment is put to it carries a high risk and requires regular inspection. British Standard 1892 Part 1 2003 states "an inspection should be carried out at least once a year". There are also British Standards to cover playground equipment (BS 5696) and for surfaces (BS 7188 and 7044) outside play areas should comply with BS5696.

An inspection by the school service provider is carried out every 12 months. The playground equipment is inspected daily by the Maintenance officer and PE equipment (both fixed and portable) is checked by the teacher before use.

26. Radon

Radon is gas which is odourless, tasteless and colourless and can only be detected using specialised equipment. Radon occurs naturally in rocks and soils throughout the country although levels tend to be higher in some granite areas. Radon can be found in high concentrations in buildings as it tends to be sucked in to the building from soil.

It may then collect in buildings and under certain conditions can reach concentrations where the risk to people in the workplace requires control under the Ionising Radiation Regulations 1999.

Under the Management of Health & Safety at Work Regulations 1999 in areas affected by Radon. Employers should undertake an initial assessment to determine whether there may be a radon hazard within the workplace, this includes cellars and basements.

Radon surveys should be conducted in any building where its location and characteristics suggest that elevated levels may be found. Due to the fact that radon levels can vary widely throughout the day and from season to season measurements should be made over a period of three months and the annual average estimated using seasonal correction factors.

Further details on levels of radon in buildings and remedial measures to be taken can be found on <http://www.hse.gov.uk/lau/lacs/42-1.htm>

27. Shared Premises across the Trust

Where a building is occupied by more than one user then it is important that the results of any risk assessments should be shared with other occupiers of the premises where relevant e.g. fire safety, the control of vehicle movements asbestos etc.

Under Regulation 11 of the Management of Health and Safety at work Regulations 1999 there is a duty of cooperation and coordination on those sharing a workplace.

Even if there is no direct control over common areas of the premises the employer needs to ensure that access and egress through these areas is safe for employees, visitors and contractors. Common areas of premises are those that are used by tenants (or occupiers) but are not controlled by them e.g car park, access routes, internal staircases, corridors and lifts.

Where there is shared services such as electrical installation, gas supply, fire safety systems the tenant needs to ensure that they are and remain to be safe and without risks to the health of employees and visitors. This applies even though the tenant may not have any control over these services.

28. Slips, Trips and Manual Handling

As well as responsibilities under the Health and Safety at Work etc. Act 1974, The Workplace (Health and Safety and Welfare) Regulations 1992 impose a specific requirement that floors must be suitable and in good condition. They must also be free from obstructions and people must be able to move around safely.

Steps and staircases should be regularly inspected for wear and tear. It is preferable for them to have;

- High visibility, non-slip, square nosing on the step edges
- A suitable handrails
- Steps of equal heights
- Steps of equal width

More detailed guidance is available from the HSE website www.hse.gov.uk/slips/index.htm:

29. Trees Safety

As well as responsibilities under the Health and Safety at Work etc. Act 1974, an occupier of land where a tree stands has responsibilities under the Occupiers Liability Act 1957 and 1984. An occupier of land on which a tree stands will normally be liable for any personal injury or other damages caused by a tree breaking or falling where a tree is hazardous because of decay or structural weakness and shows external signs of being in such a condition. It should be noted that within the provisions of the previously mentioned Acts the court expect occupiers to be prepared for children to behave less carefully than an adult for example, by climbing trees which may have weak branches.

Therefore it is important that a "suitable and sufficient" risk assessment should be carried out on the trees on a site every 2 years. An effective system for identifying the risks from trees should meet the requirements set out in the management of Health and Safety at Work regulations 1999 and the associated ACoP see also the Health and Safety Executive Guide Five Steps to Risk Assessment previously referred to.

