

<b>Committee(s)</b>	<b>Dated:</b>
Operational Property and Projects Sub Committee	20 July 2022
<b>Subject: MEES compliance strategy for Operational buildings</b>	<b>Public</b>
<b>Which outcomes in the City Corporation's Corporate Plan does this proposal aim to impact directly?</b>	<b>5,11 &amp; 12</b>
<b>Does this proposal require extra revenue and/or capital spending?</b>	<b>Revenue</b>
<b>If so, how much?</b>	<b>£15,000</b>
<b>What is the source of Funding?</b>	<b>City Surveyor's local risk budget</b>
<b>Has this Funding Source been agreed with the Chamberlain's Department?</b>	<b>No</b>
<b>Report of: The City Surveyor</b>	<b>For Information</b>
<b>Report author: Graeme Low / Rodrigo Matabuena</b>	

### Summary

Currently, the Operational Property portfolio is compliant with the Minimum Energy Efficiency Standard (MEES) regulations. However, with the tightening of the regulations in April 2023, there are several buildings in the Operational Property portfolio that would be at risk of non-compliance due the lack of an EPC rated E or above. The cost of non-compliance penalties would be linked to the rateable value of the building but could be up to £150,000 per building.

In order to maintain compliance, an action plan with the following stages is being followed:

- Stage 1: Gap analysis (Completed)
- Stage 2: Develop EPCs on properties that require one
- Stage 3: Development and delivery of a programme of energy efficiency measures to increase the EPC rating of at-risk properties.
- Stage 4: Development of a programme of capital works on the Operational Property portfolio to maintain compliance with the stricter incoming regulation in 2027 and 2030.

There is a total of 11 buildings without a valid EPC in the Operational Property portfolio (see Appendix 1). The cost of performing these EPCs is estimated to be in the region of £15,000. A budget is yet to be identified for this cost or the subsequent cost of any additional improvements required to reach compliance and this remains a risk. It is envisaged this, could be spread out onto the individual maintenance budgets of each building as a BAU operational cost. The cost of each individual EPC is dependent on the floor area of the building; they range from £500 - £2,000.

It would be required to deliver the EPCs as soon as possible in order to complete the energy efficiency improvements before the April 2023 deadline.

In addition, there are two properties with an existing EPC rating G that would require capital interventions to achieve compliance by April 2023 (see Appendix 2)

Some risks have been identified:

- In order to develop the necessary exemptions, additional funds will be required. These costs are expected to be paid by existing local risk budgets.
- Completing energy efficiency upgrades after April 2023 could lead to an improbable but possible fine.

### Recommendation(s)

- To note the content of the report and the number of properties without a valid EPC.

- To note the proposed strategy to achieve compliance for the at-risk properties in the Operational Property portfolio.

## **Main Report**

### **Background**

1. The MEES regulations were introduced by the government back in 2018.
2. From 1st April 2018 any commercial property that has an EPC of lower than an 'E' cannot be rented out to new tenants or renew any existing tenancy contracts until at least an 'E' rating is obtained.
3. In order to require an EPC, a building must meet all the following criteria: a floor area larger than 50 sqm, have a lease between six months and 100 years, have walls and roof and use energy to condition the indoor climate.
4. From April 2023, MEES will apply to all existing commercial leases. This report covers only leased assets from operational property.
5. The regulations will be tightened up in the future requiring leased buildings to achieve an EPC rating of C by 2027 and B by 2030. Certain exemptions will apply.
6. Letting out a non-compliant property for longer than three months could result in a fine of 20% of the property's rateable value (capped at £150,000).
7. There are some exemptions that will enable a landlord to let, or continue to let, a substandard property:
  - a. A property can be exempted if it is found that efficiency measures would decrease the property's value by 5% or more
  - b. 'Seven-year payback test': you will only be required to make energy efficiency improvements that have an expected payback of seven years or less. However, many measures are likely to meet the payback test. Lighting retrofit programmes, for example, or building control systems, can typically deliver savings well within the seven-year timeframe.
  - c. A temporary exemption of six months can be granted to new landlords
  - d. Six-month preparation for new tenants
  - e. When tenants will not allow access to the property
8. In order to maintain compliance after the change in regulations, the below described action plan has been followed:
  - Stage 1:
    - Gap analysis, consisting of a thorough review of the Operational Property portfolio and identify the buildings that do not have a valid EPC. During this stage, exemptions to a number of buildings would be identified, reducing significantly the list of potential properties and buildings at risk of non-compliance.
  - Stage 2:
    - Ensure all properties with a lease and that require an EPC, have a valid one.
    - Procure an EPC contractor to perform an EPC on the buildings that require one and identify all buildings that would require capital interventions to improve their EPC rating.
    - Once results are known, all departments and service committees with assets at risk will be informed
  - Stage 3:

