



Agenda

Meeting: **Cabinet**
Date: **26 May 2021**
Time: **5.00 pm**
Place: **Council Chamber - Civic Centre Folkestone**

To: **All members of the Cabinet**

All Councillors for information

The cabinet will consider the matters listed below on the date and at the time and place shown above.

Due to current social distancing guidelines, only 6 seats are available for members of the public at meetings in the Council Chamber. These seats will be reserved for those speaking or participating at the meeting, and the remaining available seats will be given on a first come, first served basis.

Members of the public are encouraged to view the meeting online if they are not to address the meeting. Meetings will be streamed live to the internet, and can be viewed at: <https://folkestone-hythe.public-i.tv/core/portal/home>.

Further information on attending council meetings can be found at [Advice for public attendance](#)

1. **Apologies for Absence**
2. **Declarations of Interest (Pages 5 - 6)**

Members of the Council should declare any interests which fall under the following categories:

- a) disclosable pecuniary interests (DPI);
- b) other significant interests (OSI);

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website
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c) voluntary announcements of other interests.

3. **Minutes (Pages 7 - 10)**

To consider and approve, as a correct record, the minutes of the meeting held on 14 April 2021.

4. **Corporate Complaints Policy (Pages 11 - 44)**

This paper outlines proposed changes to the Customer Feedback & Complaints Policy; primarily detailing suggested amendments to the investigation process in relation to Stage 2 complaints. These changes are being proposed to improve efficiency and utilise resources more effectively whilst ensuring that complaint investigations are consistently dealt with in the most robust and transparent way possible. The paper also proposes the inclusion of minor additions to the content of the policy, including the appropriate references to complaints regarding the housing service and the early resolution process, which are not currently referenced in the policy. The report also proposes, in line with Ombudsman best practice, the adoption of a Corporate Reasonable Adjustment Policy and requests for some minor alterations to be made to the Persistent & Unreasonable Complainants Policy.

5. **Housing Compliance policies (Pages 45 - 130)**

This report seeks approval for six policies in relation to Housing Landlord Health and Safety Compliance, updated to reflect F&HDC's operational structures.

6. **Progress report for the installation of new public conveniences and kiosk at the Lower Leas Coastal Park (Pages 131 - 142)**

This report sets out the proposal for the agreed capital funding for a new kiosk and toilet block to be provided at the Lower Leas Coastal Park.

7. **Progress report for the refurbishment of public conveniences (Pages 143 - 148)**

This report provides an update on the proposed Capital Programme project for the refurbishment of Public Conveniences across Folkestone & Hythe. The Engineering and Buildings team have undertaken condition surveys for all toilet blocks and identified areas of improvement for each. Four priority PC's have been identified for refurbishment, Pleydell Gardens Folkestone, Somerset Road Cheriton, Dymchurch High Street and Station Road Lyminge.

8. **Urgent Decision: Connect 38 - Addition of CAT A works to General Fund Capital Programme (Pages 149 - 154)**

In May 2019, Folkestone & Hythe District Council purchased the investment property known as Connect 38 in Ashford, Kent. At that time, the first floor and part of the second floor were vacant and required

finishing to a Category A (CatA) specification before leasing out. Unfortunately this space remained vacant as a result of low interest in office space through the Covid pandemic.

Recently however there has been a resurgence of interest in office space and the council has agreed draft heads of terms with a potential new tenant who requires occupation by 30 July 2021. Therefore the CatA works to the second floor need to be undertaken immediately to enable this deadline to be met. Urgent approval is now required to modify the Council's capital programme to allow the CatA works to be undertaken in order to let the vacant space.

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Declarations of Interest

Disclosable Pecuniary Interest (DPI)

Where a Member has a new or registered DPI in a matter under consideration they must disclose that they have an interest and, unless the Monitoring Officer has agreed in advance that the DPI is a 'Sensitive Interest', explain the nature of that interest at the meeting. The Member must withdraw from the meeting at the commencement of the consideration of any matter in which they have declared a DPI and must not participate in any discussion of, or vote taken on, the matter unless they have been granted a dispensation permitting them to do so. If during the consideration of any item a Member becomes aware that they have a DPI in the matter they should declare the interest immediately and, subject to any dispensations, withdraw from the meeting.

Other Significant Interest (OSI)

Where a Member is declaring an OSI they must also disclose the interest and explain the nature of the interest at the meeting. The Member must withdraw from the meeting at the commencement of the consideration of any matter in which they have declared a OSI and must not participate in any discussion of, or vote taken on, the matter unless they have been granted a dispensation to do so or the meeting is one at which members of the public are permitted to speak for the purpose of making representations, answering questions or giving evidence relating to the matter. In the latter case, the Member may only participate on the same basis as a member of the public and cannot participate in any discussion of, or vote taken on, the matter and must withdraw from the meeting in accordance with the Council's procedure rules.

Voluntary Announcement of Other Interests (VAOI)

Where a Member does not have either a DPI or OSI but is of the opinion that for transparency reasons alone s/he should make an announcement in respect of a matter under consideration, they can make a VAOI. A Member declaring a VAOI may still remain at the meeting and vote on the matter under consideration.

Note to the Code:

Situations in which a Member may wish to make a VAOI include membership of outside bodies that have made representations on agenda items; where a Member knows a person involved, but does not have a close association with that person; or where an item would affect the well-being of a Member, relative, close associate, employer, etc. but not his/her financial position. It should be emphasised that an effect on the financial position of a Member, relative, close associate, employer, etc OR an application made by a Member, relative, close associate, employer, etc would both probably constitute either an OSI or in some cases a DPI.

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Minutes

Cabinet

Held at:	Zoom - remote meeting
Date	Wednesday, 14 April 2021
Present	Councillors John Collier, Ray Field, David Godfrey, Mrs Jennifer Hollingsbee (Vice-Chair), David Monk (Chairman), Stuart Peall, Tim Prater, Lesley Whybrow and David Wimble
Officers Present:	Andy Blaszkowicz (Director of Housing and Operations), Rebecca Chittock (Planning Policy Specialist), Ewan Green (Director of Place), Amandeep Khroud (Assistant Director), Sue Lewis (Committee Services Officer), Susan Priest (Chief Executive), Helen Sudbury (Housing Operations Lead Specialist), Adrian Tofts (Strategy, Policy & Performance Lead Specialist) and Jemma West (Committee Service Specialist)

NOTE: All decisions are subject to call-in arrangements. The deadline for call-in is Friday 23 April at 5pm. Decisions not called in may be implemented on Monday 26 April 2021.

93. **Declarations of Interest**

There were no declarations at the meeting.

94. **Minutes**

The minutes of the meeting held on 17 March 2021 were submitted, approved and signed by the Chairman.

95. **Tenant Engagement Strategy**

The report outlined the draft Tenant Engagement Strategy and Action Plan for the Housing Service.

Proposed by Councillor Godfrey,
Seconded by Councillor Mrs Hollingsbee; and

RESOLVED:

1. That report C/20/89 be received and noted.

2. That the Tenant Engagement Strategy be approved.

(Voting figures: 9 for, 0 against, 0 abstentions).

REASONS FOR DECISION:

Cabinet were asked to agree the recommendations because:

- a) This is the first tenant engagement strategy since bringing the housing service back in house and it is important that members are aware of, and approve the approach to tenant engagement. .
- b) There are several regulatory requirements that housing providers must adhere to:
 - i. The Council must follow the requirements of the Regulator of Social Housing's Tenant Involvement and Empowerment Standard 2017. This document enables this involvement.
 - ii. The 2020 Housing White Paper 'The Charter for Social Housing Residents' was produced following the lessons learnt from the Grenfell Tower fire. A key lesson was for tenants to 'have your voice heard by your landlord' and that engaged tenants should be a key part of any landlord's governance arrangements. In approving the Tenant Engagement Strategy members are agreeing a framework through which the tenant's voice will be heard.

96. Adoption of the third revision of the Kent Downs Area of Outstanding Natural Beauty (AONB) Management Plan

The Countryside and Rights of Way (CROW) Act 2000 requires local authorities to produce, adopt and keep under review Management Plans for Areas of Outstanding Natural Beauty (AONB). The Kent Downs AONB covers 24% of the district, predominantly in the northern half, but also running east-west through Saltwood and Lympe and, working with other authorities in the Kent Downs AONB, a review has been undertaken to update the current plan for the period 2021 – 2026.

All 12 local authorities with land area within the Kent Downs AONB are legally required to adopt the same AONB Management Plan.

The report proposed adoption of the reviewed document, which strongly reflects the existing, already adopted plan.

Proposed by Councillor Mrs Hollingsbee,
Seconded by Councillor Wimble; and

RESOLVED:

- 1. That report C/20/90 be received and noted.**
- 2. That the Kent Downs AONB Management Plan Review 2021-26 provided in Appendix 1 be adopted.**

3. That the formal date for adoption be shortly after the last of the 12 local authorities resolves to adopt the plan – this will be confirmed to the council by the Kent Downs AONB Unit.
4. That delegated authority be given to the Director of Corporate Services in consultation with the Cabinet Member for the District Economy and the Member of the Kent Downs AONB Joint Advisory Committee to make any minor amendments resulting from:
 - a) The recommendations of Cabinet; and
 - b) Modifications proposed by the other AONB partner local authorities taking the Management Plan to adoption.

(Voting figures: 9 for, 0 against, 0 abstentions).

REASONS FOR DECISION:

Cabinet is asked to agree the recommendations because:

- a) Adoption will fulfil the Council's statutory duty to work with the 11 other Local Authorities to prepare, review and adopt a management plan for the Kent Downs Area of Outstanding Natural Beauty.
- b) The plan offers considerable benefit to the District and will help meet the Council's strategic objectives, our response to the climate and biodiversity emergencies and the health and wellbeing of our communities.

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This Report will be made public on 18 May 2021



Report Number **C/21/02**

To: Cabinet
Date: 26 May 2021
Status: Key Decision
Responsible Officer: Becky Edwards - Case Management Lead (Place)
Ewan Green - Director, Place
Cabinet Member: Councillor Ray Field, Cabinet Member for Digital Transformation

SUBJECT: CORPORATE COMPLAINTS POLICY

SUMMARY: This report outlines proposed changes to the Customer Feedback & Complaints Policy; primarily detailing suggested amendments to the investigation process in relation to Stage 2 complaints.

These changes are proposed in order to ensure greater resource efficiency is built into in the complaints process, thereby improving customer service, whilst ensuring that investigations are consistently dealt with in a most robust and transparent way.

The report proposes the inclusion of minor additions to the content of the policy, including the appropriate references to complaints regarding the housing service and the early resolution process, which are not currently referenced in the policy.

Alongside this the report also proposes, in line with Ombudsman best practice, the adoption of a Corporate Reasonable Adjustment Policy and requests for some minor alterations to be made to the Persistent & Unreasonable Complainants Policy.

The report also outlines an annual audit process which will be put in place to monitor the quality and effectiveness of the proposed new policy.

REASONS FOR RECOMMENDATIONS:

Cabinet is asked to consider and approve the proposed amendments which will lead to the changes in the Corporate Complaints Policy being implemented.

RECOMMENDATIONS:

1. To receive and note the report C/21/02.
2. To approve the following policies:
 - Customer Feedback & Complaints Policy
 - Persistent & Unreasonable Complainants Policy
 - Reasonable Adjustment Policy

3. **To give delegated authority to the Director of Place, in consultation with the Cabinet Member for Digital Transformation, to approve minor amendments to the above policies in the future, and to bring substantive changes back to Cabinet for approval as necessary.**

1. CUSTOMER FEEDBACK & COMPLAINTS POLICY - BACKGROUND

- 1.1 The current Corporate Feedback & Complaints Policy was approved by Cabinet on 30 June 2016. The policy outlines the Council's two stage complaints process with Stage 1 complaints being investigated by a senior officer of the department to which the complaint relates but, if the complainant is dissatisfied with the initial response and it is escalated to a Stage 2 complaint then this is passed to a senior officer from a separate department to which the complaint relates.
- 1.2 The Stage 2 process, requiring a lead officer from a separate Council department to investigate, has been found to be inefficient and at times challenging to resource. With due consideration to continuous improvement and customer service it is proposed to change the Stage 2 process.

2. CUSTOMER FEEDBACK & COMPLAINTS POLICY - PROPOSAL

- 2.1 It is proposed that Stage 1 complaints continue to be investigated by a senior officer in the department to which the complaint relates but that any subsequent Stage 2 complaints are then investigated by the lead officer also of that department.
- 2.2 Historically, Stage 2 complaints have been responded to by a manager from a different department to which the complaint relates. In order to improve the service we offer when responding to complaints, and to ensure staff time and resources are used as efficiently as possible, it is proposed that complaints are investigated in their entirety by the specialist department to which the complaint relates. Stage 1 complaints would be responded to by a specialist in the area and any subsequent Stage 2 complaints would be responded to by the senior officer.
- 2.3 It is recognised that the lead officers are experts in their subject areas and are therefore best placed to respond. This will not only result in complaints being investigated by the most appropriate and knowledgeable senior member of staff in each area but it will improve clarity around the process and provide clear accountability for complaints on a departmental as well as at a corporate level.
- 2.4 These changes to the current process are in line with the Local Government Ombudsman and the Housing Ombudsman guidance on best practice. The Local Ombudsman guidance on running a complaints system recommends a "clear accessible and flexible process that forms part of service provision and does not overwhelm individuals or other council processes."
- 2.5 These proposed changes have been reviewed by East Kent Audit Partnership during their recent routine audit of the complaints monitoring process. The suggested changes are supported and it was confirmed that they will comply with best practice in regards to responding to complaints.
- 2.6 The proposed implementation of these changes supports the Council's stated aims within the Corporate Plan 2030: Creating Together Tomorrow by promoting resource efficiency and clear, transparent decision-making. Clear

departmental ownership of complaints will also enable any trends or lessons learnt to be immediately identified in line with our corporate commitment to continuous improvement.

- 2.7 Both the Complaints Policy and current procedures in place would need to be updated to reflect these changes and it is requested that consideration is given for this to be implemented.

3 CUSTOMER FEEDBACK & COMPLAINTS POLICY - CONTENT UPDATES

- 3.1 A copy of the proposed new policy is attached as Appendix 1. Alongside the main change outlined in section 2 of this report there are a number of minor updates to the content of the policy also proposed:
- 3.2 Accessibility reference - clearly state how we will make the complaints process as simple and straightforward as possible. (ref: Policy, page 2).
- 3.3 Inclusion of the reference to the Equality Act 2010, not currently mentioned in the policy (ref: Policy, page 4).
- 3.4 Clarification as to the acceptance of complaints made through a representative, including carers, residents groups and family members (ref: Policy, page 5).
- 3.5 Inclusion of initial service resolution details clarifying how we will aim to resolve complaints as soon as possible by discussing the issue with the customer to understand the problem and how they would like it to be resolved (ref: Policy, page 6).
- 3.6 Inclusion of the reference to the process of withdrawing complaints (ref: Policy, page 7).
- 3.7 Addition of the statement that there will be an annual audit of complaints undertaken. The annual audit will include a sample check of Stage 1 and Stage 2 complaints across service areas and also review the number of complaints which progress to the Ombudsman each year. This is in line with the commitment to continuous improvement of the complaints processes and seeks to ensure best practice (ref: Policy, page 9).

4. UNREASONABLY PERSISTENT COMPLAINANTS & UNREASONABLE COMPLAINANT BEHAVIOUR POLICY

- 4.1 The Unreasonably Persistent Complainants and Unreasonable Complainant Behaviour Policy was originally adopted by Cabinet in December 2011.
- 4.2 The council's corporate complaints function has been subject to an internal audit from April 2020-January 2021, which has now concluded with the function being provided with a 'reasonable' assurance rating on internal controls. The audit findings did however recommend this policy be reviewed, and updated where necessary to ensure that it remains fit for purpose.

4.3 In response to the internal audit recommendation, the policy (Appendix 3) has been discussed in relation to the wider corporate complaints policy and it was concluded that the policy for dealing with persistent and unreasonable complainants remains robust as the overall number of individuals the council has experienced is considered to be very low. However, the following minor alterations have now been made:

- The policy has been produced on a new corporate template to meet accessibility guidelines.
- Updating of local authority name from Shepway to Folkestone and Hythe.
- Updating of job titles where appropriate

5. REASONABLE ADJUSTMENT POLICY

5.1 Under the Equality Act 2010, local authorities have a requirement to make “reasonable adjustments” if the way in which we provide a service places a person with disabilities at a substantial disadvantage compared with someone who does not have disabilities.

5.2 The Housing Ombudsman annual self-assessment form references the best practice of a Reasonable Adjustment Policy being adopted by Local Authorities in conjunction with their Corporate Complaints Policy.

5.3 The proposed Reasonable Adjustment Policy (Appendix 4) outlines a framework about how we deal with reasonable adjustment requests and ensures compliance with the Equality Act 2010 by ensuring the protection of the rights of individuals and advancing the equality of opportunity for all.

6. RISK MANAGEMENT ISSUES

6.1 There is not a great deal of risk management involved in these proposals

Perceived risk	Seriousness	Likelihood	Preventative action
Policy changes not adopted	medium	low	Policy amendments written in consultation with all Lead Officers following LGO/HO best practice and guidance

7. LEGAL/FINANCIAL AND OTHER CONTROLS/POLICY MATTERS

7.1 Legal Officer’s Comments (Nicola Everden)

Legal Services confirm that the proposed complaints procedure complies with Best Practice Guidance issued by the Local Government Ombudsman. There are no legal impediments to Cabinet agreeing to the recommendations set out in the report.

7.2 Finance Officer's Comments (Lee Walker)

There are no financial implications arising directly from this report.

7.3 Diversities and Equalities Implications (Gavin Edwards)

There are no equality and diversity implications directly arising from this report.

8. CONTACT OFFICERS AND BACKGROUND DOCUMENTS

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

Becky Edwards, Case Management Lead (Place)
Telephone: 01303 853464
Email: rebecca.edwards@folkestone-hythe.gov.uk

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

None

Appendices:

Appendix 1: Corporate Feedback & Complaints Policy (May 2021)

Appendix 2: Updated Dealing with Unreasonably Persistent Complainants & Unreasonable Complainant Behaviour Policy (May 2021)

Appendix 3: Reasonable Adjustment Policy (May 2021)

Customer Feedback and Complaints Policy

May 2021



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Feedback and Complaints Policy

Folkestone & Hythe District Council is committed to delivering high levels of customer service to all our customers. We seek feedback from customers in a variety of ways, ranging from consultations, surveys and understanding their experiences.

We value and welcome customer feedback. It enables us to co-design our services with our customers, helping ensure we meet and exceed our customers' expectations. It enables us to identify what we do well and where we could make improvements.

Compliments for outstanding service enable us to give credit to the staff involved, and share their good practice across the Council, so other customers benefit from the same excellent service.

Sometimes we recognise the Council gets it wrong and a customer will make a complaint. We will always thoroughly investigate any we receive and see what lessons we can learn to serve you better.

We will make the complaints process as simple and straightforward as possible, publicise this policy externally via our website and provide a copy to customers on request. Complaints will be received via a variety of channels, including telephone, in person and by email and written correspondence.

This policy sets out our approach for dealing with customer feedback and formal complaints about the services that we, or our contractors, provide. If you wish to ask questions or comment on anything relating to the policy, you should contact the relevant Cabinet Member, or your ward councillor.

Customer Feedback

Customer feedback is any comment you wish to make based on your experience of using Council services. Customer feedback enables the Council to understand what works well and should therefore be repeated in the delivery of other similar types of services, as well as to identify improvements we need to make to the delivery of our services. By gathering Customer feedback, we meet our ambition to refine our services to meet and exceed our customers' expectations.

All customer feedback is reported to the Council's Senior Management and Members for review, as well as to the Service areas themselves.

How do you pass feedback on?

Customer Feedback may be given in a number of ways, including:

- Our online feedback form
- Email complaints@folkestone-hythe.gov.uk
- Telephone - 01303 853000
- In writing – Folkestone & Hythe District Council, Civic Centre, Castle Hill Avenue, Folkestone, Kent CT20 2QY
- Directly to the staff to which it relates

Feedback can be given directly to the staff to which it relates, but it may not then be shared more widely to enable other teams to learn the same lessons. Feedback may also be made anonymously, but we would not be able to contact you:

- To clarify any points you have made,
- To thank you for suggesting changes to our procedures,
- To let you know directly what we've changed as a result of your comments

Any feedback received by us will be acknowledged within 5 working days from the date of receipt (unless anonymous) and each piece of feedback will be allocated a unique reference.

What is a Complaint?

Sometimes you might be dissatisfied with the service you have received from the Council, in which case you may feel the need to make a formal complaint.

The council defines a complaint as 'an expression of dissatisfaction about a Council service (whether that service is provided directly by the Council or by a contractor or partner) that requires a response'.

A complaint is not a request for service or an enquiry about a service.

A request for service may become a complaint if the Council fails to meet our service standards after receiving the initial enquiry.