The HSE in circular; 'Management of the risk from falling trees' suggest that a suitable risk assessment for trees should address the following:

1. "An overall assessment of risks from trees, particularly identifying groups of trees by their position and degree of public access. This will enable the risks associated with tree stocks to be prioritised and help identify any checks or inspections needed. As a minimum, trees should be divided into two zones: one zone where there is frequent public access to trees (e.g. in and around picnic areas, schools, children's playground,); and a second zone where trees are not subject to frequent public access. As a rough guide 'trees subject to frequent public access are those that are closely approached by many people every day. Amps may be useful as individual records for individual trees are unlikely to be necessary if zones and the trees in the zones are clearly defined.
2. For trees in a frequently visited zone, a system for periodic, proactive checks is appropriate. This should involve a quick visual check for obvious signs that a tree is likely to be unstable and be carried out by a person with a working knowledge of trees and their defects, but who need not be an arboriculture specialist. Duty holders should ensure that any system that is put in place for managing tree safety is properly applied and monitored.
3. A short record of when an area or zone or occasionally an individual tree has been checked or inspected with details of any defects found and action taken.
4. A system for obtaining specialist assistance/remedial action when a check reveals defects out with the experience and knowledge of the person carrying out the check.
5. A system to enable people to report damage to trees, such as vehicle collisions, and to trigger checks following potentially damaging activities such as work by the utilities in the vicinity of trees or severe gales.
6. Occasionally a duty holder may have responsibility for trees that have serious structural faults but which they decide to retain. Where such a condition is suspected and the

tree also poses a potentially serious risk because, for example its proximity to an area of high public uses, a specific assessment for that tree and specific management measure, are likely to be appropriate.

7. Once a tree has been identified by a check to have a structural fault that presents an elevated risk, action should be planned and taken to manage the risk. Any arboriculture work required should be carried out by a competent arboriculturist; as such work tends to present a relatively high risk to the workers involved. Duty holder should not be encouraged to fell or prune trees unnecessarily.
8. Inspection of individual trees will only be necessary where a tree is in, or adjacent to, an area of high public use, has structural faults that are likely to make it unstable and a decision has been made to retain the tree with these faults.
9. Monitoring to ensure that the arrangements are implemented in practice.”

For more detailed guidance in this area see HSE website: Management of the risk from falling trees and the Forestry Commission web site Hazards from trees; A general guide

30. Water Hygiene and Safety

30:1 Legionella

As stated previously under s2 of the Health and Safety at Work etc. Act 1974 employers so far as is reasonably, practicable, have to ensure the health, safety and welfare at work of all employees. The risk assessment of work activities and premises required under the Management of Health and Safety at Work Regulations 1999 is of particular relevance when considering the health and safety risks from disease. Under the Control of Substances Hazardous to Health Regulations 2002 (as amended) (COSHH) pathogenic bacteria, including legionellae are deemed to be “substance hazardous to health” and therefore are subject to the assessment, prevention/control and monitoring, provision of these Regulations.

The Health and Safety at Work etc. Act 1974 covers the risk from legionella bacteria which may arise from work activities. In addition to the legislation mentioned above The Notification of Cooling Towers and Evaporative Condensers Regulations and Legionnaires’ Disease – The Control of Legionella bacteria in water systems Approved Code of Practice apply to the control of legionella bacteria in water systems.

An employer or a person in control of the premises (e.g. a landlord), must identify and assess the sources of risk; (it may be necessary to call on outside assistance to complete this), prepare a scheme (or course of action) for preventing or controlling the risk and implementing and managing the scheme. A person must be appointed to be managerially responsible, sometimes referred to as the ‘responsible person’. This responsible person must keep records and check that what has been done is effective.

In order to carry out the risk assessment an employer should find out if the water systems (including the equipment associated with the system such as pumps, heat exchangers,

showers etc.) are likely to create a risk. If after carrying out the risk assessment it is considered that the risks are insignificant then no further action is needed other than to review the assessment periodically in case anything changes in the system.

If a risk is identified which cannot be prevented then proper controls must be introduced. In order to control the risks it will be necessary to implement a successful management policy, have competent staff and ensure that proper control strategies are put in place. One way of preventing the risk of legionella is by looking at the type of water system needed. For example it may be possible to replace a wet cooling tower with a dry air cooled system.

A written scheme should be prepared which sets out how it is intended to control the risk from legionella. This should:

- Describe the system (an up to date schematic diagrams will be adequate to do this);
- Advise who is responsible for carrying out the assessment and managing its implementation;
- Set out the safe and correct operation of the system;
- Describe what control methods and other precautions will be used and, provide details of the checks that will be carried out on the control scheme and how often they will be carried out.

It is important to appoint someone to take responsibility for managing the control scheme that has been put in place. The 'responsible person' needs to be competent – this means that they need to have sufficient knowledge and experience of the system to enable them to manage and control the scheme effectively. Relevant training should be undertaken every two years and certificates kept on file. If there is more than one person responsible for managing the system and/or control scheme, then it is important to ensure that everyone knows their responsibilities and how they fit into the overall management of the system.