- Stage 3a: Identify a series of capital works on the non-compliant buildings, before April 2023, including the review and preparation of relevant documentation to get the MEES regulation exemptions (for example, listed markets) to operational buildings.
- Stage 3b: Deliver the capital works to increase the energy efficiency of the properties to a “E” rating or above with the provision of a valid EPC.
- Stage 4:
  - Ahead of tighter regulations coming in by 2027 and 2030, where properties are required to achieve an EPC rating of C or above or B or above respectively, review a programme of capital works required to improve energy efficiency and achieve compliance across the Operational Property portfolio. These works will be integrated with the capital works required for Climate Action Strategy.

9. A subsequent paper will be presented in September with an update on the findings of Stage 2.

### Current Position

10. The Operational Property portfolio is compliant with the current MEES regulations.
11. The MEES regulations are changing in April 2023 and therefore, some buildings might not be compliant with the incoming regulation.
12. There are 11 buildings that do not have a valid EPC. It is likely that most of these buildings will have a D rating or above but in order to comply with the regulations, they will now need to have a valid EPC. The estimated cost of performing these is estimated at £15,000.
13. There are 2 buildings that have a valid EPC with a rating of G. These sites will require energy efficiency interventions in order to achieve EPC greater than E. Some of the measures could be LED lighting replacement; insulation; improved heating systems. Funding for these works is yet to be discussed and options will be presented in an update paper in September.

### Timeline

Activity	2022/23																							
	W1	W2	W3	W4	W5	W6	W7	W8	W9	W10	W11	W12	W13	W14	W15	W16	W17	W18	W19	W20	...	W43	W44	
	06-Jun-22	13-Jun-22	20-Jun-22	27-Jun-22	04-Jul-22	11-Jul-22	18-Jul-22	25-Jul-22	01-Aug-22	08-Aug-22	15-Aug-22	22-Aug-22	29-Aug-22	05-Sep-22	12-Sep-22	19-Sep-22	26-Sep-22	03-Oct-22	10-Oct-22	17-Oct-22	...	27-Mar-23	03-Apr-23	
Stage 1: Gap analysis																								
Stage 2: Develop EPCs on properties that require one																								
Stage 3: Development and delivery of a program of energy efficiency measures to improve EPCs																								
Stage 4: Development of a program of capital work to maintain compliance by 2027 / 2030																								

### Energy Team and Corporate Property Group roles

Stages	Lead	Comments
Stage 1: Gap Analysis	Energy Team	The Energy team has done a comprehensive review of the MEES regulations and their implication for the Operational Property portfolio.
Stage 2: Development of EPCs	Energy Team	The Energy team will appoint a contractor for developing the EPCs at the relevant buildings.  This stage will also include the development of MEES exemptions.

Stage 3a: Development of capital programme	Energy Team	Based on the information gathered during Stage 2, the Energy Team will produce a staged capital delivery programme to implement the necessary energy efficiency measures on the targeted properties and to maintain compliance after April 2023.
Stage 3b: Delivery of capital programme	Minor Works Team	The delivery of the capital programme includes: <ul style="list-style-type: none"> <li>• Developing the funding strategy of the works</li> <li>• Procuring contractors</li> <li>• Overseeing the construction works</li> </ul>
Stage 4: Development of programme for future compliance	Energy Team	Based on the Operational Property portfolio review, a new programme of capital works would be required to increase the energy efficiency of leased buildings to EPC ratings of C and B by 2027 and 2030 respectively.  This programme will be developed considering the capital works required by the Climate Action Strategy.

### Corporate & Strategic Implications

Assessing the energy efficiency performance of the Operational Property portfolio through EPCs is now a requirement that would inevitably increase the cost of maintenance of a property / building. From a building management perspective, EPCs are relatively inexpensive (between £500 and £2,000) per building and have a validity of 10 years. However, it would have to be now a recurrent theme in the Operational Property portfolio.

The cost of non-compliance poses a significant financial and reputational risk and could impact the goals of the Climate Action Strategy.

### Conclusion

The Operational Property portfolio is currently compliant with the MEES regulation. However, given the incoming changes in the regulation, some properties are at risk of non-compliance by April 2023.

The Energy Team has developed a strategy to maintain MEES compliance after the changes in the regulations.

There are cost implications in the region of £15,000 on implementing the strategy. These costs would be dispersed across local existing risk budgets of the Operational Property portfolio.

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