The Council has a duty to ensure everyone has the right to be treated fairly when using our services. A complaint can also be made on the grounds that a Council service or policy has discriminated against those with protected characteristics as defined in the Equality Act 2010.

Please note that the Council also has policies in place that address unreasonable complainant behaviour and persistent complainants. In exceptional circumstances complaints may be handled under these policies.

How Can You Make a Complaint?

For a complaint to be treated under this policy, it will need to be made in one of the following ways:

- Our online feedback form
- Email complaints@folkestone-hythe.gov.uk
- Telephone: 01303 853000
- In writing: Folkestone & Hythe District Council, Civic Centre, Castle Hill Avenue, Folkestone, Kent CT20 2QY
- Through a representative (in writing or by email)

The investigating officer will carry out a thorough investigation and will provide a response within 20 working days (10 working days for complaints regarding the housing service) from the date of receipt of the complaint.

If you are making a complaint please provide as much information as possible. This enables the investigating officer to fully address the issue being raised.

Who Can Make a Complaint?

Complaints, compliments and comments can be raised by users of our services, carers and/or others acting on behalf of a current or potential user of any of the services normally provided by the Council.

We will accept complaints from residents groups, for example Tenants and Residents Associations who demonstrate that they have a reasonable authority to act on behalf of customers.

We will accept complaints from representatives of individual customers, such as family members, carers and advocates and operate within the Data Protection Regulations. We will consider each case on its own merit but our general approach is to work with representatives where we have:

Express written authority from the customer to deal with their representative about the specific issue or complaint

Express oral permission from the customer to deal with their representative

There is strong evidence that the customer is not able to complain unaided or cannot give consent and therefore it is in the customer's best interest for the Council to liaise with the representative.

Can you make an Anonymous complaint?

We will not normally investigate anonymous complaints but may do so depending on the circumstances. In exercising this discretion the factors we would take into account, include:

- The seriousness of the issue raised
- The credibility of the concern and the likelihood of confirming the allegation from attributable sources.

Complaints Resolution

Initial Service Resolution

Any issues or complaints relating to Health & Safety concerns will be prioritized so that these issues can be addressed quickly and effectively. They will be acknowledged within 24 hours and an appropriate response provided within 3 working days.

We will aim to resolve complaints on the spot by discussing the issue with the customer to understand the problem and how they would like it to be resolved. We will let the customer know what we are doing about it and give them a realistic timescale for resolving the problem.

If the issue raised at the initial service resolution stage is serious, demonstrates that the Council has failed to meet service standards and is likely to warrant detailed investigation and response to the customer, then it will be escalated as a formal complaint.

We will contact the customer within 5 working days of their initial contact to confirm if the problem has been resolved and agree what steps are being taken if the issues remain unresolved.

We will keep records to demonstrate that the initial service resolution has been resolved to the complainant's satisfaction.

If the customer informs us that they are dissatisfied with our response, then the issue will be escalated as a formal complaint.

Formal Complaints – Stage 1

We will acknowledge your complaint within 5 working days from the date of receipt (unless anonymous). The acknowledgement will either be by email or by letter. A unique reference number will be allocated to the complaint.

After you have raised your complaint it will be logged centrally and a unique reference number will be allocated to it. The complaint will be sent to the complaints investigator or the specialist of the relevant service area to investigate and compose a response within 20 working days (or 10 working days for complaints in respect of the housing service) of the date of acknowledgement of the complaint. If it is not going to be possible to do this we will contact you to let you know the reason why and keep you informed of progress.

The Council aims to resolve any complaint at Stage 1. If you believe that the

response you received at Stage 1 has not fully and satisfactorily addressed your complaint, you may take the complaint to Stage 2 for further investigation. You will need to tell us specifically where you believe we let you down in our Stage 1 investigation before we can consider your complaint at Stage 2.

Formal Complaints – Stage 2

We will acknowledge your Stage 2 complaint within 5 working days from the date of receipt. The acknowledgement will either be by email or by letter. All Stage 2 complaints will be logged under the unique reference number that was allocated from your Stage 1 complaint. At Stage 2 the investigating officer is generally the senior officer of the service area to which the complaint relates. The complaint will be investigated and a response sent within 20 working days from the date which the complaint was acknowledged. If it is not going to be possible to do this we will contact you to let you know the reason why and keep you informed of progress.

There may be the need to agree to extend the timescales where people are unavailable owing to sickness absence, annual leave, etc., or where we are waiting for an advocate or other specialist to be appointed. If this is the case we will provide you with a written explanation and a new date.

Where the complaint relates solely to the attitude or behaviour of a member of staff it may be dealt with under the council's employment procedures. The responding officer or investigating officer will consider with the member of staff's line manager whether the attitude or behaviour reveals a possible breach of the council's Human Resources policies. If it does, our normal disciplinary policies will apply.

Withdrawing complaints

If a complainant or their representative withdraws a complaint, we will confirm this in writing. Any outstanding issues to be investigated or addressed will be followed in accordance with internal management processes and not under the complaints process.

What happens when we get it wrong?

When a complaint is found to be justified the Council will:

- Apologise to you
- Explain what has been or will be done to put the mistake right
- Explain how the error occurred and what has been done to prevent it happening again

In some cases, the most appropriate remedy to a complaint is for us to apologise to you for getting it wrong. In other cases, it will be appropriate for us to put right something that we did wrong, or do something that we failed to do.

We will offer whatever redress we believe to be right for the circumstances that will best serve the interests of our customer and uphold the principles of good customer service. For example, practical action will be considered as part or all of a remedy where a complaint is about failure to take some specific action such as carrying out repairs to a tenant's house. Consideration will also be given to any practical action suggested by you.

There will be circumstances where we are unable to put our customer back into the position they would previously have been in because of the amount of time lapsed or because of other events which may have occurred. In such circumstances, we may consider restorative or financial compensation. When considering any redress we will be fair, consistent and mindful of public money.

Local Government Ombudsman

If after having followed our complaints process you are still unhappy with the response you have received, you can contact the Local Government Ombudsman, an independent service set up by the Government to investigate complaints about most council matters. Please note that complaints in relation to the housing service must be referred to the Housing Ombudsman who covers all housing management complaints against any social landlord.

Please note: It is unlikely that the ombudsman will investigate a complaint against the council unless the complaint has been through the council's complaints process.

Audit of Complaints Process

The administration of feedback and complaints is audited annually with a full audit examination undertaken every four years. The audits are independently undertaken by East Kent Audit Partnership who examine and evaluate the procedures and controls in place to ensure best practice is met.

Complaints Not Covered by this Policy

The following issues cannot be considered under this policy

- Complaints against the Electoral Registration Officer or Returning Officer
- Complaints relating to Electoral registration
- Complaints against Councillors
- Complaints which should instead follow a statutory appeal or tribunal process such as complaints regarding a planning decision or a parking penalty charge notice
- Complaints against issues or service which are outside of our control or where the actions are by a third party over whom the Council has no control
- Matters relating to Insurance claims or legal proceedings
- The complaint has not been raised within 12 months of the date on which the issue or matter occurred, unless there has been a compelling and justifiable case
- The complaint has been considered already
- The complaint is being pursued in an unreasonable manner
- Appeals or disputes regarding decisions made under other FHDC policies, procedures or processes
- Complaints about contractors, where they have not had the opportunity to address the complaint in the first instance (if you are unhappy with the complaint response you have received from contractors then you can complain to us directly)

These types of complaints fall outside of the council's complaints procedure because:

- There are other processes more suitable for dealing with them such as statutory appeal or tribunal process
- They are outside of our control
- There are separate legal or regulatory requirements covering these services
- The council does not wish to prejudice any legal proceedings

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Unreasonable Complaints Policy

Dealing with unreasonably persistent
complainants and unreasonable complainant
behaviour.

May 2021



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1. Introduction

Folkestone & Hythe District Council recognises that people look to it to deal with many problems they encounter and is committed to enhancing quality of life across the district. People request services from the council on a daily basis about everything from housing benefits to waste collection. The council is committed to dealing with these requests fairly and impartially and providing a high quality of service to those who make them. The council has an established Customer Feedback and Complaints policy should a member of the public feel that they are not being fairly treated.

Most people make reasonable requests in a reasonable manner. This policy considers only people who make requests for service which, because of the frequency or nature of their contacts with the council, hinder the council's consideration of their or other people's requests for service.

This policy will refer to such enquires or requests for service as 'unreasonably persistent' or 'unreasonable complainant behaviour'. In exceptional circumstances, the council will take action to limit their contact with officers and their ability to use the council's time and resources.

Unreasonably persistent complainants and those demonstrating unreasonable behaviour may have justified complaints or grievances but may be pursuing them in an inappropriate way, or they may be intent on pursuing complaints which appear to have no substance or which have already been investigated and determined.

Their contact with the council may be amicable but still place a very heavy demand on staff time or be very emotionally charged and distressing for all involved. Sometimes the situation between the council and the member of the public escalates and their behaviour becomes unacceptable, for example abusive, offensive or threatening. Such complaints are very rare but sometimes the council finds itself in a position of having to restrict access to its personnel or the offices or require contact in writing only.

In all cases where we decide to implement this policy, we will write to tell the complainant why we believe his or her behaviour falls into that category, what action we are taking and the duration of that action. We will also tell them how they can challenge the decision if they disagree with it.

2. Why have a policy?

Having a policy enables staff to deal with complainants in ways which are demonstrably open, consistent and fair. It also helps staff to understand clearly what is expected of them, what options for action are available, and who deals with these actions. In the absence of such guidance staff may have greater problems with unreasonable and unreasonably persistent complainants.

3. Examples of unreasonable and unreasonably persistent complaints

Below are examples which the council will consider within this policy:

- Complaining persistently about matters that are trivial and of little substance;
- Complaining repeatedly about the same issue, despite previous investigations concluding that the complaint is groundless;
- Refusing to specify the grounds of a complaint, despite offers of assistance from the council's staff;
- Refusing to co-operate with the complaint investigation process while still wishing their complaint to be resolved;
- Refusing to accept that issues are not within the remit of an appropriate complaint procedure despite having been provided with information about the procedure's scope;

- Insisting on the complaint being dealt with in ways which are incompatible with the adopted complaints procedure or with good practice;
- Making what appear to be groundless complaints about the staff dealing with the complaint, and seeking to have them replaced;
- Changing the basis of the complaint as the investigation proceeds and/or denying statements made at an earlier stage;
- Introducing trivial or irrelevant information which the complainant expects to be taken into account and commented on, or raising large numbers of detailed but unimportant questions and insisting they are fully answered;
- Electronically recording meetings or conversations without the prior knowledge and consent of the other persons involved;
- Adopting a scattergun approach: pursuing a complaint with the council and at the same time, with a member of parliament, a councillor, the standards board, local police, solicitors or the ombudsman;
- Making unnecessarily excessive demands, which are unreasonable and unsustainable on the time and resources of staff whilst a complaint is being looked into, by for example excessive telephoning or sending emails to numerous council staff, writing lengthy complex letters every few days and expecting immediate responses;
- Submitting repeat complaints after complaints processes have been completed essentially about the same issues, with additions or variations which the complainant insists make these new complaint which should be put through the full complaints procedure;
- Refusing to accept the decision of the council, repeatedly arguing the point and complaining about the decision;
- Combinations of some or all of these.

4. Options for the council if behaviour is unreasonable or unreasonably persistent

- Refusing to register and process further complaints about the same matter;
- Placing time limits on telephone conversations and personal contacts;
- Restricting the number of telephone calls that will be taken (for example one call on one specified morning/afternoon of any week);
- Limiting the complainant to one medium of contact (telephone, letter, e-mail etc) and/or requiring the complainant to communicate only with one named member of staff;
- Requiring any personal contacts to take place in the presence of a witness; and
- Where a decision on the complaint has been made, providing the complainant with acknowledgements only of letters, , or e- mails, or ultimately informing the complainant that future correspondence will be read and placed on the file but not acknowledged.

5. When the policy will be applied and restrictions

The decision to apply the policy and to impose restrictions will be made by the appropriate Corporate Director. Where appropriate the Corporate Director may involve and consult with the local elected member in the decision. The decision should normally be time limited; however for some situations (i.e. where a specific matter is clearly trivial or without merit or where it has been considered previously and there is no material change) it may be appropriate to continue the refusal to investigate indefinitely.

6. Lifting the restrictions

The decision to lift restrictions after a set period where appropriate will be made by the appropriate Corporate Director in conjunction with the Chief Executive.

7. Rights of review or appeal

Appeals against a decision or restrictions attached to a decision will be considered by the Chief Executive. Where appropriate the Chief Executive may involve and consult with the local elected member in any appeals process. In any case the local elected member shall be informed of the decision of any appeal.

8. Warning prior to applying restrictions

The council will normally write, e-mail or verbally inform the complainant that if his/her actions continue the council may decide to treat him/her as an unreasonably persistent complainant.

9. Details of the information to be given to complainants to whom this policy applies

If a decision is taken to apply the policy, the council will write to inform the complainant that:

- The decision has been taken;
- What it means for his/her contacts with the authority;
- How long any restrictions will last;
- What the complainant can do to have the decision reviewed; and
- A copy of this policy note will be enclosed with the letter.

10. Who should be informed about restrictions?

All officers and members who have experienced unreasonable complainant behaviour in respect of a specific complaint shall be informed of the decision to impose contact restrictions. The Corporate Director responsible for imposing any restrictions will report this to the next available Corporate Leadership Team meeting in order that directors can disseminate the information to the relevant staff. The ward councillor/s where the person lives should also be informed.

11. How this policy links with the council's general complaints procedure

The council has a general complaints procedure, whereby a person may make a formal complaint against a member of staff or about the service they have received. This procedure does not preclude a person making a complaint through the general complaints procedure however any decisions taken under this procedure will be considered as relevant to the general complaints investigation process.

12. Operating the policy

The Corporate Director making a decision shall note in writing that decision and input this information on the appropriate computerised system or file. This note shall include the details of the decision, the restrictions and the time limits if appropriate.

The decision to designate someone as an unreasonable or unreasonably persistent complainant is onerous and could have serious consequences for the individual. Before deciding whether the policy should be applied, the Corporate Director should be satisfied that:

- the complaint is being or has been investigated properly;
- any decision reached on it is the right one;
- communications with the complainant have been adequate; and
- the complainant is not now providing any significant new information that might affect the authority's view on the complaint.

If a decision is taken to apply the policy, the Corporate Director will write to inform the complainant that:

- the decision has been taken;
- what it means for his or her contacts with the authority;
- how long any restrictions will last;
- what the complainant can do to have the decision reviewed; and
- enclose a copy of the policy with the letter

When unreasonable and unreasonably persistent complainants make complaints about new issues these should be treated by officers on their merits, and decisions will be taken on whether any restrictions which have been previously applied before are still appropriate and necessary.

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Reasonable Adjustments Policy

Customer Compliments & Complaints

March 2021



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Introduction

Folkestone and Hythe District Council is committed to delivering a high level of customer service. We seek feedback from customers in a variety of ways, ranging from consultations, surveys and understanding their experiences. This policy relates to the Council's approach to making reasonable adjustments for customers who complain about the Council's services.

Objectives

As a provider of excellent quality services, Folkestone & Hythe District Council is committed to ensuring that people with disabilities are not disadvantaged in the way that they can complain or about the way that we handle their complaints. This policy confirms our commitment to improving accessibility for everybody that we deal with and to provide reasonable adjustments for disabled people.

This policy does not seek to explain how we will approach every situation but is intended to set out a general statement about how we deal with reasonable adjustment requests. It ensures compliance with the Equality Act 2010 which provides the legislative framework to protect the rights of individuals and to advance equality of opportunity for all.

The law requires service providers to make reasonable adjustments in the following circumstances:

- a. Where there is a provision, criterion or practice which puts a disabled person at a substantial disadvantage (more than minor or trivial) in relation to a relevant matter in comparison with persons who are not disabled
- b. Where a physical feature puts a disabled person at a substantial disadvantage in comparison with persons who are not disabled
- c. Where a disabled person would, but for the provision of an auxiliary aid, be put at a substantial disadvantage in comparison with persons who are not disabled

Our Approach

The Equality Act 2010 does not define what is 'reasonable'. Guidance from the Equality and Human Rights Commission suggests that the most relevant factors in considering the relevant factors are:

- a. The effectiveness of adjustments in preventing or reducing the disadvantage for the disabled person
- b. The practicality of making the adjustment
- c. The availability of resources including external assistance and finance
- d. Any disruption to the service that making the adjustment may cause. Examples of this may be by allowing more time than we would usually allow for someone to provide information that we need or by providing information in an accessible format for example larger font than usual

Service Offer

We will:

- a. Make our customers aware that reasonable adjustments can be provided when dealing with complaints by publishing this policy and the Complaints & Compliments Policy
- b. Providing this policy and the Complaints & Compliments Policy in alternative formats on request, such as large print, Braille and printing documents in alternative colours
- c. Using email or telephone in preference to hard copies of letters where this is appropriate
- d. Providing information in easy-read formats where it is appropriate
- e. Extending time limits for complainants to respond where this is lawful and reasonable
- f. Communicating through a representative or intermediary
- g. Providing reasonable rest and comfort breaks in meetings
- h. Considering requests from customers with disabilities for reasonable adjustments, discussing with them in detail to understand specific circumstances, letting them know the outcome of their request and giving them an indication of revised timescales and other impact this could have on dealing with their complaint
- i. Recording and monitoring reasonable adjustments that have been requested and made

Linked Policies and Procedures

This policy needs to be read in line with our Complaints & Compliments Policy.

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This Report will be made public on 18 May 2021



Report Number **C/21/03**

To: Cabinet
Date: 26 May 2021
Status: Non key
Responsible Officer: Andy Blaszkowicz, Director of Housing and Operations
Cabinet Member: Councillor Godfrey, Cabinet Member for Housing, Transport and Special Projects

SUBJECT: Housing Compliance Policies

SUMMARY: This report seeks approval for six policies in relation to Housing Landlord Health and Safety Compliance, updated to reflect F&HDC's operational structures.

REASONS FOR RECOMMENDATIONS

As the Housing Service has returned to the Council, it is of vital importance that these policies reflect the operational structure of the new service and that responsibilities for ensuring compliance are clearly identified within each policy.

RECOMMENDATIONS:

1. To receive and note the report C/21/03.
2. To approve the appended Housing Compliance policies in relation to: Asbestos; Electrical Safety; Fire Safety; Gas and heating Safety; Lift Safety; Water Safety (see Appendices 1 to 6).
3. To give delegated authority to the Director of Housing and Operations, in consultation with the Cabinet Member for Housing, Transport and Special Projects, to approve minor amendments to Housing Compliance policies in the future.

1. BACKGROUND

- 1.1 In September 2019, the Regulator for Social Housing (RSH) served Folkestone & Hythe District Council with a regulatory notice, stating that the Council, through a shared ALMO (East Kent Housing), breached the social housing 'Home Standard' (set out below), with the potential for serious detriment to its tenants.
- 1.2 A subsequent audit of wider health and safety compliance concluded “no assurance for fire safety, electrical safety, lift safety and legionella and limited assurance for gas safety”. The result of which led to the development of six policies by [Pennington Choices](#) (industry consultants in surveying and property compliance) in collaboration with the RSH.
- 1.3 The policies were adopted for use by the new F&HDC housing service on 22 September 2020, as an executive decision by the Director of Transformation and Transition, in consultation with the Cabinet Member for Housing, Transport and Special Projects.
- 1.4 The current adopted policies have been in operation since October 2020 and are being implemented successfully. After more than six months of operation they have been fine-tuned to reflect the FHDC operating model and checked to ensure they meet current legislation. The revised policies are presented to Cabinet for approval as set out in Recommendation 2.

2. REGULATORY REQUIREMENTS

- 2.1 The legislation governing specific health and safety requirements is set out within each policy by Pennington Choices and has been assessed by FHDC officers. The overarching legislative requirements for landlord health and safety compliance are outlined below.

Regulator for Social Housing (Home Standard)

The Council must adhere to following sections of the Home Standard in relation to Health & Safety compliance:

- **Quality of accommodation**

Registered providers shall:

- a) Ensure that tenants' homes meet the standard set out in section five of the Government's Decent Homes Guidance and continue to maintain their homes to at least this standard

And

- **Repairs and maintenance**

Registered providers shall:

- (b) Meet all applicable statutory requirements that provide for the health and safety of the occupants in their homes.

2.2 Social Housing White Paper

Chapter 1 of the Social Housing White paper: 'To be safe in your home' focuses on rebuilding trust in building safety measures and ensuring residents 'feel safe' as well as 'are safe'.

All landlords will need to have a nominated, publicly named person who is responsible for health and safety compliance. In addition, there must be consistency in safety measures across the private and social rented sectors, with mandatory installation of smoke and carbon monoxide alarms, and an increased focus on electrical safety.

The policies set out in Appendices 1 to 6 demonstrate the Council's commitment to meeting the requirements set out in the White Paper.