Where contractors are employed to carry out water treatment or other work it is still the responsibility of the appointed responsible person to ensure that the treatment is carried out to the required standards. Before appointing a contractor it is necessary to be satisfied that they are capable of doing the work to the required standard. The Health and Safety Executive has prepared A Code of Conduct for Service Providers to assist with this.

The significant findings from the risk assessment should be kept in writing along with details of any monitoring or checking that is carried out. A written record should also be kept of the written scheme and who is responsible for managing the scheme prepared, the results of the routine monitoring should also be recorded and all of these records need to be kept for a minimum of five years. Risk assessments should be updated every two years or earlier if circumstances change i.e. when any changes are made to the system.

The following is required in all schools :-

- A weekly full school run off should be undertaken by the Maintenance Officers.
- A monthly shower cleaner by the service provider.
- Tank clean as per the Risk Assessment.
- Water samples as per the Risk Assessment.

Further Guidance <http://www.hse.gov.uk/legionnaires/info.htm> where you will find useful links to the following documents:

Legionnaires' disease - Essential information for providers of residential accommodation

Legionnaires Disease - A guide for Employers

Legionnaires Disease: The control of legionella bacteria in water systems, approved code of practice and guidance (L8) Health and Safety Executive, 2000. ISBN 0717617726. Available from HSE Books

Legionnaires' disease: Controlling the risks associated with using spa baths [PDF 24kb]

HSE Research Report RR140 Evaluation of HSC's ACOP and guidance

'Legionnaires disease: control of legionella bacteria in water systems' (L8)

30:2 Water and Surface Temperature Restrictions

There is a risk of scalding to individuals from surface areas such as radiators and hot water pipes and from water which is too hot at point of use for example washbasin and baths.

Under the Education (School Premises Regulation) 1999 there is a requirement that the temperature of water at point of use should not be above 43°C for baths and showers and where occupants are severely disabled, in addition to this it is recommended that hot water supplies to washbasins in nursery and primary schools are limited to 43°C.

Under these regulations in a special school or teaching accommodation used by a nursery class in a school the surface temperature of any radiator, including exposed pipework, which is in a position where it may be touched by a pupil should not exceed 43°C.

The Health and Safety of those individuals who use care services is covered under the general requirements of Section 3 of the Health and Safety at Work Act 1974 and also by the risk assessment requirement of the Management of Health and Safety at Work Regulations. The maximum surface temperature of space heating devices in care establishment should not exceed 43°C and the temperature of water at point of use should be no more than 44°C

The risk of burns from hot surfaces may be reduced by:

1. Providing low surface temperature heat emitters, e.g. cool wall;
2. Locating sources of heat out of reach, e.g. at high-level;
3. Guarding the heated areas, e.g. providing radiator covers, covering exposed pipework;
4. Reducing the flow temperatures (although usually not practicable in existing heating systems without sacrificing their effectiveness).

The risk of scalding may be reduced by carrying out a risk assessment for the individuals concerned and introducing appropriate control measures

Suitable arrangements should be in place to ensure that control measures are in place and functioning effectively, therefore, monthly full school water temperature checks are carried out by the Estates Team. Adequate training and supervision should be given to staff to ensure that

they understand the risks and precautions to be taken and also the need to report any difficulties to a responsible person.

Further guidance

[Education \(School Premises Regulation\) 1999](#)

[Building Bulletin 87 \(2nd Edition\)](#)

HSE: [Burning Risks from Hot Surfaces in health and social care](#)

[Scalding Risks from hot water in health and social care](#)

31. Workstation Assessment

Under the Health and Safety (Display Screen Equipment) Regulations 1992 employers are required to perform a suitable and sufficient analysis of work stations used by users to enable an assessment of the health and safety risks to be carried out. A user means an employee who habitually uses Display Screen Equipment as a significant part of their normal work. This assessment will need to be reviewed or updated if there is a significant or major change to the equipment, the environment, the furniture, the task or the software. Where a work station is relocated then it should also be re-assessed.

Where an individual workstation is shared by more than one person, then the analysis should be carried out in respect of each person. A record of the analysis should be kept.

The user or operator must take part in the assessment as some of the required criteria in the analysis and assessment may be subjective.

