

This Report will be made public on 20 February 2024

Report Number **C/23/89**

To: Cabinet
Date: 28 February 2024
Status: Non-Key Decision
Director: Andy Blaszkwicz, Corporate Director of Housing and Operations
Gill Butler, Chief Officer Housing
Cabinet Member: Councillor Shoob, Cabinet Member for Housing and Homelessness

SUBJECT: HOUSING COMPLIANCE (ASBESTOS AND ELECTRIC SAFETY) POLICIES

SUMMARY: This report presents two policies in relation to health and safety compliance for the Council's housing landlord service. These are, specifically:

1. Housing Compliance (Asbestos) Policy
2. Housing Compliance (Electric Safety) Policy

REASONS FOR RECOMMENDATIONS:

Cabinet is asked to agree the recommendations set out below because: -

- a. There have been changes in legislation and best practice since the policies were introduced in 2021. Cabinet needs to be made aware of these changes and the policies updated.
- b. The policies will expire in April 2024 and therefore require updating/renewing to ensure the Council is fully compliant with health and safety legislation.

RECOMMENDATIONS:

1. To receive and note report C/23/89.
2. To approve the proposed changes to the Council's Housing Compliance (Asbestos and Electric Safety) Policies outlined in the report and in the appended track-changed documents.

1. BACKGROUND

- 1.1 Six policies covering the FLEGAL (Fire, Legionella, Electric, Gas, Asbestos and Lifts) areas of health and safety compliance were approved by Cabinet in May 2021. These policies are due to expire in April 2024.
- 1.2 An audit on tenant health and safety was conducted by the East Kent Audit Partnership (concluded in August 2023) which awarded the Council with 'Reasonable Assurance' that it has a robust system of internal controls in place for the management of tenant health and safety. Part of this assurance is based on evidence that the Council has clear and up-to-date policies on the 'big six' aforementioned 'FLEGAL' areas of tenant health and safety compliance.
- 1.3 All six policies have undergone an internal review to ensure that they reflect current legislation and best practice. As a result, all six policies have been amended to reflect changes in regulatory powers to the effect that, from 01 April 2024, the Regulator of Social Housing will be able to proactively intervene or carry out inspections where landlords are underperforming.
- 1.4 In addition, all six policies now have corresponding paragraphs in relation to 'controlled access' that stipulate that the Council will make every effort to obtain access to properties to carry out safety checks, giving reasonable notice, before the inspection/certificate is due to expire. However, if access has still not been granted, or in cases of emergency, we will take enforcement action to gain entry to the property if necessary.
- 1.5 Following on from Gas and Fire safety (presented to Cabinet 31 January 2024) we now present policies for Asbestos and Electric, with Legionella and Lifts to follow in March. Both policies have been updated with changes noted below (and highlighted as track changes at appendices 1 and 3).

2. HOUSING COMPLIANCE (ASBESTOS) POLICY

- 2.1 Broadly, the aim of this policy is to meet the requirements of the Control of Asbestos Regulations (CAR) 2012. The policy provides assurance to the Council that measures are in place to identify, manage and/or mitigate risks associated with asbestos.
- 2.2 The policy has been updated to ensure it reflects the current working practices of the housing compliance team. Aside from the changes noted at 1.3 and 1.4 above, no other significant changes have been made and there are no changes to the legal framework that underpins the policy.
- 2.3 Minor changes we have made are:
 - **Section 4 - Responsibilities** updated to reflect current roles and practices in relation to reporting and 4.6 – competent persons/qualifications
 - **Section 7 – Compliance Risk Assessment** references to HRA commercial stock removed

- **Section 11 – Performance reporting** updated to reflect current reporting requirements
 - **Section 12 – Quality assurance** updated to reflect percentage of inspections to be routinely audited (5%) but that this to be agreed through contracts
 - **Section 14 – Equality and diversity** paragraph added to address potential tenant vulnerabilities when gaining access to undertake safety checks
- 2.4 Other minor changes and/or re-wording have been made throughout the policy.
- 2.5 Note that the ‘Asbestos Management Plan’ (referenced at section 5.3 of the policy) and the Asbestos Register (which holds records of the assets that contain ACMs) are the main control mechanisms for effective operational management of this policy.