3. CONSULTATION

- 3.1 External consultants (Pennington Choices, see 1.2 above) were commissioned to develop and produce this suite of policies. Subsequently, they have been reviewed by the Housing Leadership Team (HLT) and Compliance specialists with the new housing service to ensure they are reflective of FHDC practices and current legislation.

4. OPTIONS

- 4.1 **Keep policies unchanged:** The policies were created by industry specialists and meet regulatory requirements. However, responsibilities and monitoring arrangements do not reflect FHDC operational structure.
- 4.2 **Adopt amended policies (as appended):** The amended policies work within the FHDC operational structure and clear lines of accountability are identified. Monitoring and scrutiny arrangements fit with current practice.
- 4.3 **Undertake a full review of the policies:** This work has already been undertaken and there is no requirement to conduct a further review at this stage. All policies are subject to periodic reviews (as identified within each policy) in line with legislation.

5. RISK MANAGEMENT ISSUES

- 5.1 This is a high risk area and these policies are required to ensure the safety of our tenants and leaseholders.

Perceived risk	Seriousness	Likelihood	Preventative action
Policies are not fit for purpose	High	Low	Policies were created by industry specialists and meet regulatory requirements. They are subject to periodic

			review in line with legislation.
Amended policies are not adopted and do not reflect FHDC operating model	Medium	Low	Policies have been amended to ensure they work within the FHDC model and there is clear accountability and monitoring. They are being presented to Cabinet for formal adoption.
Policies are not adhered to and we are 'non-compliant'	High	Low	Stringent and robust monitoring and scrutiny arrangements are in place within the housing service and CLT, in conjunction with the EK Audit Partnership and the Regulator Social Housing.

6. LEGAL/FINANCIAL AND OTHER CONTROLS/POLICY MATTERS

6.1 Legal Officer's Comments

There are a large number of statutory duties which the Council as a landlord must comply with. These are considered more fully within each of the policies appended to this report and are therefore not repeated here. The Council must ensure that it complies with all statutory duties imposed on it not only as a landlord but also as a Local Authority.

Failure to comply with these duties could result in formal action against the Council as a landlord, such as criminal prosecution for offences including corporate manslaughter and/or civil claims for personal injury or damage.

The attached policies assist the Council in discharging the statutory duties imposed upon it as a landlord and following the policies will help to ensure that the Council complies with its various statutory duties in relation to asbestos, electrical safety, fire safety, gas and heating, lift safety and water safety.

6.2 Finance Officer's Comments

There are no financial implications arising directly from this report.

6.3 Diversities and Equalities Implications

There are no Equality and Diversity implications arising directly from this report.

7. CONTACT OFFICERS AND BACKGROUND DOCUMENTS

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

Andy Blaszkowicz, Director of Housing and Operations

Telephone: 01303 853 684

Email: andy.blaszkowicz@folkestone-hythe.gov.uk

Jonathan Hicks, Performance Specialist

Telephone: 01303 853 721

Email: jonathan.hicks@folkestone-hythe.gov.uk

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

(Note: only documents that have not been published are to be listed here)

Appendices:

Appendix 1: FHDC Asbestos policy

Appendix 2: FHDC Electrical Safety policy

Appendix 3: FHDC Fire Safety policy

Appendix 4: FHDC Gas and Heating policy

Appendix 5: FHDC Lift Safety policy

Appendix 6: FHDC Water Safety policy

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ASBESTOS POLICY

HOUSING

Date of policy	April 2021
Date for review	April 2024
Policy author	Executive Operations Director, Pennington Choices
Policy owner	Director of Housing and Operations, Folkestone & Hythe District Council
Approved by	
Risk register rating	High
Associated documents	FHDC Asbestos procedure

Revision history			
Version	Date	Revision description	Policy author
V1.0	March 2020	Document created	Lee Woods (Pennington Choices)
V2.0	March 2021	Re-branding; update of key roles and responsibilities in line with FHDC reporting structure	John Holman, Assistant Director (Housing); Jonathan Hicks, Policy & Performance Specialist

NEW POLICY / POLICY REVIEW	
New policy	YES
Early review – change in legislation	

Early review – significant changes in practice	
Review due – significant changes	
Review due – cosmetic changes or unchanged	
Other reason	

Reason for new policy / summary of changes

To ensure the accountability for managing this policy reflects the current structure and designated roles within the Housing Service

CONSULTATION

List of people/roles who have been consulted	Date
David Griffiths, East Kent Audit partnership	December 2020
Roy Catling, Assets & Development Lead Specialist	March 2021
Corporate Leadership Team	April 2021

EQUALITY IMPACT ASSESSMENT	Completed	Date
	Yes	22 April 2021

DISSEMINATION

Role	Awareness	Essential

TRAINING

Role	Trainer	Date completed

MONITORING AND COMPLIANCE

Method	Responsibility	Frequency

1. Purpose of the Policy

- 1.1 The purpose of this policy is to ensure Folkestone & Hythe District Council (hereafter referred to as 'the Council') administers its duty to manage asbestos in its homes and buildings, and that this is done in accordance with The Control of Asbestos Regulations (CAR) 2012.
- 1.2 Breathing in air containing asbestos fibres can lead to asbestos-related diseases, mainly cancer of the lungs and chest lining. Asbestos is only a risk to health if asbestos fibres are released into the air and breathed in. Past exposure to asbestos currently kills around 5,000 people a year in Great Britain.
- 1.3 There is usually a long delay between first exposure to asbestos and the onset of the disease (15-60 years). Only by preventing or minimising these exposures now can asbestos-related disease eventually be reduced.
- 1.4 Any Council home or building built or refurbished before the year 2000 may contain asbestos. As long as the asbestos-containing material (ACM) is in good condition and is not going to be disturbed or damaged, there is negligible risk. However, if it is disturbed or damaged it can become a danger to health, because people may breathe in any asbestos fibres released into the air.
- 1.5 Workers who carry out repairs and maintenance work are at particular risk. If asbestos is present and can readily be disturbed, is in poor condition and not managed properly, others who may be occupying the homes or buildings could also be put at risk.
- 1.6 The Council is responsible for the maintenance and repairs to homes, non-domestic (communal blocks) and 'other' properties (e.g. offices, commercial buildings, depots, etc.), many of which will have been constructed using asbestos-containing materials.

2. Policy Objectives and Scope

- 2.1 Folkestone must establish a policy which meets the requirements of The Control of Asbestos Regulations (CAR) 2012, which came into force on 6th April 2012. The policy must provide assurance to the Council that measures are in place to identify, manage and/or mitigate risks associated with asbestos.
- 2.2 In addition, the Council must establish an Asbestos Management Plan (AMP), which outlines key information on roles and responsibilities, and the management of information, works, and ACMs.
- 2.3 The Council must also ensure that compliance with asbestos is formally reported to Cabinet, including the details of any non-compliance and planned corrective actions.
- 2.4 The policy is relevant to all Council employees, tenants, contractors and other persons or other stakeholders who may work on, occupy, visit, or use its premises, or who may be affected by its activities or services.

- 2.5 It should be used by all to ensure they understand the obligations placed upon the Council to maintain a safe environment for tenants and employees within the homes of each tenant, and within all communal areas of buildings and 'other' properties (owned and managed).

3. Legal/Regulatory Framework

- 3.1 **Regulatory Standards** - the application of this policy will ensure compliance with the regulatory framework and consumer standards (Home Standard) for social housing in England, which was introduced by the Regulator of Social Housing (RSH).

- 3.2 **Legislation** - the principal legislation applicable to this policy is The Control of Asbestos Regulations (CAR) 2012, which came into force on 6th April 2012. The Council has a legal obligation under Part 2, Section 4 of the legislation (Duty to manage asbestos in non-domestic properties) and is the 'Duty Holder' for the purposes of the legislation.

The Council is the 'duty holder' by virtue of the fact that it owns and manages homes and buildings, housing tenants and leaseholders through the tenancy and lease agreement obligations it has.

- 3.3 **Approved Codes of Practice and Guidance** – the principal approved codes of practice and guidance (as updated) applicable to this policy are:

- **ACoP L143** - 'Managing and working with Asbestos' (Second edition December 2013)
- **HSG264** - 'Asbestos: The survey guide' (Second edition 2012, this holds ACoP status)
- **HSG248** – 'Asbestos: The analysts guide for sampling, analysis and clearance procedures' (First edition 2006)
- **HSG247** - 'Asbestos: The licensed contractors' guide' (First edition 2006)
- **HSG227** - 'A comprehensive guide to managing asbestos in premises' (First edition 2002)
- **HSG210** - 'Asbestos Essentials – A task manual for building, maintenance and allied trades and non-licensed asbestos work' (Fourth edition 2018)

3.4 Sanctions

The Council acknowledges and accepts its responsibilities in accordance with the regulatory standards, legislation, and approved codes of practice, and that failure to discharge these responsibilities properly could lead to a range of sanctions including prosecution by the Health and Safety Executive under the Health and Safety at Work Act 1974, prosecution under the Corporate Manslaughter and Corporate Homicide Act 2007 and via a serious detriment judgement from the Regulator of Social Housing (RSH).

3.5 Tenants and HRA Commercial Leaseholders

The Council will use the legal remedies available within the terms of the tenancy and lease agreement should any tenant, leaseholder or shared owner refuse access to carry out essential asbestos related inspection and remediation works.

3.6 Additional Legislation

This asbestos policy also operates in the context of the following additional legislation:

- Health and Safety at Work Act 1974
- The Management of Health and Safety at Work Regulations 1999
- The Workplace (Health Safety and Welfare) Regulations 1992
- Personal Protective Equipment at Work Regulations 1992
- Hazardous Waste (England and Wales) Regulations 2005 (Amendment 2009)
- Control of Substances Hazardous to Health (COSHH) Regulations (as amended) 2002
- Construction (Design and Management) Regulations 2015
- Defective Premises Act 1972
- Landlord and Tenant Act 1985
- Data Protection Act 2018
- Reporting of Injuries, Diseases and Dangerous Occurrences Regulations (RIDDOR) 2013
- Homes (Fitness for Human Habitation) Act 2018
- The Asbestos (Licensing) (Amendment) Regulations 1998

4. Responsibility

- 4.1 The Council's Cabinet will have overall governance responsibility for ensuring the asbestos policy is fully implemented to ensure full compliance with the regulatory standards, legislation and approved codes of practice. The Council's Cabinet will formally approve this policy and review it every two years (or sooner if there is a change in regulation, legislation or codes of practice).
- 4.2 The Council's Cabinet will receive reports in respect of asbestos management performance and ensure compliance is being achieved. They will also be notified of any non-compliance issue identified.
- 4.3 The Council's Director of Housing and Operations has strategic responsibility for the management of asbestos and ensuring compliance is achieved and maintained. The Director will oversee the implementation of the Asbestos Policy.

- 4.4 The Council's Director of Housing and Operations will be responsible for overseeing the delivery of the agreed survey inspection programmes and the prioritisation and implementation of any works arising from the surveys.
- 4.4 The housing teams will provide key support in gaining access into properties where access is proving difficult and use standard methods to do so. They will also facilitate the legal process to gain access as necessary.
- 4.5 The Council's Director of Housing and Operations will be responsible for ensuring the policy is reviewed every two years, and will notify The Council's Corporate Leadership Team and operational team responsible for the delivery of the compliance programme, of the upcoming review.

4.6 Competent Persons

- 4.6.1 The Council will ensure that the manager with lead responsibility for operational delivery is suitably qualified and experienced, holding one of the following as a minimum:
- P405 qualification;
 - Level 4 qualification in a related subject such as Level 4 VRQ Diploma in Asset and Building Management Compliance.
- 4.6.2 The most appropriate qualification will be obtained within 12 months of the approval of this policy, or within 12 months of the start of employment for any new operational leads, where the employee does not already hold it.
- 4.6.3 The Council will ensure that competent contractors (as per HSG264) are procured and appointed to deliver asbestos management surveys.
- 4.6.4 The Council will ensure that competent licensed asbestos removal contractors are appointed for all notifiable non-licensed work or licensed works.
- 4.6.5 The operational team with responsibility for delivery will check the relevant qualifications of employees working for these contractors on an annual basis and evidence this appropriately.

The Policy

5. Obligations

- 5.1 The duty to manage asbestos is included in The Control of Asbestos Regulations (CAR) 2012. The duty requires The Council to manage the risk from asbestos by finding out if there is asbestos present and identifying its location and condition.
- 5.2 The Council has an obligation to do this, in the homes and buildings owned and managed by the Council (or assessing if asbestos-containing materials are liable to be present and making a presumption that materials contain asbestos, unless the Council has strong evidence that they do not).
- 5.2 The Council must also identify its location and identify what condition it is in. If the home or building was built prior to the year 2000 the Council will assume asbestos is present. If the home or building was built after the year 2000 asbestos is unlikely to be present and no further action will be required.
- 5.3 The Council must make and keep an up-to-date record (referred to as the 'asbestos register') of the location and condition of the asbestos-containing materials or presumed asbestos-containing materials in the homes and buildings owned and managed by the Council, and:
- Assess the risk from the asbestos-containing materials found.
 - Prepare an Asbestos Management Plan that sets out in detail how the Council is going to manage the risk from the asbestos-containing materials, and taking the steps needed to put the asbestos management plan into action.
- 5.4 The Council must also review and monitor the asbestos management plan and the arrangements made to put it in place; and set up a system for providing information on the location and condition of the asbestos-containing materials to anyone who is liable to work on or disturb these materials.
- 5.5 Anyone who has information on the whereabouts of asbestos in homes and buildings is required to make this available to the Council as the 'duty holder', but the Council then has to assess its reliability.

6. Statement of Intent

- 6.1 The Council recognises that the main hazard in relation to asbestos is the non-identification of ACMs, and as such will protect those persons potentially exposed to asbestos as far as is reasonably practical by minimising the exposure through the use of appropriate control measures and working methods.

- 6.2 The Council accepts that asbestos is likely to be present in the majority of its properties built prior to the year 2000 and will therefore manage these properties accordingly.
- 6.3 In order to fully comply with the legislation The Council will have a Cabinet-approved Asbestos Policy. In addition the Council will have an Asbestos Management Plan and develop an Asbestos Register which will hold records of the assets which have asbestos-containing materials in them.
- 6.4 The Council will hold accurate records against each property it owns or manages, identifying whether the property has had its initial asbestos management survey and when the next re-inspection is due.
- 6.5 Survey and re-inspection dates, details of ACMs and asbestos management survey reports will be held electronically.
- 6.6 The Council will employ competent external contractors (in line with HSG264) to undertake asbestos management surveys. Licensed asbestos removal operatives and/or contractors will be employed to carry out licensed remediation works (where necessary) to non-domestic (communal blocks/ 'other' properties) and domestic properties as outlined in section 8 of this policy.
- 6.7 The Council will employ suitably competent persons to undertake asbestos re-inspections and the removal of non-licensed asbestos.
- 6.8 The Council will also undertake an intrusive refurbishment and demolition (R&D) survey to domestic and non-domestic properties as and when required as per HSG264. This will also be in accordance with the criteria set out in the Council Asbestos Management Plan, which should be read in conjunction with this policy.
- 6.9 The Council considers good communication essential in the safe delivery of asbestos management and will therefore ensure that information about asbestos-containing materials (known or suspect) is provided to every person liable to disturb it, accidentally or during the course of the work. This includes employees and tenants.
- 6.10 The Council will ensure that all contractors' employee and public liability insurances are up to date on an annual basis.
- 6.11 The Council will ensure contracts/service level agreements are in place with the contractors responsible for delivering the compliance service.
- 6.12 The Council will ensure there are effective contract management arrangements in place, in the form of client-led meetings taking place regularly, with standard agendas and minutes produced, key performance indicators analysed and programmes and performance scrutinised.

- 6.13 The Council will provide leaseholders and tenants with an asbestos survey report on request.
- 6.14 The Council will provide tenants with information about asbestos via their website that will: tell them of possible asbestos-containing materials (ACMs) in their home, advise them what to do if they wish to carry out DIY or employ a contractor to undertake work, and advise them who to contact if ACMs are accidentally disturbed.
- 6.15 The Council will generally not use asbestos labelling in domestic premises, however, in non-domestic premises and common areas of domestic blocks, labelling will be used where practicable.
- 6.16 The Council will implement a robust process to deal with all changes to stock, including new property acquisitions, disposals and stock transfers, in order to ensure that properties are not omitted from the compliance programme, and to ensure the programme remains up-to-date.
- 6.17 The Council will ensure that there is a robust process in place for the management of immediately dangerous situations identified from any asbestos related works undertaken on The Council's properties.

7. Compliance Risk Assessment/Inspection Programmes

- 7.1 **Non-Domestic Stock** – The Council will review existing asbestos management survey information prior to carrying out any repairs or planned maintenance works which may involve working on, or adjacent to, any asbestos-containing materials within a non-domestic (communal block) or 'other' properties (e.g. offices, commercial shops, depots, etc.).
- 7.2 This is to ensure that any asbestos-containing materials likely to pose a risk are identified prior to works commencing and the details passed onto the relevant operatives or external contractors and managed in an appropriate way. Where required a new hybrid R&D/management survey will be commissioned prior to work commencing.
- 7.3 The Council will ensure that all non-domestic (communal blocks) and 'other' properties in ownership or management have an initial asbestos management survey carried out. All surveys comply with the CAR 2012 legislation and are therefore dated after 6th April 2012 when the legislation came into effect.
- 7.4 Thereafter all non-domestic (communal blocks) and 'other' properties will have a re-inspection survey and an assigned re-inspection date where applicable. This date will be in accordance with the specific needs of the building. It will either be annually or at a period dictated by the previous survey/re-inspection.

Re-inspection dates may change following the re-categorisation of a property or a building.

- 7.5 The Council will not need to re-inspect any non-domestic (communal blocks) or 'other' properties built after the year 2000, or where the initial asbestos management survey confirms that there are no asbestos-containing materials present.
- 7.6 **Domestic Stock** – The Council will review existing asbestos management survey information prior to carrying out any void repairs, day to day repairs, or planned maintenance works which may involve working on or adjacent to any asbestos-containing materials within a domestic property.
- 7.7 This is to ensure that any asbestos-containing materials likely to pose a risk are identified prior to works commencing, and the details passed onto the relevant operatives or external contractors and managed in an appropriate way.
- 7.8 Where there is no previous asbestos-related information in respect of a domestic property which requires an asbestos survey ahead of void repairs, day-to-day repairs or planned maintenance work, a survey will be undertaken and the scope of the survey agreed in accordance with the works due to be carried out. If the void only requires the standard safety checks (gas, electric and EPC) and there is no intrusive repair work, an asbestos survey is not required.
- 7.9 The Council will not need to re-inspect any domestic properties built after the year 2000, or where the initial asbestos management survey confirms that there are no asbestos-containing materials present.
- 7.10 **Refurbishment Work** – The Council will undertake an intrusive refurbishment and demolition (R&D) survey to domestic, non-domestic (communal blocks) and 'other' properties prior to planned maintenance works taking place to the areas of the property that are likely to be disturbed as part of the proposed works. This will be in accordance with the criteria set out in The Council's Asbestos Management Plan, which should be read in conjunction with this policy.
- 7.11 **Garages** – The Council will carry out asbestos management surveys on garages prior to any work being carried out.
- 7.12 **Commercial Stock Assigned to the HRA** – The Council will ensure they have records of an asbestos management survey where properties they own or manage are managed by people or organisations other than The Council and Hythe District Council (i.e. are managed by managing agents). These properties will also be included on the Council's asbestos programme, so an asbestos re-inspection survey can be requested from the managing agent prior to the existing one expiring. If the managing agent fails to carry out an initial

asbestos management survey or re-inspection survey, The Council will step in and carry out the test and re-charge the managing agent for the cost of this work.

8. Compliance Follow-up Work

- 8.1 The Council will ensure there is a robust process in place for the management of any follow-up works required following the completion of an asbestos management survey.
- 8.2 Where asbestos is positively identified and, as a result of a risk assessment (conducted in accordance with published guidance), removal, sealing or encapsulation is recommended, this will be carried out as follows:
- Non-licensed works – as defined in regulation 2 of CAR 2012 – by specifically trained contractors with appropriate equipment and working procedures in place which are sufficient to comply with the CAR 2012;
 - Notifiable non-licensed works – as defined in regulation 2 of the CAR 2012 – by a licensed asbestos removal contractor (LARC) licensed by the Health and Safety Executive in compliance with the CAR 2012; or
 - Licensed works - as defined in regulation 2 of the CAR 2012 – by a LARC, licensed by the Health and Safety Executive in compliance with the CAR 2012.

Key controls and reporting

9. Asbestos Surveys

- 9.1 The Council will establish and maintain a programme of non-domestic (communal blocks) and 'other' property surveys and re-inspections, and an Asbestos Register of all the asbestos-containing materials by type, address, location and condition.
- 9.2 Survey and re-inspection dates, details of ACMs and asbestos management survey reports will be held electronically.
- 9.3 Spreadsheets will be used to record the details of all asbestos surveys undertaken on The Council's non-domestic (communal), domestic and other properties. This will include the date of the most recent survey and/or re-inspection where applicable.