Where risks have been identified through the analysis then these must be reduced so far as is reasonably practicable. The risks identified could relate to physical problems, visual fatigue and mental stress and apply to both users and operators, the risks identified in the assessment must be remedied as quickly as possible.

32. Working at Height

32:1 Fall Protection

The Work at Height Regulations 2005 covers all workplaces where work is carried out at height, as well as covering construction sites, the Regulations cover offices, shops and schools. A risk assessment must be carried out under regulation 3 of the Management of Health and Safety at Work Regulations 1999, where possible work at height must be avoided. Where work at height cannot be avoided work equipment must be used to prevent falls. Where the risk of falls cannot be eliminated, measures must be taken to minimise the distance and consequences of any fall. The duty holder must ensure that equipment used to work at height such as scaffolding and ladders are maintained and inspected. Where such equipment is exposed to conditions which may cause deterioration then they must be inspected at suitable intervals and following any exceptional circumstances.

It should be noted that a ladder can only be used for work at height if:

The risk assessment had found that the use of more suitable work equipment is not justified because the risk is low and the use is for short duration or there are existing features on the site which cannot be altered.

All relevant staff will be trained appropriately. This includes the use of small step ladders and elephants feet.

32:2 Window Cleaners

The Workplace (Health and Safety and Welfare) Regulations 1992 require employers, and persons who have control of a workplace to ensure that all windows and skylights in a workplace are designed or constructed so as to enable them to be cleaned safely. This requirement allows equipment used in conjunction with the windows or skylights, or any other safety devices fitted to the building, i.e. anchorage points to be taken into account. The Approved Code of Practice that accompanies these regulations gives a number of measures which may be taken to comply, e.g. anchorage points for safety harnesses, suitable points for tying ladder more than 6m in length and fitting windows that can be cleaned easily from inside.

The Work at Height Regulations 2005 covers window cleaning activities when carried out at height. They specify that a risk assessment must determine the necessity of working at height. Where it is not possible to avoid working at height then a hierarchy of control measures is specified.

Where an independent window cleaner is used the employer should take some measure to check that window cleaners are operating in a safe manner and not engage those who do not appear to be doing so.

Further guidance

[The Work at Height Regulations 2005 \(amended\): A Brief Guide](#)

Further information

The following HSE publications give further general guidance:

Workplace health, safety and welfare: Workplace (Health, Safety and Welfare) Regulations 1992 Approved Code of Practice L24 HSE Books 1992 ISBN 0 7176 0413 6

Workplace health, safety and welfare: A short guide for managers INDG244 HSE Books 1997 (single copy free or priced packs of 10 ISBN 0 7176 1328 3) Web version:

www.hse.gov.uk/publications/indg244.pdf

33. RAAC Concrete

Every school has had a survey completed by their Local Authority and no RAAC concrete was found at any site across the Trust. However, in order to be absolutely certain, Warrington Primary Academy Trust have commissioned a private consultancy firm to carry out more invasive surveys at all schools.

Appendix A

WPAT Estate Maintenance Schedule

NB: This Schedule provides an outline of the specific areas, their service requirements and inspection regimes it is important that cognizance is taken of the requirements of the overarching Health and Safety legislation as described in the 'Introduction to Legislation' section of this document.

Aspect	Service Requirement	Statutory/ Recommend	Frequency/Regularity	Relevant Legislation/British Standard/Approved Code of Practice
Air Conditioning Systems	Inspection	Best Practice Statutory	Annual or bi-annual Not exceeding five years	Under The Energy Performance of Buildings (Certificates and Inspections) (England and Wales) Regulations 2007 The Energy Performance of Buildings (Certificates and Inspections) (England and Wales) Regulations 2007 No. 991
Asbestos register	Asbestos survey. Asbestos demolition survey when carrying out intrusive works. Update Asbestos management plan every 12 months. All staff to sign register every 12 months. All contactors attending site to sign register. All relevant staff to receive asbestos training every 2 years. Monthly inspections by Estates Team	Statutory	Monthly/When circumstances dictate e.g. if changes to the premises have been made	Control of Asbestos at Work Regulations 2012 http://www.hse.gov.uk/asbestos/schools.pdf
Car Parking and Vehicle/Pedestrian Segregation	Risk Assessment to be updated every 12 months			The Workplace (Health, Safety and Welfare) Regulations 1992 (regulation 17)
Compulsory Display of Notices	To be displayed:- HSE poster with correct information. Insurance certificates. Emergency Certificate. Fire Wardens.	The display of most information Statutory	Regular checks to ensure information is still on display and is current	Various

