



Solving non-compliance within Air Conditioning Inspections

Prior to the introduction of the regulations requiring the inspection of air conditioning systems with an effective rated output of over 12kW, the Government produced an impact assessment on the number of buildings that would need to be inspected as part of the 5-year cycle. The assessment identified that in the period 1993 to 2003, 25,000 centralised systems were sold and 250,000 (Mid-Range Figures) packaged systems were sold. Then the assessment estimated that there were 23,000 Centralised systems and 500,000 packaged systems that were in operation prior to 1993, giving a total of 48,000 centralised systems and 750,000 packaged systems.

MHCLG have subsequently advise that these figures cannot be used now as they represent out of date data; nevertheless, the industry was born on these figures and MHCLG stood by the assessment at the time, so this seems like just another way of covering up the lack of compliance.

Since this assessment, the number of conditioned buildings has increased due to the impact of global warming; despite this, in 2020 MHCLG have determined that the number of conditioned buildings has in fact fallen to 163,000. Our experience, working alongside a number of industry experts and assessing firms, we believe this figure is hugely understated and we have calculated that a conservative figure is that there are 520,000 conditioned buildings in operation in England and Wales.

Comparing the industry estimated number of conditioned buildings against the number of reports lodged over the 5-year Inspection Cycle it would appear that compliance with legislation is less than 12%. The lack of compliance is not surprising given the almost total absence of enforcement across the requirement. County Councils defer to Local Councils, who then claim they have neither the funding nor the resources to enforce legislation in this sector.

So what can we do to improve compliance? The Governments 'A guide to air conditioning inspections in buildings' updated 28 December 2020, states: *If the control of an air conditioning system is passed to another person and that person has not been given an air conditioning inspection report by the previous operator of the system, the system must be inspected within three months of the new operator taking over control of the system.*

Could this be the sale or let of a conditioned building? The sale or let of a building would be handled by a solicitor and would require a valid EPC to be included in the documentation; surely this transaction should include all relevant legal documents including the passing of an air conditioning inspection report between system operators and if no report is available the advice from the solicitor would be to ensure that the new operator obtains an air conditioning inspection report within 3 months.

Compliance check as part of Buildings Insurance? It would seem logical that as part of a buildings annual insurance renewal, where a building has air conditioning, an insurance company would require a copy an air conditioning inspection report in order to provide insurance cover. There are a number of risks associated with air conditioning systems that could affect a building, its function and its occupants.

The Central Register; for a number of years we have been trying to get a report from the central register which compares lodged EPCs and DEC's that declare the presence of air conditioning in the inspected building but no valid report appears on the register against the building address. In addition, the register would be able to report on air conditioning inspection reports that have reached the end of their 5-year validity and have not been replaced. We continue to push the central register to provide this report.

What could we do with this data? MHCLG guidance makes reference to 'Local Weights and Measures Authorities (usually Trading Standards Officers)' as being responsible for enforcing the requirements. However, in many cases County Councils defer to Local Councils, who then claim they have neither the funding nor the resources to enforce legislation in this sector. Funding you say! Based on our estimates of non-compliance the revenue from fines at £300 per system would be in excess of £32m!

Could writing a letter help? PEPA's website already has the option for assessors and members of the public to declare non-compliance; a simple form allows you to identify noncompliance across all strands. Declarations are followed up with a letter from PEPA, which is addressed to the building. More information available on the following link: <https://www.pepassociation.org/non-compliance/>

We believe a letter would carry more substance if it came from MHCLG or, as a minimum, included the MHCLG logo to reflect the official status of the document.

The central register is again the key to being able to identify the effectiveness of sending letters by comparing the building address where letters have been sent with lodgements received to the central register.

Are the fines too low? The penalty for failing to have an air conditioning inspection report is fixed in the regulations and is currently £300. A further penalty can be issued for failure to provide a Trading Standards Officer with a copy of the air conditioning inspection report within seven days when requested to do so. The penalty is fixed at £200. The fines, particularly when related to larger buildings, is more than likely less than the fee for an assessor to complete the inspection and as we know that enforcement is nonexistent, there is little incentive for a system owner/operator to have an inspection carried out as invariably a fine will not be issued.

In contrast, the fine for non-compliance with the Display Energy Certificates regulations is £500 for failing to display a DEC at all times in a prominent place clearly visible to the public, and £1,000 for failing to possess or have in their control a valid advisory report, so a combined fine for no DEC and AR is a more reasonable £1,500.

Setting the fine for noncompliance with the Air Conditioning Inspection regulations to £1,000 would certainly help provide some incentive to system owners/operators to obtain an inspection report, but fines are only valuable if they are being issued.

PEPA continues to work alongside energy assessors and MHCLG to provide a solution on how to improve compliance across all EPBD strands; these suggestions along with a few others have been submitted to MHCLG in a bid to improve compliance.

As always, if you have any suggestions that you believe could improve compliance in any of the EPBD strands, please do not hesitate to make contact with me or your accreditation scheme.

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