9.4 The findings from the asbestos survey, including any ACMs and remediation works identified and subsequently completed (including evidence of removal and encapsulation) should also be recorded on the spreadsheets.

9.5 Appropriate asbestos information will be made available to all interested stakeholders as required.

10. Training

10.1 The Council will ensure that all operatives working for, or on behalf of, the organisation have the relevant training required for their role. This will be managed via periodic assessments of training needs and resulting programmes of internal and/or external training.

11. Performance Reporting

11.1 Robust key performance indicator (KPI) measures will be established and maintained to ensure the Council is able to report on performance in relation to asbestos.

11.2 KPI measures will be produced and provided at Corporate Leadership Team (CLT) and Cabinet as part of the reporting cycle; CLT level on a monthly basis and at the Council's Cabinet on a quarterly basis. As a minimum these KPI measures will include reporting on:

11.3 Data – the total number of:

- Properties – split by non-domestic properties (communal blocks) and 'other' properties;
- Properties on the asbestos management/re-inspection programme;
- Properties not on the asbestos management/re-inspection programme;
- Properties with a valid 'in date' survey/re-inspection. This is the level of compliance expressed as a number and a percentage;
- Properties where the survey/re-inspection has expired and is 'out of date'. This is the level of non-compliance expressed as a number and a percentage; and
- The percentage of domestic stock with full asbestos data.

11.4 Narrative - an explanation of the:

- Current position;
- Corrective action required;
- Anticipated impact of corrective action; and
- Progress with completion of follow-up works.

11.5 In cases of a serious non-compliance issue The Council's Corporate Leadership Team and Monitoring Officer will consider whether it is necessary to disclose the issue to the Regulator of Social Housing in the spirit of co-regulation, or any other relevant organisation such as the HSE, as part of the Regulatory Framework.

12. Quality Assurance

12.1 The Council will require external contractors to provide the results of their own 5 per cent quality assurance audit checks, as required by UKAS, on a monthly basis.

12.2 The Council will commission an independent audit of asbestos at least once every two years. This audit will specifically test for compliance with the regulation, legislation and codes of practice and identify any non-compliance issues for correction.

13. Non-Compliance/Escalation Process

13.1 The definition of non-compliance in relation to this policy refers to any incident which results in a potential breach of legislation or regulatory standard, or which causes or has the potential to cause a significant a risk to health or safety.

13.2 Any non-compliance issue identified at an operational level will be formally reported to The Council's Director of Housing and Operations as part of the monthly reporting cycle.

13.3 Where necessary The Council's Director of Housing and Operations will agree an appropriate course of corrective action with the relevant operational teams in order to address any non-compliance issue.

13.4 The Council's Director of Housing and Operations will ensure the Cabinet Member for Housing, Transport and Special Projects is made aware of any non-compliance issue.

14 Equality and Diversity

14.1 An Equality Impact Assessment has been carried out to determine whether the policy would have an impact on any member of staff, tenants or contractor workforce, which unfairly discriminates or disadvantages them in the context of the Equality Act 2010. Adherence to the policy provides the same level of protection for all building users and no impacts have been identified that would adversely affect one group more than any other.



ELECTRICAL SAFETY POLICY

HOUSING

Date of policy	April 2021
Date for review	April 2024
Policy author	Executive Operations Director, Pennington Choices
Policy owner	Director of Housing and Operations, Folkestone & Hythe District Council
Approved by	
Risk register rating	High
Associated documents	FHDC Electrical Safety procedure

Revision history			
Version	Date	Revision description	Policy author
V1.0	March 2020	Document created	Lee Woods (Pennington Choices)
V2.0	March 2021	Re-branding; update of key roles and responsibilities in line with FHDC reporting structure	John Holman, Assistant Director (Housing); Jonathan Hicks, Policy & Performance Specialist

NEW POLICY / POLICY REVIEW	
New policy	YES
Early review – change in legislation	
Early review – significant changes in practice	

Review due – significant changes	
Review due – cosmetic changes or unchanged	
Other reason	

Reason for new policy / summary of changes

To ensure the accountability for managing this policy reflects the current structure and designated roles within the Housing Service

CONSULTATION

List of people/roles who have been consulted	Date
David Griffiths, East Kent Audit partnership	December 2020
Roy Catling, Assets & Development Lead Specialist	March 2021
Corporate Leadership Team	April 2021

EQUALITY IMPACT ASSESSMENT

	Completed	Date
	Yes	28 April 2021

DISSEMINATION

Role	Awareness	Essential

TRAINING

Role	Trainer	Date completed

MONITORING AND COMPLIANCE

Method	Responsibility	Frequency

1. Purpose of the Policy

- 1.1 Although the UK has a fairly good record on electrical safety, there are still over 30 deaths and nearly 4,000 injuries from electrical accidents that occur in the home each year. A large number are related to electrical maintenance or DIY activities. The major dangers to health from electrical accidents are from shock, burns, electrical explosion or arcing, fire, and mechanical movements initiated by electricity.
- 1.2 Folkestone & Hythe District Council (hereafter referred to as the Council) is responsible for the maintenance and repairs to its homes and other buildings, all of which will contain electrical installations and appliances. The Landlord and Tenant Act 1985 and the Housing Act 2004 place duties on landlords to ensure that these electrical installations are safe at the start of any tenancy and are maintained in a safe condition throughout the tenancy.
- 1.3 The Council is also responsible for maintaining electrical installations and equipment in non-domestic (communal blocks) and 'other' properties (offices, commercial shops, depots, etc.) under the Electricity at Work Regulations 1989 and the Electrical Equipment (Safety) Regulations 2016.

2. Policy Objectives and Scope

- 2.1 The Council must establish a policy which meets the requirements for electrical safety under the Landlord and Tenant Act 1985, the Housing Act 2004, the Electricity at Work Regulations 1989 and the Electrical Equipment (Safety) Regulations 2016. In addition to this the policy must provide assurance to The Council that measures are in place to ensure compliance with these regulations and to identify, manage and/or mitigate risks associated with electrical installations and electrical portable appliances.
- 2.2 The Council must ensure compliance with electrical safety legislation is formally reported to The Council's Cabinet including the details of any non-compliance.
- 2.3 The policy is relevant to all Council employees, tenants, contractors and other persons or other stakeholders who may work on, occupy, visit, or use its premises, or who may be affected by its activities or services.
- 2.4 It should be used by all to ensure they understand the obligations placed upon the Council to maintain a safe environment for tenants and employees within the homes of each tenant, and within all communal areas of buildings and 'other' properties (owned and managed).

3. Legal/Regulatory Framework

- 3.1 **Regulatory Standards** - the application of this policy will ensure compliance with the regulatory framework and consumer standards (Home Standard) for social housing in England, which was introduced by the Regulator of Social Housing (RSH).
- 3.2 **Legislation** - the principal legislation applicable to this policy is the Landlord and Tenant Act 1985; the Electricity at Work Regulations 1989 and the Electrical Equipment (Safety) Regulations 2016. Section 8 of the Landlord and Tenant Act 1985 sets out implied terms as to fitness for human habitation, and Section 11 of the Landlord and Tenant Act 1985 places repairing obligations in short leases.
- 3.3 The Electricity at Work Regulations 1989 places duties on employers to ensure that all electrical equipment used within the workplace is safe to use. The Electrical Equipment (Safety) Regulations 2016 requires Landlords to ensure that any appliances provided as part of a tenancy are safe when first supplied.
- 3.4 The Council is the 'Landlord' by virtue of the fact that it owns and manages homes and buildings housing tenants/leaseholders through the tenancy, lease and licence agreement obligations it has with the tenants/leaseholders.
- 3.5 **Code of Practice** – the principal approved codes of practice applicable to this policy are:
- IET Wiring Regulations British Standard 7671: 2018 (18th edition)
 - The Code of Practice for In-Service Inspection and Testing of Electrical Equipment (ISITEE) 2012 (4th edition)
 - HSE INDG236: 'Maintaining portable electrical equipment in low risk environments' (as amended 2013)
 - Electrical Safety Council: 'Landlords' Guide to Electrical Safety 2009'
 - Code of Practice for the Management of Electro-technical Care in Social Housing (January 2019)
- 3.6 **Sanctions** – The Council acknowledges and accepts its responsibilities in accordance with the regulatory standards, legislation and approved codes of practice and that failure to discharge these responsibilities properly could lead to a range of sanctions including prosecution by the Health and Safety Executive under the Health and Safety at Work Act 1974, prosecution under the Corporate Manslaughter and Corporate Homicide Act 2007 and via a serious detriment judgement from the Regulator of Social Housing.
- 3.7 **Tenants and HRA Commercial Stock** – The Council will use the legal remedies available within the terms of the tenancy agreement, lease or licence should any tenant or HRA commercial stock leaseholder refuse access to carry out essential electrical safety checks, maintenance and safety-related repair works.

3.8 Additional Legislation

This Electrical Safety Policy also operates in the context of the following additional legislation:

- Health and Safety at Work Act 1974
- The Management of Health and Safety at Work Regulations 1999
- The Workplace (Health Safety and Welfare) Regulations 1992
- Management of Houses in Multiple Occupation (England) Regulations 2006
- Housing (Scotland) Act 2006
- Regulatory Reform (Fire Safety) Order 2005
- The Building Regulations for England and Wales (Part P)
- The Housing Act 2004
- The Occupiers' Liability Act 1984
- Health and Safety (Safety Signs and Signals) Regulations 1996
- Provision and Use of Work Equipment Regulations 1998
- Construction, Design and Management Regulations 2015
- Data Protection Act 2018
- Reporting of Injuries, Diseases and Dangerous Occurrences Regulations (RIDDOR) 2013
- Homes (Fitness for Human Habitation) Act 2018

4. Responsibility

- 4.1 The Council's Cabinet will have overall governance responsibility for ensuring the Electrical Safety Policy is fully implemented to ensure full compliance with the regulatory standards, legislation and approved codes of practice. The Council's Cabinet will formally approve this policy and review it every two years (or sooner if there is a change in regulation, legislation or codes of practice).
- 4.2 The Council's Director of Housing and Operations has strategic responsibility for the management of electrical safety and for ensuring compliance is achieved and maintained. The Director will also oversee the implementation of the Electrical Safety Policy.
- 4.3 The Council's Director of Housing and Operations will be responsible for overseeing the delivery of the agreed electrical safety programme, and the prioritisation and implementation of any works arising from the electrical safety inspections.
- 4.4 The housing teams will provide key support in gaining access into properties where access is proving difficult, and use standard methods to do so. They will also facilitate the legal process to gain access as necessary.
- 4.5 The Council's Director of Housing and Operations will be responsible for ensuring the policy is reviewed every two years, and will notify the Corporate Leadership Team and relevant operational team(s) responsible for the delivery

of the compliance programme, of the upcoming review. The Director will ensure that this review process takes place before the policy expires.

4.6 Competent Persons

4.6.1 The Council will ensure that the manager with lead responsibility for operational delivery is appropriately qualified, holding one of the following as a minimum:

- Level 4 VRQ in Electrical Safety Management (or equivalent);
- A minimum of a level 4 qualification in a related subject such as Level 4 VRQ Diploma in Asset and Building Management Compliance.

4.6.2 The most appropriate qualification will be obtained within 12 months of the approval of this policy, or within 12 months of the start of employment for any new operational leads, where the employee does not already hold it.

4.6.3 The Council will ensure that the manager with lead responsibility for operational delivery maintains/gains Approved Electrical Contractor Accreditation with the National Inspection Council for Electrical Inspection Contracting (NICEIC) or equivalent for all areas of electrical inspection, testing, installation and repair works that they undertake.

4.6.4 The operational team with responsibility for delivery will check the relevant accreditations for the work that contractors and operatives are carrying out. These checks will be undertaken on an annual basis and evidenced appropriately.

The Policy

5. Obligations

5.1 The Landlord and Tenant Act 1985 places duties on landlords to ensure that electrical installations in rented properties are:

- Safe when a tenancy begins, Section 8 (1a)
- Maintained in a safe condition throughout the tenancy, Section 11 (1b)

5.2 In order to be compliant under these duties electrical installations are required to be periodically inspected and tested. The intervals between inspections are not absolutely set within any regulations, however, best practice guidance from the Electrical Safety Council and from BS7671:2018 states that electrical installations should be tested at intervals of no longer than 5 years from the previous inspection.

5.3 Any deviation from these intervals should be at the recommendation of a competent NICEIC qualified (or equivalent) person and should be backed up by sound engineering evidence to support the recommendation.

- 5.4 All electrical installations should be inspected and tested prior to the commencement of any new tenancies (void properties or new builds), mutual exchanges and transfers, and a satisfactory Electrical Installation Condition Report (EICR) should be issued to the tenant prior to them moving in.
- 5.5 The Electricity at Work Regulations 1989 places duties on employers that all electrical installations and appliances within the workplace are safe and that only competent persons work on the electrical installations, systems and equipment (Section 16).
- 5.6 The Electrical Equipment (Safety) Regulations 2016 requires Landlords to ensure that any electrical appliances provided as part of a tenancy are safe when first supplied.

6. Statement of Intent

- 6.1 The Council acknowledges and accepts its responsibilities with regard to electrical safety under the Landlord and Tenant Act 1985, the Housing Act 2004, the Electricity at Work Regulations 1989 and the Electrical Equipment (Safety) Regulations 2016.
- 6.2 The Council will hold accurate records against each property it owns or manages, identifying when the electrical installation was last inspected and tested.
- 6.3 Inspection and re-inspection dates, along with EICR records, will be held electronically. A safety inspection will be undertaken sooner than the stated period if recommended by the competent person.
- 6.4 The Council will ensure that all electrical installations shall be in a satisfactory condition following completion of an electrical installation inspection and test.
- 6.5 The Council will ensure that a full electrical installation inspection retest is undertaken in the case of a change of occupancy (void properties, mutual exchanges and transfers) for all properties. This test will take place as near to the date at which the new tenancy commences.
- 6.6 The Council will ensure that only suitably competent NICEIC electrical contractors and engineers (or equivalent) undertake electrical works for the organisation.
- 6.7 The Council will carry out electrical installation inspection and tests and issue new satisfactory EICRs when completing planned component replacement works within domestic properties.

- 6.8 The Council will have a robust process in place to gain access should any tenant or leaseholder refuse access to carry out essential electrical safety related inspection and remediation works.
- 6.9 The Council will have a robust process in place to gain access to properties where tenant vulnerability issues are known or identified, whilst ensuring the organisation can gain timely access to any property in order to be compliant with this policy and safeguard the wellbeing of the tenant.
- 6.10 The Council will have a robust process in place to actively communicate with tenants in relation to electrical safety.
- 6.11 The Council will ensure that robust processes and controls are in place to manage the completion of follow up works identified during inspection and testing of electrical installations.
- 6.12 The Council will ensure that all contractors' employee and public liabilities are up to date on an annual basis.
- 6.13 The Council will ensure contracts/service level agreements are in place with the contractors responsible for delivering the compliance service.
- 6.14 The Council will ensure there are effective contract management arrangements in place, in the form of client-led meetings taking place regularly, with standard agendas and minutes produced, key performance indicators analysed and programmes and performance scrutinised.
- 6.15 The Council will ensure that measures are in place to identify, manage and/or mitigate risks related to portable electrical appliances in any properties where The Council is responsible for these. This will be achieved through annual PAT testing (unless otherwise specified within manufacturers' recommendations).
- 6.16 The Council will ensure that there is a robust process in place for the management of immediately dangerous situations identified from the electrical safety check.
- 6.17 The Council will implement a robust process to deal with all changes to stock, including new property acquisitions, disposals and stock transfers, in order to ensure that properties are not omitted from the compliance programme, and to ensure the programme remains up-to-date.

7. Compliance Risk Assessment/Inspection Programmes

- 7.1 **Risk assessment** – The Council will establish and maintain a risk assessment for electrical safety management and operations. This risk assessment will set out the organisation’s key electrical safety risks together with appropriate mitigations.
- 7.2 **CDM** - to comply with the requirements of the Construction (Design and Management) Regulations 2015 (CDM) a Construction Phase Plan will be completed for all repairs work to void and tenanted properties (at the start of the contract and annually thereafter), component replacement and refurbishment works where applicable.
- 7.3 **Domestic properties** – The Council will carry out a programme of electrical installation inspection and testing to all domestic properties. This inspection and test will be carried out at intervals of no less than five years (unless the competent person recommends the next test must be done sooner than this) and will include the issuing of a new satisfactory EICR. This inspection and test is driven from the anniversary date of the most recent EICR, which may have been carried out at the start of a new tenancy or following planned component replacement works.
- 7.4 **Communal Blocks and ‘Other’ properties** – The Council will carry out a programme of electrical installation inspection and testing to all ‘communal blocks’ and ‘other’ properties (shops, offices, depots, etc.), where there is a landlord’s electrical installation (and the Council has the legal obligation to do so). This inspection and test will be carried out at intervals of no more than five years (unless the competent person recommends the next test must be done sooner than this) and will include the issuing of a new satisfactory EICR.
- 7.5 This inspection and test is driven from the anniversary date of the most recent EICR which may have been carried out following planned component replacement works. The five year inspection period will commence following a catch up programme, which is due to be completed within the timescales outlined within the EKH Recovery Plan.
- 7.6 **Commercial Stock Assigned to the HRA** – The Council will ensure it has records of a valid EICR where properties it owns or manages are managed by people or organisations other than the Council (i.e. are managed by managing agents). These properties will be included on the Council’s electrical inspection and testing programme, so a new EICR can be requested from the managing agent prior to the existing one expiring. If the managing agent fails to carry out the electrical inspection and test, the Council will step in and carry out the test and re-charge the managing agent for the cost of this work.

8. Compliance Follow up Work

- 8.1 The Council will ensure there is a robust process in place for the management of any follow-up works required following the completion of a periodic inspection and test of an electrical installation.
- 8.2 The Council will ensure there is a robust process in place to collate and store all EICRs and associated records and certification of completed remedial works.
- 8.3 The Council will, as a minimum, make safe and/or where possible endeavour to repair all code 1 and code 2 defects identified by a periodic electrical installation inspection and test before leaving site after completing the inspection and testing works.
- 8.4 Any C2 works which cannot be completed at the time of the inspection and test will be completed within 10 working days and an EICR will be issued stating that the installation is in a satisfactory condition. Code 3 and F1 type works will be referred back to The Council's programme manager for a decision.

9. Key controls and reporting

- 9.1 The Council will hold accurate records against each property it owns or manages, identifying when the electrical installation was last inspected and tested.
- 9.2 Inspection and re-inspection dates, along with EICR records will be held electronically.
- 9.3 The Council will establish and maintain accurate records of all completed EICRs, Minor Electrical Works Certificates (MEW) and Building Regulation Part P notifications associated with remedial works from these reports, and Electrical Installation Certificates, and keep these as per the organisation's Data Retention Policy. Remedial works will be managed through an Excel Spreadsheet.
- 9.4 The Council will hold and maintain accurate records on the qualifications of all engineers undertaking electrical safety works for the organisation.
- 9.5 The Council will ensure robust processes and controls are in place to provide and maintain appropriate levels of security for all electrical safety related data.

10. Performance Reporting

- 10.1 Robust key performance indicator (KPI) measures will be established and maintained to ensure The Council is able to report on performance in relation to electrical safety.

10.2 KPI measures will be produced and provided at Corporate Leadership Team and Cabinet as part of the reporting cycle. As a minimum these KPI measures will include reporting on:

10.2.1 Data – the total number of:

- Properties – split by domestic properties, communal blocks and ‘other’ properties;
- Properties on the electrical inspection and testing programme;
- Properties not on the electrical inspection and testing programme;
- Properties with a valid ‘in date’ EICR (in line with a 5 year re-inspection period). This is the level of compliance expressed as a number and a percentage;
- Properties with a valid ‘in date’ EICR (in line with a 5 year re-inspection period). This is the level of compliance expressed as a number and a percentage;
- Properties where the EICR has expired and is ‘out of date’ (according to a 5 year re-inspection period). This is the level of non-compliance expressed as a number and a percentage; and
- Properties where the EICR has expired and is ‘out of date’ (according to a 5 year re-inspection period). This is the level of non-compliance expressed as a number and a percentage.

10.2.2 Narrative - an explanation of the:

- Current position;
- Corrective action required;
- Anticipated impact of corrective action; and
- Progress with completion of follow-up works.

11. Quality Assurance

11.1 The Council will carry out 100 per cent desktop audits on the documentation produced by the external contractor delivering the inspection and testing programme.

11.2 The Council will appoint a third party independent auditor to undertake quality assurance audits on a minimum 5 per cent sample of electrical works and supporting documentation. This sample will increase if issues are identified within the initial 5 per cent sample.