Aspect	Service Requirement	Statutory/ Recommend	Frequency/Regularity	Relevant Legislation/British Standard/Approved Code of Practice
	First Aid. Safeguarding. H & S Policy.			
Construction (Design and Management) Regulations 2015	On letting of a construction project. Risk Assessment. Method Statement. Appropriate level of Public Liability Insurance. Employees Insurance. Estates team must be notified before any CDM works commence.	Statutory	As required – on letting of a construction project	Construction (Design and Management) Regulations 2015 http://www.hse.gov.uk/construction/cdm.htm
Contractor Qualification Check	Checks made on contractor's qualifications i.e. NICEIC, ECA, Gas Safe	Statutory or good practice	On appointment of contractor Where contractors are appointed directly by the premises manager then checks should be made to ensure that they have the appropriate qualifications to carry out the specified work.	This is covered by various pieces of legislation, such as Electricity at Work Regulations 1989, Gas Safety Regulations 1998 etc.
Control of Substances Hazardous to Health (COSHH) Risk Assessment	Check on storage and use of hazardous materials. Maintenance officer to update file every 12 months on all items used in the school.	Statutory	Annual (Best Practice)	The Control of Substance Hazardous to Health Regulations 2002 (as amended) COSHH A Brief Guide to the Regulations COSHH Approved Code of Practice (NB this is a priced publication)
Disabled persons	Inspection	Statutory	Checks to be made whenever alteration /changes are made to the building or the external environment	Equality Act 2010 and BS8300
Duct Hygiene (Air Cond.,	Inspection and Testing		Annual inspection and testing – thorough cleaning routine	Workplace (Health, Safety and Welfare Regulations) 1992 and

Aspect	Service Requirement	Statutory/ Recommend	Frequency/Regularity	Relevant Legislation/British Standard/Approved Code of Practice
Plenum Heating)			determined from testing/inspection results	COSHH LEV Testing
Electrical - PAT	Portable appliance testing	Statutory	Every 2 years	Electricity at Work Act 1989 The Provision and Use of Work Equipment Regulations 1998 (PUWER)
Electrical - Fixed Electrical Installations	Schematic of supply route and primary distribution	Best Practice	Annual Update	Electricity at Work Regulations 1989 and BS 7671 IEE Wiring Regulations Simple precautions - Work on electrical equipment machinery or installations
“	Inspection of fixed wiring and all distribution boards and safety devices	Highly recommend	Annual	Electricity at Work Regulations 1989 and BS 7671 IEE Wiring Regulations Electrical Safety Council’s Best Practice Guide on Periodic Inspection Reporting
“	Testing of all fixed wiring and all distribution boards	Statutory	5 yearly (or more frequently as determined by competent person)	Electricity at Work Regulations 1989 and BS 7671 IEE Wiring Regulations
Electrical Stage Lighting	Inspection and testing		Annually inspected and tested by competent person	
“	Inspection and testing of portable dimmer racks with no fixed cabling, plugs, sockets, flexible leads		Every 3 months and after every alteration	
Emergency Lighting	Inspection and testing of system 3 hour run down test every 12 months by service provider (including smoke alarms)	Statutory	Monthly by Estates Manager. Check functionality Device [Circuit Breaker] test. To include stop button functional test. Every six months - 1	Electricity at Work Regulations 1989 and Regulatory Reform (Fire Safety) Order 2005