3. HOUSING COMPLIANCE (ELECTRIC SAFETY) POLICY

- 3.1 The Housing Compliance (Electric Safety) policy has been updated to ensure it reflects the current working practices of the housing compliance team. Aside from the changes noted at 1.3 and 1.4 above, no other significant changes have been made and there are no changes to the legal framework that underpins the policy.
- 3.2 Minor changes we have made are:
- **Section 4 - Responsibilities** updated to reflect current roles and practices in relation to reporting and 4.6 – competent persons/qualifications
 - **Section 7 – Compliance Risk Assessment** references to HRA commercial stock removed
 - **Section 8 – Compliance follow up work** categories for electric defects clarified (C1 – danger present; C2 – potentially dangerous; C3 rec. improvement)
 - **Section 10 – Performance reporting** updated to reflect current reporting requirements
 - **Section 14 – Equality and diversity** paragraph added to address potential tenant vulnerabilities when gaining access to undertake necessary safety checks
- 3.3 Other minor changes and/or re-wording have been made throughout the policy.
- 3.4 The Electrical Inspection Condition Report (EICR) records, and the 5-year inspection programme are the main controls for effective operational management of this policy

4. CONSULTATION

- 4.1 A working group of officers reviewed the policies between October-November 2023, including specialists in Asbestos and Electric safety. Details of the proposed changes were presented to the Strategic Tenants Advisory Panel (STAP) for information.

5. CONCLUSION

- 5.1 The appended policies have been updated according to current legislative requirements and best practice. It is therefore recommended that these changes and policies be approved by Cabinet before they expire in April 2024.

6. RISK MANAGEMENT ISSUES

- 6.1 A summary of the perceived risks follows:

Perceived risk	Seriousness	Likelihood	Preventative action
If the policies expire or are not adopted by Cabinet, the Council cannot provide assurance that it recognises its duty, or that it has the necessary controls in place to manage Asbestos and Electric safety in tenants' homes effectively	High	Low	The policies are being presented to Cabinet for approval before they expire. There are no fundamental changes to working practices being proposed.
Failure by the Council to discharge its responsibilities for Asbestos and Electric safety could lead to a range of sanctions including prosecution by the Health and Safety Executive under the Health and Safety at Work Act 1974, and/or prosecution under the Corporate Manslaughter and Corporate Homicide Act 2007	High	Low	An audit of tenant health and safety completed by the East Kent Audit partnership in 2023, provided 'reasonable assurance' that the Council has a robust system of internal controls in place. These policies form part of that assurance. In addition, KPIs for Asbestos and Electric safety are monitored by the housing team weekly/monthly and reported to Cabinet quarterly.

<p>Failure by the Council to demonstrate compliance with the regulatory framework and consumer standards may lead to an intervention and/or inspection by the Regulator of Social Housing (RSH)</p>	<p>High</p>	<p>Low</p>	<p>A mock assessment by the RSH against its new consumer standards (as part of a pilot exercise Jan-Mar 2023) concluded that the Council's data and controls did not suggest any potential breaches of consumer standards. The housing team are preparing to submit data against the standards for the 2023/24 year.</p>
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7. LEGAL/FINANCIAL AND OTHER CONTROLS/POLICY MATTERS

- 7.1 **Legal (NM)** – These policies have been updated in light of changes in legislation, which are identified in this report.
- 7.2 **Finance (LW)** - There are no direct financial implications within this report, however, consideration will need to be given with regard to any future impact on the HRA Capital Programme.
- 7.3 **Equality and Diversity (GE)** – An Equality Impact Assessment has been completed on both policies consideration given in relation to how we treat vulnerable tenants when attempting to gain access for safety checks.
- 7.4 **Climate Change Implications (AT)** - There are no climate change implications arising from this report.

8. CONTACT OFFICERS AND BACKGROUND DOCUMENTS

Councillors with any questions arising out of this report should contact the following officers prior to the meeting:

Mick Hale, Housing Assets Lead Manager
 Telephone: 07517 830462
 Email: mick.hale@folkestone-hythe.gov.uk

The following background documents have been relied upon in the preparation of this report:

Appendices:

1. Housing Compliance (Asbestos) policy (track changes)
2. Housing Compliance (Asbestos) policy (clean version)
3. Housing Compliance (Electric Safety) policy (track changes)
4. Housing Compliance (Electric Safety) policy (clean version)