- 11.3 The Council will carry out an independent audit of electrical safety at least once every two years. This audit will specifically test for compliance with the regulation, legislation and codes of practice and identify any non-compliance issues for correction.

12. Non-Compliance/Escalation Process

- 12.1 The definition of non-compliance in relation to this policy refers to any incident which results in a potential breach of legislation or regulatory standard, or which causes or has the potential to cause a significant a risk to health or safety.
- 12.2 Any non-compliance issue identified at an operational level will be formally reported to The Council's Director of Housing and Operations as part of the monthly reporting cycle.
- 12.3 Where necessary The Director of Housing and Operations will agree an appropriate course of corrective action with the relevant operational team(s) in order to address the non-compliance issue.
- 12.4 The Director of Housing and Operations will ensure the Cabinet Member for Housing, Transport and Special Projects is made aware of any non-compliance issue.
- 12.5 In cases of a serious non-compliance issue The Council's Corporate Leadership Team and Monitoring Officer will consider whether it is necessary to disclose the issue to the Regulator of Social Housing in the spirit of co-regulation, or any other relevant organisation such as the HSE, as part of the Regulatory Framework.

13. Training

- 13.1 The Council will ensure that all operatives working for, or on behalf of, the organisation have the relevant training required for their role. This will be managed via periodic assessments of training needs and resulting programmes of internal and/or external training.

14 Equality and Diversity

- 14.1 An Equality Impact Assessment has been carried out to determine whether the policy would have an impact on any member of staff, tenants or contractor workforce, which unfairly discriminates or disadvantages them in the context of the Equality Act 2010. Adherence to the policy provides the same level of protection for all building users and no impacts have been identified that would adversely affect one group more than any other.



FIRE SAFETY POLICY HOUSING

Date of policy	April 2021
Date for review	April 2024
Policy author	Executive Operations Director, Pennington Choices
Policy owner	Director of Housing and Operations, Folkestone & Hythe District Council
Approved by	
Risk register rating	High
Associated documents	FHDC Fire Safety procedure

Revision history			
Version	Date	Revision description	Policy author
V1.0	March 2020	Document created	Lee Woods (Pennington Choices)
V2.0	March 2021	Re-branding; update of key roles and responsibilities in line with FHDC reporting structure	John Holman, Assistant Director (Housing); Jonathan Hicks, Policy & Performance Specialist

NEW POLICY / POLICY REVIEW	
New policy	YES
Early review – change in legislation	
Early review – significant changes in practice	

Review due – significant changes	
Review due – cosmetic changes or unchanged	
Other reason	

Reason for new policy / summary of changes

To ensure the accountability for managing this policy reflects the current structure and designated roles within the Housing Service

CONSULTATION

List of people/roles who have been consulted	Date
David Griffiths, East Kent Audit partnership	December 2020
Roy Catling, Assets & Development Lead Specialist	March 2021
Corporate Leadership Team	April 2021

EQUALITY IMPACT ASSESSMENT

	Completed	Date
	Yes	28 April 2021

DISSEMINATION

Role	Awareness	Essential

TRAINING

Role	Trainer	Date completed

MONITORING AND COMPLIANCE

Method	Responsibility	Frequency

1. Purpose of the Policy

- 1.1 Residents of properties left unprotected against fire have a much higher than average chance of being injured or killed in their home. There were 268 fatalities recorded between May 2018 and June 2019 and the Fire and Rescue Services in England attended 182,491 fires in that same period (Home Office, Fire & Rescue incident statistics, England, year ending June 2019).
- 1.2 In addition to this there have been high profile fires in social housing high-rise blocks (most notably Lakanal House in 2009 and Grenfell Tower in 2017) which resulted in many tenants losing their lives.
- 1.3 Most fires are preventable. Those responsible for buildings to which the public have access can avoid them by taking responsibility for and adopting the right behaviours and procedures. In October 2006, the Regulatory Reform (Fire Safety) Order 2005 (FSO) came into force. This FSO places a duty on persons responsible for buildings to carry out risk assessments.
- 1.4 The purpose of this policy, therefore, is to ensure Folkestone and Hythe District Council (hereafter referred to as 'the Council') is aware of its duty to carry out fire risk assessments and implement adequate fire prevention measures to protect tenants in their homes.

2. Policy Objectives and Scope

- 2.1 The Council must establish a policy which meets the requirements of the Regulatory Reform (Fire Safety) Order 2005 (FSO), which came into force in October 2006. In addition to this, the policy must provide assurance to The Council that measures are in place to identify, manage and/or mitigate risks associated with fire.
- 2.2 The Council must also ensure that compliance with fire safety legislation is formally reported to the Council's Cabinet, including the details of any non-compliance.
- 2.3 The policy is relevant to all Council employees, tenants, contractors and other persons or other stakeholders who may work on, occupy, visit, or use its premises, or who may be affected by its activities or services.
- 2.4 It should be used by all to ensure they understand the obligations placed upon the Council to maintain a safe environment for tenants and employees within the homes of each tenant, and within all communal areas of buildings and 'other' properties owned and managed (offices, commercial shops, depots, etc.).

3. Legal/Regulatory Framework

3.1 **Regulatory Standards** - the application of this policy will ensure compliance with the regulatory framework and consumer standards (Home Standard) for social housing in England, which was introduced by the Regulator of Social Housing (RSH) in April 2012.

3.2 **Legislation** - the principal legislation applicable to this policy is the Regulatory Reform (Fire Safety) Order 2005 (FSO), which came into force in October 2006. These regulations place a duty on The Council to take general fire precaution measures to ensure, as far as is reasonably practicable, the safety of the people on their premises and in the immediate vicinity.

3.3 The Council is the 'responsible person' for the purposes of the legislation by virtue of the fact that it owns and manages homes and buildings, housing tenants/leaseholders through the tenancy agreement and lease obligations.

3.4 **Guidance** – the relevant guidance documents applicable to this policy are:

- **LACORS - Housing - Fire Safety:** Guidance on fire safety provisions for certain types of existing housing
- **Local Government Association:** Fire safety in purpose-built blocks of flats
- **HHSRS Operating Guidance - Housing Act 2004:** Guidance about inspections and assessment of hazards given under Section 9
- **HHSRS Operating Guidance – Housing Act 2004:** Addendum for the profile for the hazard of fire and in relation to cladding systems on high-rise residential buildings
- **Ministry of Housing, Communities & Local Government (MHCLG):** Building safety advice for building owners, including fire doors (January 2020)
- **Ministry of Housing, Communities & Local Government (MHCLG):** Advice for Building Owners of Multi-storey, Multi-occupied Residential Buildings (January 2020)
- **National Fire Chief Council's Guidance (NFCC) - Fire Safety in Specialist Housing –** May 2017, covers sheltered schemes, supported schemes and extra-care schemes
- **Practical Fire Safety Guidance for Existing Premises with Sleeping Accommodation 2018 –** guidance for those with responsibility for ensuring fire safety in certain premises within sleeping accommodation in Scotland
- **Building a Safer Future -** Independent Review of Building Regulations and Fire Safety: Final Report (May 2018)

3.5 **Interim Guidance** – the relevant documents of interim fire safety guidance applicable to this policy are as follows, although these documents are subject to change and should be reviewed regularly:

- **Building a Safer Future** - Proposals for reform of the building safety regulatory system: A consultation (June 2019)
- **The Regulatory Reform (Fire Safety) Order 2005**: Call for Evidence (July 2019)
- **Grenfell Tower Inquiry**: phase 1 report. Volume 1 – 4 (October 2019)

3.6 **Sanctions** – The Council acknowledges and accepts its responsibilities in accordance with the regulatory standards, legislation and approved codes of practice, and that failure to discharge these responsibilities properly could lead to a range of sanctions including prosecution by the Health and Safety Executive under the Health and Safety at Work Act 1974, prosecution under the Corporate Manslaughter and Corporate Homicide Act 2007, prosecution by the Fire and Rescue Service under the FSO and via a serious detriment judgement from the Regulator of Social Housing.

3.7 **Tenants** – The Council will use the legal remedies available within the terms of the tenancy agreement should any tenant refuse access to carry out essential fire safety related inspection and remediation works.

3.8 **HRA Commercial Stock** – The Council will use the legal remedies available within the terms of the lease agreement should any leaseholder or shared owner refuse permission and/or access to carry out essential fire safety related inspection and remediation works (as tested in the case Croydon Council v. Leaseholder, 1st August 2014).

3.9 **Additional Legislation**

This fire risk assessment policy also operates in the context of the following additional legislation:

- Housing Act 2004
- Health and Safety at Work Act 1974
- The Management of Health and Safety at Work Regulations 1999
- Management of Houses in Multiple Occupation (England) Regulations 2006
- Licensing and Management of Houses in Multiple Occupation and Other Houses (Miscellaneous Provisions) (England) Regulations 2006
- Gas Safety (Installation and Use) Regulations 1998
- The Furniture and Furnishings (Fire Safety) Regulations 1988
- The Health and Safety (Safety Signs and Signals) Regulations 1996
- The Building Regulations 2000: Approved Document B Fire Safety
- Electrical Equipment (Safety) Regulations 2016
- Construction (Design and Management) Regulations 2015
- Data Protection Act 2018

- Reporting of Injuries, Diseases and Dangerous Occurrences Regulations (RIDDOR) 2013
- Homes (Fitness for Human Habitation) Act 2018

4. Responsibility

- 4.1 The Council's Cabinet will have overall governance responsibility for ensuring the Fire Risk Assessment Policy is fully implemented to ensure full compliance with the regulatory standards, legislation and approved codes of practice. The Council's Cabinet will formally approve this policy and review it every two years (or sooner if there is a change in regulation, legislation or codes of practice).
- 4.2 The Council's Cabinet will receive regular updates on the implementation of the Fire Risk Assessment Policy and fire safety performance along with notification of non-compliance.
- 4.3 The Council's Director of Housing and Operations has strategic responsibility for the management of fire safety and for ensuring compliance is achieved and maintained. The Director will also oversee the implementation of the Fire Risk Assessment Policy.
- 4.4 The Council's Director of Housing and Operations will be responsible for overseeing the delivery of the agreed fire risk assessment and re-assessment programmes, and the prioritisation and implementation of any works arising from the fire risk assessments. The Director is also responsible for overseeing the delivery of service, maintenance and repair programmes to all fire detection, alarms and fire-fighting equipment within property assets owned or managed by The Council.
- 4.5 The Corporate Leadership Team will receive reports in respect of fire safety management performance and ensure compliance is being achieved. They will also be notified of any non-compliance issue identified.
- 4.6 The housing teams will provide key support in gaining access into properties where access is proving difficult and use standard methods to do so. They will also facilitate the legal process to gain access as necessary.
- 4.7 The Council's Director of Housing and Operations will be responsible for ensuring the policy is reviewed every two years, and will notify the Corporate Leadership Team and relevant operational team(s) responsible for the delivery of the compliance programme, of the upcoming review.

4.6 **Competent Persons**

- 4.6.1 The Council will ensure that the manager with lead responsibility for operational delivery is appropriately qualified and experienced, holding one of the following:
- NEBOSH National Certificate in Fire Safety and Risk Management;
 - Level 4 VRQ Diploma in Asset and Building Management Compliance.
- 4.6.2 The most appropriate qualification will be obtained within 12 months of the approval of this policy, or within 12 months of the start of employment for any new operational leads, where the employee does not already hold it.
- 4.6.3 The Council will ensure that only suitably competent fire risk assessors, certified by BAFE and on a UKAS accredited certification scheme that meets the competency criteria established by the Fire Risk Assessment Competency Council, are procured and appointed to undertake fire risk assessments.
- 4.6.4 The operational team with responsibility for delivery will check the relevant accreditations for the work that they are carrying out. These checks will be undertaken as part of the procurement process and/or on an annual basis thereafter and evidenced appropriately.
- 4.6.5 The Council will ensure that only suitably competent contractors and engineers, certified by a UKAS accredited certification scheme, are procured and appointed to undertake works to fire safety equipment, systems and installations.
- 4.6.6 The operational team with responsibility for delivery will check the relevant accreditations for the work that they are carrying out. These checks will be undertaken as part of the procurement process and/or on an annual basis and evidenced appropriately.

The Policy

5. Obligations

- 5.1 The responsible person must carry out a fire risk assessment (FRA) for the purpose of identifying the general fire precautions and other measures needed to comply with the Regulatory Reform (Fire Safety) Order 2005 (FSO).
- 5.2 Although under the FSO this requirement only applies to the common parts of premises, in practice the responsible person will need to take into account the entire premises - including, to some extent, the units of residential accommodation (known as a Type 3 FRA survey).
- 5.3 The responsible person must implement all necessary general fire precautions and any other measures identified by a fire risk assessment.
- 5.4 The responsible person must put in place a suitable system of maintenance and appoint competent persons to implement any procedures that have been adopted.
- 5.5 The responsible person must periodically review fire risk assessments in a timescale appropriate to the premises and/or occupation fire risk level. This timescale is determined by the fire risk assessor carrying out the fire risk assessment.

6. Statement of Intent

- 6.1 The Council acknowledges and accepts its responsibilities under the Regulatory Reform (Fire Safety) Order 2005 (FSO).
- 6.2 A stay safe evacuation strategy will be adopted across each of the Council property types unless otherwise stated within the recommendations of the competent fire risk assessor. The Council will also continue to engage with the Kent Fire and Rescue Service to regularly review this evacuation strategy.
- 6.3 The Council will hold accurate records against each property it owns or manages setting out the requirements for having a fire risk assessment in place.
- 6.4 FRA inspection and re-inspection dates, FRA surveys and FRA actions will be held electronically within Pyramid.
- 6.5 The Council will hold accurate records against each property it owns or manages setting out the requirements for servicing, maintenance and repair of fire prevention, detection and fire-fighting equipment.
- 6.6 These records will include fire alarm systems, emergency lighting, smoke/heat detectors, hose reels, dry and wet risers, auto window/door openers, fire

extinguishers, fire blankets, sprinkler systems and any other equipment relating to fire safety.

- 6.7 The Council will establish and manage programmes to deliver servicing and maintenance in accordance with all relevant British Standards and manufacturer's recommendations for all fire detection, prevention and fire-fighting systems and equipment within buildings owned or managed by the organisation.
- 6.8 The Council will ensure that each property requiring an FRA has a fire risk assessment in place that is PAS79 compliant (Publicly Available Specification) from the British Standards Institute (BSI) that has been carried out by a competent fire risk assessor.
- 6.9 The Council will ensure that all FRAs are reviewed no later than the review date set within the FRA, and that this review is carried out by a competent fire risk assessor.
- 6.10 The Council will ensure that the FRA to a building is reviewed following a fire, change in building use, change in working practices that may affect fire safety, following refurbishment works to the building or if required following an independent fire safety audit, and that this review is carried out by a competent fire risk assessor.
- 6.11 The Council will ensure that robust processes are in place to implement all mandatory fire precaution measures identified by FRAs.
- 6.12 The Council will ensure that robust processes are in place to record and action any 'near-miss' reports with regard to fire safety. A 'near-miss' is an unplanned event which does not result in an injury but had the potential to do so.
- 6.13 The Council will test all smoke alarms/CO alarms as part of the annual gas safety check visit (or at void stage) and replace them where necessary.
- 6.14 The Council will ensure that all disabled residents and/or employees within buildings requiring a fire risk assessment (i.e. sheltered housing schemes), will have a Personal Emergency Evacuation Plan (PEEP) and that this PEEP will be reviewed annually by a competent person. This will be kept in the Fire Safety Log held securely on site and made available to the fire service in the event of an evacuation.
- 6.15 Where the Council has been notified that a resident within a building requiring a fire risk assessment is storing oxygen in their home for medical use the organisation will ensure that they have a Personal Emergency Evacuation Plan (PEEP) in place and that this PEEP will be reviewed annually by a competent person.

- 6.16 The Council will have robust processes and controls in place to ensure that consideration is made when letting properties to the suitability of the accommodation for the prospective tenant with regards to fire safety.
- 6.17 The Council will refer all new tenancies and other tenants (via general information) to the Kent Fire and Rescue Service for a free home safety check (also known as 'Safe and well visits').
- 6.18 The Council will ensure that only suitably competent fire risk assessors and fire safety engineers appropriately certified under BAFE and UKAS accredited certification schemes undertake fire safety assessments or works for the organisation.
- 6.19 The Council will have a robust process in place to gain access should any tenant or leaseholder refuse access to carry out essential fire safety related inspection and remediation works.
- 6.20 The Council will have a robust process in place to gain access to properties where tenant vulnerability issues are known or identified, whilst ensuring the organisation can gain timely access to any property in order to be compliant with this policy and safeguard the wellbeing of the tenant.
- 6.21 The Council is committed to working with relevant Fire Services to create safer places to live and work. Joint working will include sharing information, the fire service reviewing risk assessments and providing training to The Council staff.
- 6.22 The Council will establish and maintain a plan of all continuous improvement activity undertaken with regards to fire safety.
- 6.23 The Council considers good communication essential in the safe delivery of fire safety and will therefore ensure that information about fire safety and fire prevention measures is available to residents and building users via information within welcome packs at the start of a tenancy and through routine communication with tenants in regards to fire safety.
- 6.24 The Council will ensure that a full version of the fire risk assessment will be made available to tenants upon request.
- 6.25 The Council will ensure that all contractors' employee and public liability insurances are up to date on an annual basis.
- 6.26 The Council will ensure contracts/service level agreements are in place with the contractors responsible for delivering the compliance service.
- 6.27 The Council will ensure there are effective contract management arrangements in place, in the form of client-led meetings taking place regularly, with standard agendas and minutes produced, key performance indicators analysed and programmes and performance scrutinised.

- 6.28 The Council will implement a robust process to deal with all changes to stock, including new property acquisitions, disposals and stock transfers, in order to ensure that properties are not omitted from the compliance programme, and to ensure the programme remains up-to-date.
- 6.29 The Council will ensure that there is a robust process in place for the management of immediately dangerous situations identified during the fire safety programme.
- 6.30 The Council will adopt a sterile approach to fire safety in the communal areas of its properties, and will have a managed approach to the removal of tenants' goods from these communal areas.
- 6.31 The Council will not permit the storage of scooters within the communal areas of its properties.
- 6.32 The Council will have a robust process in place to manage properties with known hoarding issues, as well as new hoarding issues which arise.

7. Compliance Risk Assessment/Inspection Programmes

- 7.1 **Risk assessment** – The Council will establish and maintain a risk assessment for fire safety management and operations. This risk assessment will set out the organisation's key fire safety risks together with appropriate mitigations.
- 7.2 **CDM** - to comply with the requirements of the Construction, Design and Management Regulations 2015 (CDM) a Construction Phase Plan will be completed for all repair work to void and tenanted properties (at the start of the contract and annually thereafter), component replacement and refurbishment works where applicable.
- 7.3 **Fire risk assessments (non-domestic and other)** – The Council will complete a programme of fire risk assessments to all non-domestic (communal blocks) and 'other' properties (offices, commercial shops, depots etc.) in its management and ownership. All future fire risk assessments will be Type 3 surveys as a minimum.
- 7.4 Thereafter, The Council will carry out a programme of fire risk assessment reviews, ensuring that all fire risk assessments are reviewed no later than the review date set by the fire risk assessment and that this review is carried out by a competent fire risk assessor (the review period will be two yearly for all stock, unless otherwise specified by the fire risk assessor).
- 7.5 **Commercial Stock Assigned to the HRA** – The Council will ensure it has records of a valid FRA where properties it owns or manages are managed by

people or organisations other than The Council (i.e. are managed by managing agents).

- 7.6 These properties will be included on the Council's Fire Safety programme, so a new FRA can be requested from the managing agent prior to the existing one expiring. If the managing agent fails to carry out the FRA, The Council will step in and carry out the FRA and re-charge the managing agent for the cost of this work.
- 7.7 The Council will adopt a pro-active approach to fire door auditing, and will regularly review the approach to ensure that it remains in line with all changes in legislation.
- 7.8 The Council will ensure that each property requiring a fire risk assessment has a fire risk assessment in place that is PAS79 compliant (Publicly Available Specification) from the British Standards Institute (BSI) and that it has been carried out by a competent fire risk assessor.
- 7.9 The Council will carry out a programme of servicing and maintenance, in accordance with all relevant British Standards and manufacturers' recommendations, to all fire detection, prevention and firefighting systems and equipment within buildings owned or managed by the organisation.
- 7.10 The Council will carry out a programme of regular property inspections to all properties with a fire risk assessment in place to audit that all required management actions are taking place. These inspections will be undertaken at regular intervals by caretakers and housing advisors and inspections records will be kept.
- 7.11 **New Build Properties** – The Council will ensure that a pre-occupation fire risk assessment is carried out on all new build properties where required, and that a post-occupation FRA is also commissioned within three months of the first tenant moving in.