Aspect	Service Requirement	Statutory/ Recommend	Frequency/Regularity	Relevant Legislation/British Standard/Approved Code of Practice
			hour duration test Annual full duration test every 3 months.	
Extraction Systems including Fume Cupboards	Inspection and testing of dust extraction equipment	Best Practice	Annual	Control of Substances Hazardous to Health 2002 (as amended)
“	Local Exhaust Ventilation	Statutory	Every 14 months	Control of Substance Hazardous to Health 2002 (as amended) Building Bulletin 88 Fume Cupboards, DfES applies to installation and maintenance of school fume cupboards There is a British Standard that applies to other fume cupboards
Fire Risk Assessment and Management Plan	Fire Risk Assessment	Statutory	Every 12 months including auctioning any required works	Regulatory Reform (Fire Safety) Order 2005
Fire Detection and Alarm Systems	Weekly fire alarm test & check mag. Locks drop by Maint. Officer. 6 month hard wire inspection by service provider. Termly full school fire drills	Best Practice	Weekly test with formal six monthly and annual inspections by competent person	Regulatory Reform (Fire Safety) Order 2005
Fire Doors	Inspection	Best practice	Weekly by maintenance officers	Regulatory Reform (Fire Safety) Order 2005
Fire Fighting Equipment	Inspection and maintenance extinguishers	Best practice	Annual by service provider and weekly by maintenance officers	Regulatory Reform (Fire Safety) Order 2005
“	Inspection and testing of fire sprinkler system	Best practice	Annual, although further checks may be necessary for specific insurance requirements.	Regulatory Reform (Fire Safety) Order 2005

Aspect	Service Requirement	Statutory/ Recommend	Frequency/Regularity	Relevant Legislation/British Standard/Approved Code of Practice
First Aid Equipment	Weekly Inspection (including defibrillator) by named person. Record to be kept		Regular checks to ensure no equipment is outside of expiry date	Health and Safety (First Aid) Regulations 1981
Fuel Oil Storage	Plan of primary pipe work and main isolation points Visual Condition Inspection Maintenance checks on all pipe work devices	Best Practice Recommended Best Practice	Annual Update	The Control of Pollution (Oil Storage) (England) Regulations 2001
Gas Appliances		Statutory	Annual	
Gas Pipe Work	Gas Safety Inspections and certificates Identification and location	Statutory	Annual updating	The Gas Safety (Installations and Use) Regulations 1998
“	Servicing for efficient operation, combustion	Statutory duty on Landlords	Annual Servicing to include check on ventilation, adequate flues, heat input combustion conformance, appliance is stable and safety devices working	The Gas Safety (Installations and Use) Regulations 1998
“	Visual condition inspection and testing if required	Recommended	Annual	The Gas Safety (Installations and Use) Regulations 1998
Glazing	Daily checks by the maintenance officers and three times per year on RAG reports	Statutory	Initial survey of building to identify areas where safety glazing should be in place, ongoing checks that any glazing replacements are with safety glass as required.	Workplace (Health, Safety and Welfare Regulations 1992) and Building Regulation Part M
Hydrotherapy Pools and Swimming Pools	Risk Assessment		The Health and Safety Executive publication HSG179 Managing health	Health and Safety Act Work Act 1974

Aspect	Service Requirement	Statutory/ Recommend	Frequency/Regularity	Relevant Legislation/British Standard/Approved Code of Practice
			and safety in swimming pools (HSG179)	
Lifts and Hoists	Thorough examination, full maintenance and Inspection. Insurance inspection every 12 months	Statutory	Every 6 months minimum for passenger lifts Every 12 months for goods lifts After substantial and significant changes have been made	Lift Operations and Lifting Equipment Regulations 1998 Thorough examination and testing of lifts
Lighting Conductors	Inspection and testing	Best Practice	Every 11 months full test to assess adequacy of earthing, evidence of corrosion, alterations to structure (by competent persons to BS 7430)	BS 6551, 1992
Mobiles – Stability of	Structural inspection of mobile accommodation	Best Practice	Annual	
Playground & Gymnasium equipment - Fixed	Inspection and testing	Best Practice	Annual by service provider. Playground – daily by maintenance officer. Gym equipment (fixed and portable) – by teacher before use. Action should be taken for any repairs as required.	BS 5696, BS 7188, BS7044,BS 1892 Part 1 2003
Radon	Risk Assessment			Ionising Radiation Regulations 1999. Statutory Instrument 1999 No. 3232
Shared Premises	Risk Assessment		As required	Reg. 11 of the Management of H&S at work regulations 1999.

Aspect	Service Requirement	Statutory/ Recommend	Frequency/Regularity	Relevant Legislation/British Standard/Approved Code of Practice
Slips and Trips	Risk Assessment to include manual handling		Daily by maintenance officer	The Workplace (Health and Safety and Welfare) Regulations 1992 www.hse.gov.uk/slips/index.htm
Tree Safety	Risk Assessment		Every 2 years by service provider. Following high winds by maintenance officer (seeking specialist advice if required).	Health and Safety at Work etc Act 1974 Occupiers Liability Act 1957 and 1984
Water Hygiene and Safety (Legionnaires' Disease etc.)	Risk Assessment reviewed annually	Statutory	Weekly full school run off by maintenance officer. Monthly full school water temperature by Estates team. Monthly shower cleaner by Estates Team. Tank clean as per risk assessment. Water samples as per risk assessment	Health and Safety Act Work Act 1974 Control of Substances Hazardous to Health Regulations 2002 (COSHH) The Notification of Cooling Towers and Evaporative Condensers Regulations Legionnaires' Disease – The Control of Legionella Bacteria in Water Systems Approved Code of Practice
Water Hygiene and Safety Legionnaires' Disease Water Systems Cold water Systems “	Plan of Primary pipe work and main isolation points. Visual Condition and Compliance inspection Tank condition and compliance inspection. Water Quality Check	Best Practice Recommended Statutory By exception from supply company	Annual Updating Annual Annual By exception	Health and Safety Act Work Act 1974 Control of Substances Hazardous to Health Regulations 2002 (COSHH) The Notification of Cooling Towers and Evaporative Condensers Regulations Legionnaires' Disease – The Control of Legionella Bacteria in Water Systems Approved Code of Practice

Aspect	Service Requirement	Statutory/ Recommend	Frequency/Regularity	Relevant Legislation/British Standard/Approved Code of Practice
Water Hygiene and Safety Legionnaires' Disease Water Systems – Low pressure hot water systems	Visual condition inspection Maintenance checks on all pipe work devices (strainer, valves, blending valves, pumps etc.	Recommended Best practice	Annual Annual updating	
Water Hygiene and Safety Legionnaires' Disease	Water Systems Risk Assessment Water Quality checks	Statutory Statutory	Bi-annual review, any change to the system to initiate a review or user can initiate Subject to risk assessment	Health and Safety Act Work Act 1974 Control of Substances Hazardous to Health Regulations 2002 (COSHH) The Notification of Cooling Towers and Evaporative Condensers Regulations Legionnaires' Disease – The Control of Legionella Bacteria in Water Systems Approved Code of Practice
Water Systems	Water and Surface Temperature	Statutory	Risk Assessment	Education (School Premises Regulations) 1999
Workstation Assessment	Analysis of workstation to assess any health and safety risks		Change of employee or relocation of workstation	Health and Safety (Display Screen Equipment) Regulations 1992
Working at Height – safety Eyes Bolts and Cradles	Inspection and testing	Statutory	Annual	Lift Operations and Lifting Equipment Regulations 1998

Appointing and Managing Contractors on WPAT School Sites

School:

Description of Works:

Quotes received from:

Successful company:

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I am assured this is best value for money for the school

Signed: _____ Business Manager Date: _____

Assurances checked before work starts:

Professional body membership seen		
Risk assessments suitable		
Safe Systems of work provided		
Insurance certificate seen		
School day/working practice agreed		

I agree that work can now commence

Signed: _____ Maintenance Officer Date: _____

On first site visit/work commencing:

Sign asbestos register		
DBS certificates or supervised?		
Fire evacuation procedure		
Copy of Contractors Guidance given		

I agree that work can be undertaken

Signed: _____ Maintenance Officer Date: _____

While on site for example:

	<i>Please circle</i>	<i>Note of action</i>
Check working to own safe practices:	Yes / No / Not applicable	
Working at height?	Yes / No / Not applicable	
Electricity isolation at source?	Yes / No / Not applicable	
Sign in and out of building?	Yes / No / Not applicable	
Maintaining security on site?	Yes / No / Not applicable	
Do the tools look in good condition?	Yes / No / Not applicable	
Tools not left unattended?	Yes / No / Not applicable	
Is PPE needed and is it being worn?	Yes / No / Not applicable	
Other observations		

I agree that work can continue

Signed: _____ Maintenance Officer Date: _____

Review of work:

Were there any H&S problems?	Yes / No / Not applicable	
Would you employ them again?	Yes / No / Not applicable	
Has the work been completed in full?	Yes / No / Not applicable	
Has the original brief been fully met?	Yes / No / Not applicable	

I agree that the work was undertaken sufficiently and the invoice can be paid when presented

Signed: _____ Maintenance Officer Date: _____