8. Compliance Follow-up Work

- 8.1 The Council will ensure that robust processes are in place to implement all mandatory fire precaution measures identified by fire risk assessments. This will be done on the following timescales:
- Intolerable actions - will be implemented within 1 week;
 - Substantial actions – will be implemented within 1 month;
 - Moderate actions – will be implemented within 3 months;
 - Tolerable actions – will be implemented within 6 months; and

- Trivial actions – will be implemented within 9 months.

NB: In instances where these timescales cannot be achieved, after appropriate and recorded risk assessment with the FRA assessor, new timescales may be agreed.

- 8.2 The Council will ensure that robust processes are in place to implement all fire precaution measures identified by the regular property inspections carried out by caretakers and housing officers.
- 8.3 The Council will ensure there is a robust process in place for the management of any follow-up works required following the completion of servicing and maintenance checks to fire detection, prevention and fire-fighting systems and equipment.

Key controls and reporting

9. Record Keeping

- 9.1 The Council will establish and maintain a core asset register of the communal blocks and 'other' properties that require a fire safety risk assessment. This register should also identify all fire safety equipment, systems and installations within each building.
- 9.2 The register must show the date of the previous and current fire risk assessment (where applicable), along with the due date of the next fire risk assessment. The register will also be used to record and track the progress of all fire safety actions required, as identified from the fire risk assessments.
- 9.3 FRA inspection and re-inspection dates, FRA surveys and FRA actions will be electronically stored within Pyramid.
- 9.4 The Council will establish and maintain a register against each property asset of any smoke/heat detection equipment contained within domestic dwellings.
- 9.5 The Council will establish and maintain accurate records of all completed fire risk assessments, fire risk assessment reviews and associated completed remedial works from these reports, and keep these as per the organisation's Data Retention Policy.
- 9.6 The Council will establish and maintain accurate records of all completed servicing and maintenance checks on fire safety equipment, systems and installations and details of associated completed remedial works, and keep these as per the organisation's Data Retention Policy.
- 9.7 The Council will maintain an appropriate Fire Safety Log Book and keep this securely on site, where practical, for all high risk schemes requiring a fire risk

assessment. High risk schemes include all sheltered schemes and any building with a personalised evacuation strategy.

9.8 The Council will establish and maintain records of all fire safety related training undertaken by staff.

9.9 The Council will ensure robust processes and controls are in place to provide and maintain appropriate levels of security for all fire safety related data.

10. Performance Reporting

10.1 Key performance indicator (KPI) measures will be established and maintained to ensure The Council is able to report on performance in relation to fire safety.

10.2 KPI measures will be produced and provided to Corporate Leadership Team on a monthly basis and to The Council's Cabinet as part of the performance reporting cycle. As a minimum, these KPI measures will include reporting on:

10.2.1 Data – the total number of:

- Properties on the FRA programme;
- Properties with a valid 'in date' FRA. This is the level of compliance expressed as a number and a percentage;
- Properties where the FRA has expired and is 'out of date'. This is the level of non-compliance expressed as a number and a percentage;
- The number of follow up works/actions arising from any FRAs, and the numbers 'completed', 'in time' and 'overdue'.

10.2.2 Narrative - an explanation of the:

- Current position;
- Corrective action required;
- Anticipated impact of corrective action;
- Progress with completion of follow-up works.

10.3 In addition:

- Compliance with the fire safety equipment, systems and installations servicing and maintenance programme;
- Recording and reporting on property fires to identify trends and target awareness campaigns.

11. Quality Assurance

- 11.1 The Council will carry out an independent audit of fire safety at least once every two years. This audit will specifically test for compliance with the regulation, legislation and approved codes of practice and identify any non-compliance issues for correction.
- 11.2 The Council will carry out independent third party quality assurance audits of fire risk assessments, fire equipment servicing and follow-up actions. This will be a 10 per cent sample of the total fire safety works carried out.
- 11.3 The Council will implement a programme of regular property inspections to all properties with a fire risk assessment in place to audit that all required management actions are taking place.
- 11.4 These inspections will be carried out by caretakers and housing advisors and be undertaken at regular intervals, with inspection records evidenced and kept against each property. In addition to this The Council will ensure regular testing of all fire alarms and emergency lighting systems.

12. Non-Compliance/ Escalation Process

- 12.1 The definition of non-compliance in relation to this policy refers to any incident which results in a potential breach of legislation or regulatory standard, or which causes or has the potential to cause a significant risk to health or safety.
- 12.2 Any non-compliance issue identified at an operational level will be formally reported to The Council's Director of Housing and Operations.
- 12.3 The Council's Director of Housing and Operations will agree an appropriate course of corrective action with the relevant operational team(s) in order to address the non-compliance issue.
- 12.4 The Council's Corporate Leadership Team (CLT) will ensure the Cabinet Member for Housing, Transport and Special Projects is made aware of any non-compliance issue so they can consider the implications and take action as appropriate.
- 12.5 In cases of a serious non-compliance issue The Council's CLT and Monitoring Officer will consider whether it is necessary to disclose the issue to the Regulator of Social Housing in the spirit of co-regulation, or any other relevant organisation such as the HSE, as part of the Regulatory Framework.

13. Training

- 13.1 The Council will ensure that all operatives working for, or on behalf of, the organisation have the relevant training required for their role. This will be managed via periodic assessments of training needs and resulting programmes of internal and/or external training.

14 Equality and Diversity

- 14.1 An Equality Impact Assessment has been carried out to determine whether the policy would have an impact on any member of staff, tenants or contractor workforce, which unfairly discriminates or disadvantages them in the context of the Equality Act 2010. Adherence to the policy provides the same level of protection for all building users and no impacts have been identified that would adversely affect one group more than any other.



GAS & HEATING POLICY HOUSING

Date of policy	April 2021
Date for review	April 2024
Policy author	Executive Operations Director, Pennington Choices
Policy owner	Director of Housing and Operations, Folkestone & Hythe District Council
Approved by	
Risk register rating	High
Associated documents	FHDC Gas Safety procedure

Revision history			
Version	Date	Revision description	Policy author
V1.0	March 2020	Document created	Lee Woods (Pennington Choices)
V2.0	March 2021	Re-branding; update of key roles and responsibilities in line with FHDC reporting structure	John Holman, Assistant Director (Housing); Jonathan Hicks, Policy & Performance Specialist

NEW POLICY / POLICY REVIEW	
New policy	YES
Early review – change in legislation	
Early review – significant changes in practice	

Review due – significant changes	
Review due – cosmetic changes or unchanged	
Other reason	

Reason for new policy / summary of changes

To ensure the accountability for managing this policy reflects the current structure and designated roles within the Housing Service

CONSULTATION

List of people/roles who have been consulted	Date
David Griffiths, East Kent Audit partnership	December 2020
Roy Catling, Assets & Development Lead Specialist	March 2021
Corporate Leadership Team	April 2021

EQUALITY IMPACT ASSESSMENT

	Completed	Date
	Yes	28 April 2021

DISSEMINATION

Role	Awareness	Essential

TRAINING

Role	Trainer	Date completed

MONITORING AND COMPLIANCE

Method	Responsibility	Frequency

1. Purpose of the Policy

- 1.1 Folkestone & Hythe District Council (hereafter referred to as ‘the Council’) is responsible for the maintenance and repairs to its homes and other buildings, many of which will contain gas installations and appliances.
- 1.2 The Gas Safety (Installation and Use) Regulations 1998 (as amended) specifically deal with the installation, maintenance and use of gas appliances, fittings and flues in domestic properties and certain commercial premises. The regulations also place a legal duty on landlords to ensure that gas appliances, fittings and flues provided for tenants’ use are safe.
- 1.3 The Council is also responsible for maintaining other types of heating systems to ensure that all appliances, fittings and flues provided for tenants’ use are safe. These include gas, oil fired, solid fuel and liquid petroleum gas (LPG).

2. Policy Objectives and Scope

- 2.1 The Council must establish a policy which meets the requirements of the Gas Safety (Installation and Use) Regulations 1998 (as amended). In addition to this, the policy must provide assurance to The Council that measures are in place to ensure compliance with these regulations and to identify, manage and/or mitigate risks associated with gas fittings, appliances and flues.
- 2.2 The Council must ensure compliance with gas safety legislation is formally reported to the Council’s Cabinet, including the details of any non-compliance.
- 2.3 The policy is relevant to all of The Council’s employees, tenants, contractors and other persons or other stakeholders who may work on, occupy, visit, or use its premises, or who may be affected by its activities or services.
- 2.4 It should be used by all to ensure they understand the obligations placed upon the Council to maintain a safe environment for tenants and employees within the homes of each tenant, and within all communal areas of buildings and ‘other’ properties (owned and managed).

3. Legal/Regulatory Framework

- 3.1 **Regulatory Standards** - the application of this policy will ensure compliance with the regulatory framework and consumer standards (Home Standard) for social housing in England, which was introduced by the Regulator of Social Housing (RSH).
- 3.2 **Legislation** - the principal legislation applicable to this policy is ‘The Gas Safety (Installation and Use) Regulations 1998’ (as amended). The Council has a legal obligation under Part F, Regulation 36 of the legislation (Duties of Landlords) and is the ‘Landlord’ for the purposes of the legislation. The Council is the ‘Landlord’ by virtue of the fact that it owns and manages homes and buildings

housing tenants/leaseholders through the tenancy, lease and license agreement obligations it has with the tenants/leaseholders.

3.3 **Code of Practice** – the principal approved codes of practice applicable to this policy are as follows:

- ACoP L56 - 'Safety in the installation and use of gas systems and appliances' (5th edition 2018)
- INDG285 - 'A guide to landlords' duties: Gas Safety (Installation and Use) Regulations 1998' as amended Approved Code of Practice and Guidance (3rd Edition 2018)

3.4 **Sanctions** – The Council acknowledges and accepts its responsibilities in accordance with the regulatory standards, legislation and codes of practice and that failure to discharge these responsibilities properly could lead to a range of sanctions including prosecution by the Health and Safety Executive under the Health and Safety at Work etc Act 1974, prosecution under the Corporate Manslaughter and Corporate Homicide Act 2007 and via a serious detriment judgement from the Regulator of Social Housing.

3.5 **Tenants and HRA Commercial Leaseholders** – The Council will use the legal remedies available within the terms of the tenancy agreement, lease or license should any tenant refuse access to carry out essential gas safety checks, maintenance and safety related repair works. This will be following a controlled access process.

3.6 **Additional legislation**

This gas and heating safety policy also operates in the context of the following legislation:

- Health and Safety at Work Act 1974
- The Management of Health and Safety at Work Regulations 1999
- The Workplace (Health, Safety and Welfare) Regulations 1992
- Gas Safety (Management) Regulations 1996 (as amended)
- The Building Regulations in England and Wales
- Dangerous Substances and Explosive Atmospheres Regulations 2002
- Pressure Equipment Regulations 1999
- Pressure Systems Safety Regulations 2000
- Pipelines Safety Regulations 1996
- Heat Network Regulations 2014
- Health and Safety (Safety Signs and Signals) Regulations 1996
- Provision and Use of Work Equipment Regulations 1998
- Construction (Design and Management) Regulations 2015
- Landlord and Tenant Act 1985
- Data Protection Act 2018
- Reporting of Injuries, Diseases and Dangerous Occurrences Regulations (RIDDOR) 2013

- Homes (Fitness for Human Habitation) Act 2018

4. Responsibility

- 4.1 The Council's Cabinet will have overall responsibility for ensuring the Gas and Heating Policy is fully implemented to ensure full compliance with the regulatory standards, legislation and approved codes of practice. As such, they will formally approve this policy and review it every two years (or sooner if there is a change in regulation, legislation or codes of practice).
- 4.2 Gas safety performance will be reported to Cabinet as part of the Council's performance reporting framework. This is so that it has assurance that the policy is operating effectively in practice.
- 4.3 The Council's Director of Housing and Operations will have strategic responsibility for the implementation of the Gas and Heating Policy and for ensuring compliance is achieved and maintained.
- 4.4 The Council's Director of Housing and Operations will be responsible for overseeing the delivery of the agreed gas safety programme. The Director will also prioritise and implement any works arising from the gas safety inspections.
- 4.5 The housing operations team will provide key support in gaining access into properties where access is proving difficult.
- 4.6 The Council's Director of Housing and Operations will be responsible for ensuring the policy is reviewed every two years, and will notify The Council's Corporate Leadership Team and relevant operational team(s) responsible for the delivery of the compliance programme, of the upcoming review. They will ensure that this review process takes place before the policy expires.

4.6 Competent Persons

- 4.6.1 The Council will ensure that the manager with lead responsibility for operational delivery is appropriately qualified and experienced, holding one of the following:
- Level 4 VRQ in Gas Safety Management (if they are not Gas Safe Registered), or equivalent, and full membership of the Association of Gas Safety Managers (AGSM);
 - A minimum of a level 4 qualification in a related subject such as Level 4 VRQ Diploma in Asset and Building Management Compliance.
- 4.6.2 The most appropriate qualification will be obtained within 12 months of the approval of this policy, or within 12 months of the start of employment for any new operational leads, where the employee does not already hold it.
- 4.6.3 The Council will ensure that all operatives (internal or employed by external contractors) maintain Gas Safe accreditation for all areas of gas/liquid petroleum gas (LPG) works that they undertake.

- 4.6.4 The Council will ensure that only suitably competent Gas Safe accredited contractors are procured and appointed to undertake works to gas/LPG fittings, appliances and flues.
- 4.6.5 The Council will ensure that, where applicable, only suitably competent Oil Firing Technical Association (OFTEC) and/or HETAS accredited contractors are procured and appointed to undertake works to oil fired and solid fuel fittings, appliances and flues. HETAS is a not-for-profit organisation offering a competent person scheme for installers of biomass and solid fuel heating, registration for retailers and chimney sweeps and approval of appliances and fuels.
- 4.6.6 **Other heating types** – The Council will ensure that, where applicable, only individuals/organisations with a Microgeneration Certification Scheme accreditation (MCS) are procured and appointed to undertake works on ground/air source heat pumps, solar thermal and biomass heating systems.
- 4.6.7 The operational team with responsibility for delivery will check the relevant qualifications of in-house operatives or employees working for external contractors to ensure that all persons are appropriately qualified and accredited for the work that they are carrying out. These checks will be undertaken on an annual basis and evidenced appropriately.

The Policy

5. Obligations

- 5.1 The Gas Safety (Installation and Use) Regulations 1998 (as amended) impose duties on landlords to protect tenants' safety in their homes with respect to gas safety. The main duties as a landlord are set out in Regulation 36 requiring landlords to:
- Ensure gas fittings and flues are maintained in a safe condition. Gas appliances should be serviced in accordance with the manufacturer's instructions. If these are not available it is recommended that they are serviced annually unless advised otherwise by a Gas Safe registered engineer;
 - Ensure the annual safety check is carried out on each gas appliance and flue within 12 months of the previous safety check;
 - Have all installation, maintenance and safety checks carried out by a Gas Safe registered engineer;
 - Keep a record of each safety check for at least two years;

- Issue a copy of the latest safety check record to existing tenants within 28 days of the check being completed, or to any new tenant when they move in;
 - Display a copy of the latest safety check record in a common area of a building where the gas appliance serves a communal heating system to multiple homes.
- 5.2 In addition, landlords must ensure that no gas fitting of a type that would contravene Regulation 30 (e.g. certain gas fires and instantaneous water heaters) is fitted in any room occupied or to be occupied as sleeping accommodation after the Regulations came into force. This includes any room converted into such accommodation after that time.
- 5.3 These obligations apply to both gas heating and liquid petroleum gas heating systems.
- 5.4 **Other heating types** – with regards to all other heating types as set out in 1.4 of this policy, although there is no legal requirement for carrying out safety checks, The Council will complete an annual safety check for all properties with these heating types, in exactly the same way as they do for properties with gas and LPG. The competent person will require alternative qualifications which are set out in section 4 of this policy.

6. **Statement of Intent**

- 6.1 The Council acknowledges and accepts its responsibilities under the Gas Safety (Installation and Use) Regulations 1998 (as amended).
- 6.2 The Council will hold accurate inspection dates and inspection records against each property it owns or manages electronically.
- 6.3 The Council will request the internal gas/heating engineers visit all properties on an annual basis to carry out gas and/or heating safety checks, irrespective of whether the property has a gas supply or not (other than those properties not on the gas mains network). Additionally, these properties will be subject to section 3.5 of this policy irrespective of whether they have a gas supply or not.
- 6.4 The Council will ensure that each property requiring a gas/heating safety check and/or service will have a landlords' gas safety record (LGSR) or equivalent that has a completion date not more than 12 months following the completion date of the previous LGSR (or equivalent) relating to the property or installation date of new installations.

- 6.5 The Council will ensure that copies of all LGSRs/certification are provided to tenants within 28 days of completion or displayed in a common area where necessary within 28 days of its completion.
- 6.6 The Council will cap-off gas supplies to all properties when the property becomes void and a new tenant is not moving in immediately following the previous tenant leaving. Where possible this will be completed by the end of the next working day.
- 6.7 The Council will cap-off gas supplies to all new build properties at handover if the new tenancy is not commencing immediately at the point of handover.
- 6.8 The Council will ensure that gas safety checks are carried out on the commencement of any new tenancy (void or new build properties), mutual exchange and/or transfer and that the tenant receives a copy of the LGSR prior to, or immediately after moving in.
- 6.9 The Council will carry out a gas safety check following any new gas appliance installation. The safety check will include a gas soundness test of the system pipework, a visual inspection of the meter installation and a visual inspection including the safe working operation on all other gas appliances and associated flues within a property, issuing a gas safety certificate to confirm the necessary checks have been completed.
- 6.10 The Council will carry out a visual check of tenant-owned appliances This includes a 5 point visual safety check for gas cookers and gas fires where the manufacturers' instructions are available (location, flueing, ventilation, signs of distress and stable and secure). Where appliances are found to be faulty these will be disconnected and a warning notice issued.
- 6.11 The Council will test or replace smoke alarms as part of the annual gas safety check visit (or at void stage).
- 6.12 The Council will carry out an annual gas safety check to all properties where the gas supply is inactive (capped) at the request of the tenant. This is to ensure that gas supplies have not been reconnected by the tenant, and to ensure continued compliance with the requirements of the Gas Safety (Installation and Use) Regulations 1998 (as amended). Section 3.5 of this policy will apply to these properties.
- 6.13 In any instance where a property has a capped supply, The Council will communicate at least annually with the tenants to ensure the property remains capped and inform the tenant of what is required in order to reinstate gas at the property.
- 6.14 The Council will carry out annual assessments of properties where tenants have chosen for personal reasons not to use the gas supply in the property.

This is to check on the tenant's wellbeing and also to assess that the lack of gas heating is not adversely affecting the condition of the property.

- 6.15 The Council will ensure that only suitably competent Gas Safe accredited engineers undertake gas or LPG works for the organisation. Section 4 of this policy sets out the competency required to carry out safety checks for other heating types.
- 6.16 The Council will remove any open flue gas appliances found in any rooms that are being used as bedrooms.
- 6.17 The Council will have robust processes and controls in place to ensure that consideration is made when letting properties to the suitability of the accommodation for the prospective tenant with regards to gas/heating safety.
- 6.18 The Council will have a robust controlled access process in place should any tenant refuse access to carry out essential gas/heating safety related inspection and remediation works.
- 6.19 The Council will have a robust process in place to gain access to properties where tenant vulnerability issues are known or identified whilst ensuring the organisation can gain timely access to any property in order to be compliant with this policy and safeguard the wellbeing of the tenant.
- 6.20 The Council will ensure that where applicable all solid fuel, chimney stacks, oil fired appliances and flues are inspected and maintained at least annually and that this work is completed by a suitably competent engineer.
- 6.21 The Council will ensure that all contractors' employee and public liability insurances are up to date on an annual basis.
- 6.22 The Council will ensure contracts/service level agreements are in place with the contractors responsible for delivering the compliance service.
- 6.23 The Council will ensure there are effective contract management arrangements in place, in the form of client-led meetings taking place regularly, with standard agendas and minutes produced, key performance indicators analysed and programmes and performance scrutinised.
- 6.24 The Council will ensure that all replacements, modifications and installations of gas appliances and heating systems within its properties will comply with all elements of Part J Combustion Appliances and Fuel Storage Systems, of the Building Regulations.
- 6.25 The Council will implement a robust process to deal with all changes to stock, including new property acquisitions, disposals and stock transfers, in order to ensure that properties are not omitted from the compliance programme, and to ensure the programme remains up-to-date.

6.26 The Council will ensure that there is a robust process in place for the management of immediately dangerous situations identified from the gas/heating safety check.

7. Compliance Risk Assessment/Inspection Programmes

7.1 **Risk assessment** – The Council will establish and maintain a risk assessment for gas safety management and operations. This risk assessment will set out the organisation’s key gas safety risks together with appropriate mitigations.

7.2 **CDM** - to comply with the requirements of the Construction (Design and Management) Regulations 2015 (CDM) a Construction Phase Plan will be completed for all repairs work to void and tenanted properties (at the start of the contract and reviewed annually thereafter), component replacement works and refurbishment projects where applicable.

7.3 **Domestic properties** – The Council will carry out a programme of annual gas/heating safety checks and services to all domestic properties, covering all heating types. This check will include all gas/heating fittings, appliances and flues in the property and will be completed 12 months from the date of the previous LGSR/certification.

7.4 This safety check is driven from the anniversary date of the most recent LGSR/certification which may have been carried out at the start of a new tenancy or following installation of new gas appliances.

7.5 The Council will adopt the changes introduced in April 2018 to Part F, Regulation 36 (3) of the Gas (Installation and Use) Regulations 1998 that provides landlords with some flexibility around the anniversary date of LGSRs.

7.6 The new change allows the landlord to carry out a new gas safety check within 10 months and 1 day of the previous safety check and retain the original 12 month anniversary date of the previous LGSR, providing it does not exceed this 12 month anniversary date.

7.7 **Communal Blocks and ‘Other’ properties** – The Council will carry out a programme of annual gas safety checks and services to all communal blocks and HRA properties (commercial, shops, offices, depots, etc.) where it has the legal obligation to do so.

7.8 These checks will include all gas fittings, appliances and flues in the property and will be completed no longer than 12 months from the date of the previous LGSR/certification, or as detailed within manufacturer’s instructions.

7.9 These safety checks and maintenance services will be carried out by a suitably competent engineer in accordance with the manufacturer’s instructions. These

installations may include catering equipment, boilers serving communal heating systems, combined heat and power systems, pressure vessels and water heating boilers.

- 7.10 The Council will carry out, where applicable, a programme of annual safety checks and services to all oil fired and solid fuel systems. This check will include all fittings, appliances and flues in the property and will be completed no longer than 12 months from the date of the previous safety check and service or as detailed within manufacturer's instructions or industry best practice.
- 7.11 These safety checks and maintenance services will be carried out by a suitably competent engineer in accordance with the manufacturer's instructions.
- 7.12 **Commercial Stock Assigned to the HRA** – The Council will ensure they have records of a valid LGSR where properties it owns or manages are managed by people or organisations other than The Council (i.e. are managed by managing agents).
- 7.13 These properties will be included on the Council's gas safety programme, so a new LGSR can be requested from the managing agent prior to the existing one expiring. If the managing agent fails to carry out the gas safety test, The Council will step in and carry out the test and re-charge the managing agent for the cost of this work.

8. Compliance Follow-up Work

- 8.1 The Council will ensure there is a robust process in place for the management of any follow-up works required following the completion of a gas/heating safety check.
- 8.2 The Council will test smoke alarms and CO detection in all domestic properties as part of the annual gas/heating safety check and replace these where necessary.
- 8.3 A safety check will be carried out on completion of any repair and/or refurbishment works to occupied or void properties where works may have affected any gas fittings, appliances or flues.

Key controls and reporting

9. Record Keeping

- 9.1 The Council will establish and maintain a core asset register of all properties that have an active or inactive gas supply. This register will also hold data

against each property asset of gas or other heating inspection and servicing requirements, where applicable, for all domestic properties, communal blocks and 'other' property assets.

- 9.2 The Council will hold accurate inspection dates and inspection records against each property it owns or manages electronically on the CORGI or other approved system.
- 9.3 The Council will ensure the Gas Safe registered engineer records the details of all appliances and other equipment which is served by the gas/heating supply in every domestic property, communal block or 'other' property.
- 9.4 The Council will establish and maintain accurate records of all completed safety records, and associated remedial works and keep these for a period of not less than two years. These will be held on the CORGI or other approved system.
- 9.5 The Council will hold and maintain accurate records on the qualifications of all engineers undertaking gas/heating works for the organisation.
- 9.6 The Council will ensure robust processes and controls are in place to provide and maintain appropriate levels of security for all gas/heating safety related data.

10. Performance Reporting

- 10.1 Robust key performance indicator (KPI) measures will be established and maintained to ensure The Council is able to report on performance in relation to gas/heating safety.
- 10.2 KPI measures will be provided to Corporate Leadership Team (CLT) and at The Council's Cabinet as part of its performance reporting schedule. As a minimum, these KPI measures will include reporting on:

10.2.1 Data – the total number of:

- Properties – split by domestic properties, communal blocks and 'other' properties;
- Properties on the gas/heating servicing programme;
- Properties with a valid 'in date' LGSR/certification. This is the level of compliance;
- Properties where the LGSR/certification has expired and is 'out of date'. This is the level of non-compliance.

10.2.2 Narrative - an explanation of the:

- Current position;

- Corrective action required;
- Anticipated impact of corrective action;
- Progress with completion of follow-up works.

11. Quality Assurance

- 11.1 The Council will ensure there is a programme of independent third party quality assurance audits of gas/heating safety checks, gas appliance services and gas appliance repair works. This will be a 5 per cent sample of the total gas safety works carried out.
- 11.2 Desktop audits, using the nine-point check, will be completed on 100 per cent of all certification. These will be checked by the compliance team.
- 12.3 The Council will carry out an independent audit of gas/heating safety at least once every two years. This audit will specifically test for compliance with the regulation, legislation and approved codes of practice and identify any non-compliance issues for correction.

12. Non-Compliance/ Escalation Process

- 12.1 The definition of non-compliance in relation to this policy refers to any incident which results in a potential breach of legislation or regulatory standard, or which causes, or has the potential to cause, a significant risk to health or safety.
- 12.2 Any non-compliance issue identified at an operational level will be reported through the performance reporting mechanisms to The Council's Director of Housing and Operations.
- 12.3 The Council's Director of Housing and Operations will agree an appropriate course of corrective action with the relevant operational teams in order to address the non-compliance issue and report details of the same as part of the monthly performance reporting process.
- 12.4 The Director of Housing and Operations will ensure the Cabinet Member for Housing, Transport and Special Projects is made aware of any non-compliance issue so they can consider the implications and take action as appropriate.
- 12.5 In cases of a serious non-compliance issue The Council's CLT and Monitoring Officer will consider whether it is necessary to disclose the issue to the Regulator of Social Housing in the spirit of co-regulation, or any other relevant organisation such as the HSE, as part of the Regulatory Framework.

13. Training

- 13.1 The Council will ensure that all operatives working for, or on behalf of, the organisation have the relevant training required for their role. This will be managed via periodic assessments of training needs and resulting programmes of internal and/or external training.

14 Equality and Diversity

- 14.1 An Equality Impact Assessment has been carried out to determine whether the policy would have an impact on any member of staff, tenants or contractor workforce, which unfairly discriminates or disadvantages them in the context of the Equality Act 2010. Adherence to the policy provides the same level of protection for all building users and no impacts have been identified that would adversely affect one group more than any other.



LIFT SAFETY POLICY HOUSING

Date of policy	April 2021
Date for review	April 2024
Policy author	Executive Operations Director, Pennington Choices
Policy owner	Director of Housing and Operations, Folkestone & Hythe District Council
Approved by	
Risk register rating	High
Associated documents	FHDC Lift Safety procedure

Revision history			
Version	Date	Revision description	Policy author
V1.0	March 2020	Document created	Lee Woods (Pennington Choices)
V2.0	March 2021	Re-branding; update of key roles and responsibilities in line with FHDC reporting structure	John Holman, Assistant Director (Housing); Jonathan Hicks, Policy & Performance Specialist

NEW POLICY / POLICY REVIEW	
New policy	YES
Early review – change in legislation	
Early review – significant changes in practice	

Review due – significant changes	
Review due – cosmetic changes or unchanged	
Other reason	

Reason for new policy / summary of changes

To ensure the accountability for managing this policy reflects the current structure and designated roles within the Housing Service

CONSULTATION

List of people/roles who have been consulted	Date
David Griffiths, East Kent Audit partnership	December 2020
Roy Catling, Assets & Development Lead Specialist	March 2021
Corporate Leadership Team	April 2021

EQUALITY IMPACT ASSESSMENT

	Completed	Date
	Yes	28 April 2021

DISSEMINATION

Role	Awareness	Essential

TRAINING

Role	Trainer	Date completed

MONITORING AND COMPLIANCE

Method	Responsibility	Frequency

1. Purpose of the Policy

- 1.1 Landlords are responsible for maintaining passenger lifts and for carrying out periodic thorough examinations and inspections to ensure those lifts operate safely. In addition to lifts, landlords have a responsibility to maintain stair lifts and hoists to ensure the safety of their tenants.
- 1.2 Folkestone & Hythe District Council (hereafter referred to as 'the Council') own and manage properties that have passenger lifts to assist tenants to and from their homes. In addition to these, the ageing population in the UK means that an increasing number of domestic homes are now being adapted with living aids such as stair lifts and hoists to enable tenants to continue to live independently.

2. Policy Objectives and Scope

- 2.1 The Council must establish a policy which meets the requirements of the Health and Safety at Work Act 1974. In addition to this, the policy must provide assurance to The Council that measures are in place to ensure compliance with the Lifting Operation and Lifting Equipment Regulations 1998 (LOLER) and to identify, manage and/or mitigate risks associated with passenger lifts, stair lifts and hoists. The Council must also ensure compliance with lift safety legislation is formally reported to the Council's Corporate Leadership Team and Cabinet, including the details of any non-compliance and planned corrective actions.
- 2.2 The policy is relevant to all The Council employees, tenants, contractors and other persons or other stakeholders who may work on, occupy, visit, or use its premises, or who may be affected by its activities or services. It should be used by all to ensure they understand the obligations placed upon The Council to maintain a safe environment for tenants and employees within the home of each tenant and within all non-residential premises or areas of buildings.
- 2.3 The policy is also relevant for maintaining a safe environment for all tenants and employees within all of The Council's properties.

3. Legal/Regulatory Framework

- 3.1 **Regulatory Standards** - the application of this policy will ensure compliance with the regulatory framework and consumer standards (Home Standard) for social housing in England, which was introduced by the Regulator of Social Housing in April 2012.
- 3.2 **Legislation** - the principal legislation applicable to this policy is The Health and Safety at Work Act 1974 and the Lifting Operation and Lifting Equipment Regulations 1998 (LOLER).
- 3.3 **Code of Practice** – the principal codes of practice applicable to this policy are:

- 3.3.1 ACoP L113 - Safe use of lifting equipment: Lifting Operations and Lifting Equipment Regulations 1998 (2nd edition 2014).
- 3.3.2 INDG422 - Thorough examination of lifting equipment: A simple guide for employers (2008).
- 3.3.3 INDG339 - Thorough examination and testing of lifts: Simple guidance for lift owners (2008).

3.4 **Sanctions** - The Council acknowledges and accepts its responsibilities in accordance with the regulatory standards, legislation and codes of practice and that failure to discharge these responsibilities properly could lead to a range of sanctions including prosecution by the Health and Safety Executive under the Health and Safety at Work etc Act 1974, prosecution under the Corporate Manslaughter and Corporate Homicide Act 2007 and via a serious detriment judgement from the Regulator of Social Housing (RSH).

3.5 **Tenants and HRA Commercial Stock** – The Council will use the legal remedies available within the terms of the tenancy and lease agreement should any tenant, leaseholder or shared owner refuse access to carry out essential lift safety related inspection and remediation works.

3.6 **Additional legislation**

This lift safety policy also operates in the context of the following additional legislation:

- The Management of Health and Safety at Work Regulations 1999
- The Provision and Use of Work Equipment Regulations 1998 (PUWER)
- The Workplace (Health Safety and Welfare) Regulations 1992
- The Building Regulations 2004 – Part M
- Construction (Design and Management) Regulations 2015
- Disability and Discrimination Act 2005
- Equality Act 2010
- Housing Act 2004
- Landlord and Tenant Act 1985
- Data Protection Act 2018
- Reporting of Injuries, Diseases and Dangerous Occurrences Regulations (RIDDOR) 2013
- Homes (Fitness for Human Habitation) Act 2018

4. Responsibility

- 4.1 The Council's Cabinet will have overall governance responsibility for ensuring the Lift Safety policy is fully implemented to ensure full compliance with the regulatory standards, legislation and codes of practice. The Council's Cabinet will formally approve this policy and review it every two years (or sooner if there is a change in regulation, legislation or codes of practice).
- 4.2 The Council's Director of Housing and Operations has strategic responsibility for the management of lift safety and for ensuring compliance is achieved and maintained. The Director will also oversee the implementation of the lift safety policy.
- 4.3 The Council's Director of Housing and Operations will be responsible for overseeing the delivery of the agreed lift servicing and maintenance programmes, and the prioritisation and implementation of any works arising from the inspections. The Director is also responsible for overseeing the delivery of service, maintenance and repair programmes to all lifts, stair lifts, and hoists within property assets owned or managed by The Council.
- 4.4 The housing teams will provide key support in gaining access into properties where access is proving difficult and use standard methods to do so. They will also facilitate the legal process to gain access as necessary.
- 4.5 The Council's Director of Housing and Operations will be responsible for ensuring the policy is reviewed every two years, and will notify the Corporate Leadership Team (CLT) and relevant operational team(s) responsible for the delivery of the compliance programme, of the upcoming review.

4.6 Competent Persons

- 4.6.1 The Council will ensure that the 'Responsible Person', and the manager(s) with lead responsibility for operational delivery are appropriately competent; will have undertaken appropriate training and have sufficient experience to meet the criteria of a 'competent person' as stated by the Health and Safety Executive (HSE).
- 4.6.2 The Council will ensure that only suitably competent consultants and contractors, registered members of the Lift and Escalator Industry Association (LEIA) or equivalent, are procured and appointed to undertake risk assessments, prepare written examination schemes and undertake works in respect of lifts, stair lifts and hoists.
- 4.6.3 The operational team with responsibility for delivery will check the relevant qualifications of employees working for these contractors and for those working within the in-house team to ensure that all persons are appropriately qualified for the work that they are carrying out. These checks will be undertaken on an annual basis.

The Policy

5. Obligations

- 5.1 Landlords are responsible for maintaining passenger lifts and for carrying out periodic thorough examinations and inspections to ensure those lifts operate safely. Section 3 of the Health and Safety at Work Act 1974 requires employers, such as landlords, to have responsibility for the health and safety of employees and people using or visiting their premises so far as reasonably practicable.
- 5.2 Passenger lifts in workplaces (for example, offices and communal blocks), which are primarily used by people at work, are subject to the Lifting Operations and Lifting Equipment Regulations 1998 (LOLER) and the Provision and Use of Work Equipment Regulations 1998 (PUWER).
- 5.3 Landlords are required to ensure that all lifts, when in use, are thoroughly examined after substantial and significant changes have been made, at least every six months if the lift is used at any time to carry people (or in accordance with an examination scheme) and following “exceptional circumstances” such as damage to, or failure of, the lift, long periods out of use or a major change in operating conditions which is likely to affect the integrity of the equipment.
- 5.4 Where stair lifts, hoists or through floor lifts have been provided for residents, normally as part of an adaptation, landlords have responsibilities for the safety of all users under Section 3 of the Health and Safety at Work Act 1974. These may be adequately discharged by undertaking maintenance, inspection and a 6-monthly thorough examination. LOLER (thorough examination) and PUWER (maintenance and inspection) apply only to stair lifts provided as work equipment for use by employees.
- 5.5 Insurers may impose demands for similarly stringent levels of risk management to cover public liability.

6. Statement of Intent

- 6.1 The Council acknowledges and accepts its responsibilities with regard to lift safety and the inspection and maintenance of lifts, stair lifts and hoists.
- 6.2 All lift, stair lift or hoist equipment in communal areas and any known equipment in tenant’s homes is the responsibility of the Council.
- 6.3 The Council will hold accurate records against each property it owns or manages, identifying where there is a lift, stair lift or hoist together with the written examination scheme for each installation.

- 6.4 The Council will appoint/train competent 'responsible persons' responsible for the operation, condition and compliance with all relevant statutory requirements. This will include taking action (within the advised timescales) to remedy any faults or defects identified through routine inspections or insurer's thorough examinations.
- 6.5 The Council will ensure that it meets all of its legal requirements in regard to lift safety operations via a combination of regular inspections, thorough examinations (in conjunction with the organisation's insurers) and periodic routine maintenance of all lifting equipment within properties it owns and manages.
- 6.6 The Council will ensure that all lifts in properties it owns and manages will be fully accessible for disabled users (as per the requirements of the Disability Discrimination Act 2005, the Equality Act 2010, and to the specifications outlined in Part M of the Building Regulations 2004).
- 6.7 The Council will endeavour to ensure that all lifts and lifting equipment in properties and workplaces it owns and manages will be in full working order at all times. Where the organisation becomes aware that lifts or lifting equipment are not operating as they should, emergency repairs orders will be issued to remedy faults as quickly as possible.
- 6.8 The Council will ensure that there are clear procedures in place and that these procedures are communicated to, and understood by, all relevant staff, for appropriate action in the event of any persons becoming trapped in lifts the organisation owns or manages. The Council staff cannot release any persons trapped in lifts as they are not competent to do so safely, but may provide reassurance until such time as the relevant lift maintenance contractors and/or emergency services arrive, as appropriate. The Council will have a service level agreement with lift maintenance service providers that ensures an emergency response in cases of entrapment.
- 6.9 The Council has some passenger lifts that have an intercom fitted that dials directly to a dedicated call centre. In cases of entrapment in these lifts call handlers will follow a scripted risk assessment to determine the medical condition of any persons that may be trapped. If there is an urgent concern for a person's welfare the emergency services will be called and asked to attend immediately.
- 6.10 The Council will ensure that all lifting equipment that is used on sites it owns or manages is thoroughly examined by a competent person before it is commissioned into use and is then subject to periodic examinations in accordance with the equipment's examination scheme.

- 6.11 The Council will ensure that only suitably competent consultants, and engineers undertake works for the organisation in respect of lifts, stair lifts and hoists.
- 6.12 The Council will ensure that a thorough examination is carried out on all known aids and adaptations designed for lifting operations, including platform lifts, stair lifts and hoists, in properties it owns and manages. These checks will take place every six months across all lifting equipment types. These checks may also take place more frequently if required to be in line with manufacturers' recommendations, or following any void works which may impact the installation (provided the lift is not to be removed prior to a new tenancy commencing).
- 6.13 The Council will respond and take remedial action for any defects to aids and adaptations designed for lifting operations identified during regular use in line with the normal provisions for repairs and maintenance. All requests of this nature will be treated as an urgent priority.
- 6.14 The Council will ensure that robust processes and controls are in place to ensure that all remedial works identified through routine maintenance inspections and insurer's inspections are completed within a reasonable timescale commensurate with the risk identified.
- 6.15 The Council will ensure robust processes and controls are in place to ensure that any health and safety incident with regard to lift safety is properly reported as required under RIDDOR. These include defects classed as 'immediately dangerous'.
- 6.16 The Council will ensure that robust processes and controls are in place to manage works to void and occupied properties that may affect existing lifts, stair lifts or hoists.
- 6.17 The Council will have a robust process in place to gain access to properties where tenant vulnerability issues are known or identified, whilst ensuring the organisation can gain timely access to any property in order to be compliant with this policy and safeguard the wellbeing of the tenant.
- 6.18 The Council will establish and maintain a plan of all continuous improvement activity undertaken with regards to lift safety.
- 6.19 The Council will ensure that all contractors' employee and public liability insurances are up to date on an annual basis.
- 6.20 The Council will ensure contracts/service level agreements are in place with the contractors responsible for delivering the compliance service where appropriate.

- 6.21 The Council will ensure there are effective contract management arrangements in place, in the form of client-led meetings taking place regularly, with standard agendas and minutes produced, key performance indicators analysed and programmes and performance scrutinised.
- 6.22 The Council will implement a robust process to deal with all changes to stock, including new property acquisitions, disposals and stock transfers, in order to ensure that properties are not omitted from the compliance programme, and to ensure the programme remains up-to-date.
- 6.23 The Council will ensure there is a robust process in place for tenants to inform the organisation if they install any lifting equipment themselves and for these to be added to the risk assessment and inspection programme.
- 6.24 The Council will ensure that there is a robust process in place for the management of immediately dangerous situations identified during the lift safety check.

7. Compliance Risk Assessment/Inspection Programmes

- 7.1 The Council will establish and maintain a risk assessment for lift safety operations. This risk assessment will set out all of the organisation's key lift safety risks together with appropriate mitigations.
- 7.2 To comply with the requirements of the Construction (Design and Management) Regulations 2015 (CDM) a Construction Phase Plan will be completed for all repairs work to void and tenanted properties (at the start of the contract and annually thereafter), component replacement works and refurbishment projects. This plan will detail any lift installations that may be affected by the works and detail all necessary work required to make safe and reinstate lift installations to ensure that they are safe to use and continue to comply with all relevant legislation and any written examination scheme, including any testing and maintenance.
- 7.3 The Council will carry out a programme of maintenance visits by competent persons to all properties that have a lift, stair lift or hoist and a written examination scheme in place. These programmes will ensure that all maintenance and testing set out in the written examination scheme is fully completed at the times and intervals stated.
- 7.4 The Council will oversee a programme of thorough examinations of passenger lifts by competent contractors appointed by The Council's insurers. This is to ensure that the organisation's responsibilities towards lift safety are being discharged and provide its insurers with adequate assurance around the quality of lift safety management.

- 7.5 The Council will carry out a programme of independent third party quality assurance audits annually to 10 per cent of written examination schemes for lifts (where not included within the insurer's inspection programme) to ensure that all examinations and planned maintenance activities are being fully and robustly implemented and completed. This is additional to inspections carried out by The Council's insurers.
- 7.6 **Commercial Stock Assigned to the HRA** – The Council will ensure it has records of a lift examination/inspection where properties it owns or manages are managed by people or organisations other than The Council (i.e. are managed by managing agents) and have lifting equipment in place. These properties will be included on the Council's Lift Safety programme, so a lifting equipment examination record can be requested from the managing agent when required. If the managing agent fails to carry out the thorough examination, The Council will step in and carry out the examination and re-charge the managing agent for the cost of this work.

8. Compliance Follow-up Work

- 8.1 The Council will ensure there is a robust process in place for the management of any follow-up works required following the completion of routine maintenance inspections, or where identified by a competent person, when undertaking required maintenance activities.
- 8.2 The Council will ensure there is a robust process in place for the management of any follow-up works required following the completion of inspections by the organisation's insurers.
- 8.3 The Council will ensure that there is a robust process in place to collate and record details of all remedial works completed against individual installations.
- 8.4 The Council will ensure there is a robust process in place to investigate and manage all RIDDOR notices issued with regard to lift safety.

Key controls and reporting

9. Record Keeping

- 9.1 The Council will establish and maintain a core asset register of all properties that have a lift, stair lift or hoist and written examination scheme in place. This register will also hold data against each property asset of the type, age and condition of lift plant in place.
- 9.2 The Council will establish and maintain accurate records of all written examination schemes and any associated remedial works completed and keep these for a period of not less than 5 years. Records should include the person or people responsible for conducting the inspection; any significant findings of inspections; the written examination scheme and its implementation; and the results of any inspection, test or check carried out, together with the dates. This should include details about the state of operation and condition of the installation.
- 9.3 The Council will establish and maintain accurate records of all inspections carried out by its insurers, the findings of these inspections, and records of completed remedial works where identified by insurer's inspections; including dates.
- 9.4 The Council will ensure that records of all inspections and thorough examinations will be available to the Competent Person at all times and that hard copies of records can be produced, if required by the local enforcement authority.
- 9.5 The Council will keep a record of any entrapment incidents and will use these to inform future revisions of Examination Schemes.
- 9.6 The Council will hold and maintain accurate records on the qualifications of all consultants and engineers undertaking lift inspection and maintenance works for the organisation.
- 9.7 The Council will ensure robust processes and controls are in place to provide and maintain appropriate levels of security for all lift safety related data.

10. Performance Reporting

- 10.1 Robust key performance indicator (KPI) measures will be established and maintained to ensure The Council is able to report on performance in relation to lift safety.

10.2 KPI measures will be produced and provided to Corporate Leadership Team and Cabinet as part of the reporting cycle. As a minimum, these KPI measures will include reporting on:

- Compliance with written examination schemes for lift plant;
- The number of entrapments within lifts (in month and year to date);
- The number of outstanding high- and medium-level risk actions as identified in insurer's inspection reports;
- The number of RIDDOR notices issued with regards to lift safety.

11. Quality Assurance

11.1 The Council will carry out independent third party quality assurance audits annually to 10 per cent of written examination schemes for lifts (where not included within the insurer's inspection programme) to ensure that all examinations and planned maintenance activities are being fully and robustly implemented and completed. This is in addition to inspections carried out by The Council's insurers.

11.2 The Council will carry out an independent audit of lift safety at least once every two years. This audit will specifically test for compliance with the regulation, legislation and codes of practice and identify any non-compliance issues for correction.

12. Non-Compliance/ Escalation Process

12.1 The definition of non-compliance in relation to this policy refers to any incident which results in a potential breach of legislation or regulatory standard, or which causes or has the potential to cause a significant risk to health or safety.

12.2 Any non-compliance issue identified at an operational level will be formally reported to The Council's Director of Housing and Operations as part of the monthly reporting cycle.

12.3 The Council's Director of Housing and Operations will agree an appropriate course of corrective action to address the non-compliance issue and report details of the same to the Corporate Leadership Team.

12.4 The Director of Housing and Operations will ensure The Council's Cabinet Member for Housing, Transport and Special Projects is made aware of any non-compliance issue so they can consider the implications and take action as appropriate.

- 12.5 In cases of a serious non-compliance issue the Corporate Leadership Team and The Council's Monitoring Officer will consider whether it is necessary to disclose the issue to the Regulator of Social Housing in the spirit of co-regulation, or any other relevant organisation such as the HSE, as part of the Regulatory Framework.

13. Training

- 13.1 This policy and the procedures that support it will be subject to a range of training across The Council and will involve all relevant stakeholders. The training will be bespoke to the individual stakeholders and refresher training will be provided as appropriate.
- 13.2 Training will include team briefings for those employees who need to have a basic understanding and awareness of lift safety but who may not be actively involved in the delivery of the lift safety policy. This will be basic lift safety awareness training.
- 13.3 On-the-job training will be provided to those employees who will be responsible for managing the programme of lift inspections, planned maintenance and repair works as part of their daily job. The manager(s) with lead responsibility for operational delivery will have undertaken appropriate training and have sufficient experience to meet the criteria of a 'competent person' as stated by the Health and Safety Executive (HSE).
- 13.4 Regular 'tool-box talks' will be given to operatives and the Council's contractor partners will be required to do this in the form of appropriate lift safety training and evidence the same.

14 Equality and Diversity

- 14.1 An Equality Impact Assessment has been carried out to determine whether the policy would have an impact on any member of staff, tenants or contractor workforce, which unfairly discriminates or disadvantages them in the context of the Equality Act 2010. Adherence to the policy provides the same level of protection for all building users and no impacts have been identified that would adversely affect one group more than any other.



WATER HYGIENE POLICY HOUSING

Date of policy	April 2021
Date for review	April 2024
Policy author	Executive Operations Director, Pennington Choices
Policy owner	Director of Housing and Operations, Folkestone & Hythe District Council
Approved by	
Risk register rating	
Associated documents	FHDC Water Hygiene procedure

Revision history			
Version	Date	Revision description	Policy author
V1.0	March 2020	Document created	Lee Woods (Pennington Choices)
V2.0	March 2021	Re-branding; update of key roles and responsibilities in line with FHDC reporting structure	John Holman, Assistant Director (Housing); Jonathan Hicks, Policy & Performance Specialist

NEW POLICY / POLICY REVIEW	
New policy	YES
Early review – change in legislation	
Early review – significant changes in practice	

Review due – significant changes	
Review due – cosmetic changes or unchanged	
Other reason	

Reason for new policy / summary of changes

To ensure the accountability for managing this policy reflects the current structure and designated roles within the Housing Service

CONSULTATION

List of people/roles who have been consulted	Date
David Griffiths, East Kent Audit partnership	December 2020
Roy Catling, Assets & Development Lead Specialist	March 2021
Corporate Leadership Team	April 2021

EQUALITY IMPACT ASSESSMENT

	Completed	Date
	Yes	28 April 2021

DISSEMINATION

Role	Awareness	Essential

TRAINING

Role	Trainer	Date completed

MONITORING AND COMPLIANCE

Method	Responsibility	Frequency

1. Purpose of the Policy

- 1.1 Legionellosis is a collective term for diseases caused by legionella bacteria including the most serious, Legionnaires' disease, as well as the similar but less serious conditions of Pontiac fever and Lochgoilhead fever. Legionnaires' disease is a potentially fatal form of pneumonia and everyone is susceptible to infection. The risk increases with age, but some people are at higher risk, e.g. people over 45, smokers and heavy drinkers, people suffering from chronic respiratory or kidney disease, diabetes, lung and heart disease or anyone with an impaired immune system.
- 1.2 Legionnaires' disease is normally contracted by inhaling small droplets of water (aerosols), suspended in the air, containing the bacteria.
- 1.3 Therefore, it is important that Folkestone & Hythe District Council (hereafter referred to as 'the Council') control the risks by introducing measures which reduce and/or control the risk of legionella growth and proliferation of legionella bacteria and other organisms in the water systems and reduce, so far as is reasonably practicable, exposure to water droplets and aerosol in non-domestic and domestic stock as required. This will reduce the possibility of creating conditions in which the risk from exposure to legionella bacteria is increased.

2. Policy Objectives and Scope

- 2.1 The Council must establish a policy which meets the requirements of the Health and Safety at Work Act 1974 and the Management of Health and Safety at Work Regulations 1999 (the Management Regulations). In addition to this, the policy must provide assurance that measures are in place to demonstrate compliance with the Control of Substances Hazardous to Health Regulations 2002 (as amended) and to identify, manage and/or mitigate risks associated with hot and cold water systems and any other systems that may cause exposure to legionella bacteria. The L8 approved code of practice, 'Legionnaires' disease. The control of legionella bacteria in water systems', is available to duty holders to provide practical guidance on how to comply with their legal duties in relation to legionella.
- 2.2 The Council must also ensure compliance with water hygiene legislation is formally reported to the Council's Cabinet, including the details of any non-compliance and planned corrective actions.
- 2.3 The policy is relevant to all The Council employees, tenants, contractors and other persons or other stakeholders who may work on, occupy, visit, or use its premises, or who may be affected by its activities or services.

2.4 It should be used by all to ensure they understand the obligations placed upon the Council to maintain a safe environment for tenants and employees within the homes of each tenant, and within all communal areas of buildings and 'other' properties owned and managed (offices, commercial shops, depots, etc.).

3. Legal/Regulatory Framework

3.1 **Regulatory Standards** - the application of this policy will ensure compliance with the regulatory framework and consumer standards (Home Standard) for social housing in England, which was introduced by the Regulator of Social Housing (RSH).

3.2 **Legislation** - the principal legislation applicable to this policy is the Health and Safety at Work Act 1974, the Management of Health and Safety at Work Regulations 1999 (the Management Regulations) and the Control of Substances Hazardous to Health Regulations 2002 (as amended) (COSHH). The Council has a legal obligation under COSHH to prevent or control exposure to biological agents. Being harmful to human health, legionella falls within the scope of these regulations.

3.3 **Code of Practice** – the principal approved codes of practice applicable to this policy are:

- ACoP L8 - 'Legionnaires' disease: The control of legionella bacteria in water systems' (4th edition 2013).
- HSG274 - Legionnaires' disease: Technical guidance Part 1: The control of legionella bacteria in evaporating cooling systems (2013).
- HSG274 - Legionnaires' disease: Technical guidance Part 2: The control of legionella bacteria in hot and cold water systems (2014).
- HSG274 - Legionnaires' disease: Technical guidance Part 3: The control of legionella bacteria in other risk systems (2013).
- INDG458 - Legionnaires' disease: A guide for duty holders Leaflet (HSE Books 2012).

3.4 **Sanctions** – The Council acknowledges and accepts its responsibilities in accordance with the regulatory standards, legislation and codes of practice and that failure to discharge these responsibilities properly could lead to a range of sanctions including prosecution by the Health and Safety Executive under the Health and Safety at Work Act 1974, prosecution under the Control of Substances Hazardous to Health Regulations (COSHH), prosecution under the Corporate Manslaughter and Corporate Homicide Act 2007, and via a serious detriment judgement from the Regulator of Social Housing.

3.5 **Tenants and HRA Commercial Leaseholders** – the Council will use the legal remedies available within the terms of the tenancy agreement, lease or licence should any tenant refuse access to carry out essential safety checks, maintenance and safety related repair works.

3.6 Additional legislation

This Water Hygiene Policy also operates in the context of the following legislation:

- The Workplace (Health Safety and Welfare) Regulations 1992
- Construction (Design and Management) Regulations 2015
- Housing Act 2004
- Landlord and Tenant Act 1985
- Homes (Fitness for Human Habitation) Act 2018
- Housing Health and Safety Rating System (HHSRS) 2006
- Data Protection Act 2018
- Reporting of Injuries, Diseases and Dangerous Occurrences Regulations (RIDDOR) 2013
- Public Health (Infectious Diseases) Regulations 1998
- Water Supply (Water Quality) Regulations 2016
- Water Supply (Water Fittings) Regulations 1999

4. Responsibility

- 4.1 The Council's Cabinet will have overall governance responsibility for ensuring the Water Hygiene Policy is fully implemented to ensure full compliance with the regulatory standards, legislation and approved codes of practice. The Council's Cabinet will formally approve this policy and review it every two years (or sooner if there is a change in regulation, legislation or codes of practice).
- 4.2 The Council's Cabinet will receive regular updates on the implementation of the Water Hygiene Policy and compliance performance, along with notification of any non-compliance issue which is identified as part of the routine performance-reporting process.
- 4.3 The Corporate Leadership Team (CLT) will receive reports in respect of Water Hygiene performance and ensure compliance is being achieved as part of the routine performance-reporting process.
- 4.4 The Council's Director of Housing and Operations will have strategic responsibility for the management of water hygiene safety and for ensuring compliance is achieved and maintained. The Director will also oversee the implementation of the Water Hygiene Policy.
- 4.5 The Council's Director of Housing and Operations will be responsible for overseeing the delivery of the agreed water hygiene programme, and the prioritisation and implementation of any works arising from the safety inspections.

4.6 The housing teams will provide key support in gaining access into properties where access is proving difficult and use standard methods to do so. They will also facilitate the legal process to gain access as necessary.

4.7 The Council's Director of Housing and Operations will be responsible for ensuring the policy is reviewed every two years, and will notify the Council's Corporate Leadership Team (CLT) and relevant operational team(s) responsible for the delivery of the compliance programme, of the upcoming review.

4.6 **Competent Persons**

4.6.1 The Council will ensure that the manager with lead responsibility is appropriately competent, holding a recognised qualification in legionella control through the completion of a certified training course designed to meet the training needs of a 'duty holder' or 'responsible person' for legionella control. This qualification will be obtained within 12 months of the start of employment for any new operational leads, or within 12 months of the approval of this policy for the existing post holder if they do not already hold it.

4.6.2 Training includes courses by BOHS (British Occupational Hygiene Society) such as P901 – Management and control of building hot and cold water services, City and Guilds, CIBSE, or HABC around the requirements of ACoP L8 - 'Legionnaires' disease: The control of legionella bacteria in water systems'.

4.6.3 The Council will ensure that only suitably competent consultants and contractors, registered members of the Legionella Control Association (LCA) or equivalent, are procured and appointed to undertake risk assessments, prepare written schemes of control and undertake works in respect of water hygiene and legionella control.

4.6.4 The operational team with responsibility for delivery will check the relevant qualifications of employees working for these contractors to ensure that all persons are appropriately qualified for the work that they are carrying out. These checks will be undertaken on an annual basis and evidenced appropriately.

The Policy

5. Obligations

- 5.1 The Control of Substances Hazardous to Health Regulations 2002 (as amended) (COSHH), the Management of Health and Safety at Work Regulations 1999 and the Health and Safety at Work Act 1974 place a duty, as an employer or person in control of a premises (e.g. a landlord), to take suitable precautions to prevent or control the risk of exposure to legionella.
- 5.2 The Council, as the 'Duty Holder' as defined by ACOP L8, is responsible for Health and Safety and must take the right precautions to reduce the risks of exposure to legionella, including understanding how the organisation will:
- Identify and assess sources of risk
 - Manage any risks
 - Prevent or control any risks
 - Keep and maintain the correct records for 5 years
- 5.3 The Council must ensure there is a risk assessment undertaken for all hot and cold water systems, cooling plant and any other systems that can produce water droplets to establish any potential risks and implement measures to either eliminate or control identified risks.
- 5.4 The Council as the 'Duty Holder' responsible for control of legionella and water hygiene safety must appoint a competent/responsible person to take managerial responsibility for legionella control - risk assessment, production of a written scheme and implementation of that scheme to prevent or control the risks. A competent person is someone with sufficient authority, competence, necessary skills, knowledge of the system and experience. The Council will ensure that properties are risk assessed by a competent person for potential to cause exposure to legionella.
- 5.5 In addition, the 'Duty Holder' will appoint an authorised deputy responsible person who will provide cover to the responsible person in their absence. The deputy responsible person should be trained, instructed, and informed to the same level as the responsible person, and they should assist in the frequent monitoring of the control scheme(s).

6. Statement of Intent

- 6.1 The Council acknowledges and accepts its responsibilities with regard to water hygiene safety and preventing exposure to legionella.
- 6.2 The Council will hold accurate records against each property it owns or manages, setting out the requirements for water hygiene risk assessments and safety checks.
- 6.3 The Council will periodically review risk assessments (every 2 years) in case anything changes in the system. Where a system is identified as more likely to undergo change and is therefore a higher risk, the risk assessment will be reviewed on a more frequent basis, dependent on the determined level of risk. The Council will ensure that a 'written scheme of control' is developed and fully implemented for all properties risk assessed as requiring controls to adequately manage the risk of legionella exposure. The schemes will be assessed by The Council's competent person as high, medium or low risk.
- 6.4 The Council will ensure that a risk assessed approach for water hygiene safety is adopted as part of the void standard, when carrying out works on void properties prior to re-let. These checks will be applicable on all void properties prior to commencing works which may affect the hot and cold water systems and will ensure that any identified risk control measures are fully implemented where identified.
- 6.5 The Council will ensure audits are undertaken annually, by an independent competent person, to all systems identified as a high risk (e.g. older persons' schemes) to ensure that all control actions are being fully and robustly implemented.
- 6.6 The Council will ensure that only suitably competent consultants, surveyors, risk assessors and engineers undertake works for the organisation in respect of water hygiene safety.
- 6.7 The Council will have a robust process in place to gain access to properties where tenant vulnerability issues are known or identified, whilst ensuring the organisation can gain timely access to any property in order to be compliant with this policy and safeguard the wellbeing of the tenant.
- 6.8 The Council will establish and maintain a plan of all continuous improvement activity undertaken with regards to water hygiene safety.
- 6.9 The Council will ensure that all contractors' employee and public liability insurances are up to date on an annual basis.
- 6.10 The Council will ensure contracts/service level agreements are in place with the contractors responsible for delivering the compliance service.

- 6.11 The Council will ensure there are effective contract management arrangements in place, in the form of client-led meetings taking place regularly, with standard agendas and minutes produced, key performance indicators analysed and programmes and performance scrutinised.
- 6.12 The Council will implement a robust process to deal with all changes to stock, including new property acquisitions, disposals and stock transfers, in order to ensure that properties are not omitted from the compliance programme, and to ensure the programme remains up-to-date.
- 6.13 The Council will ensure that there is a robust process in place for the management of immediately dangerous situations identified from the risk assessment or water testing/monitoring regime.
- 6.14 The Council will adopt a proactive approach to tenant communications (for example, including water hygiene information within tenancy packs).

7. Compliance Risk Assessment/Inspection Programmes

- 7.1 **Risk assessment** – The Council will establish and maintain a risk assessment for water hygiene safety operations. This risk assessment will set out the organisation’s key water hygiene risks together with appropriate mitigations.
- 7.2 **CDM** - to comply with the requirements of the Construction, Design and Management Regulations 2015 (CDM) a Construction Phase Plan will be completed for all repairs work to void and tenanted properties (at the start of the contract and annually thereafter), component replacement works and refurbishment projects where applicable.
- 7.3 **Legionella risk assessments** – The Council will carry out a programme of legionella risk assessments and risk assessment reviews to properties containing any water system that could present a risk of exposure to legionella. These risk assessments will be reviewed at least every two years, or after any works have been completed to the installation.
- 7.4 **Communal blocks and ‘other’ properties** - all communal blocks and ‘other’ properties will be subject to an initial visit to establish whether a legionella risk assessment is required. Where a risk assessment is not required then The Council will record this as such on its records, including the date of the initial visit. Where a legionella risk assessment is required The Council will ensure this communal block or ‘other’ property is included in the programme.
- 7.5 **Void properties** – Properties left unoccupied will be checked for dead legs, receive frequent flushing and shower head cleaning to comply with the Water Hygiene Procedure.

- 7.6 **Commercial Stock Assigned to the HRA** – The Council will ensure it has records of a valid LRA where properties it owns or manages are managed by people or organisations other than the Council (i.e. are managed by managing agents). These properties will be included on the Council's Water Hygiene programme, so a new LRA can be requested from the managing agent prior to the existing one expiring. If the managing agent fails to carry out the LRA, The Council will step in and carry out the test and re-charge the managing agent for the cost of this work.
- 7.7 The Council will carry out a programme of maintenance visits by competent persons to all properties that have a written scheme of control in place. These programmes will ensure that all maintenance and testing set out in the written scheme of control is fully completed at the times and intervals stated. The results of these visits will be recorded electronically.

8. Compliance Follow-up Work

- 8.1 The Council will ensure there is a robust process in place for the management of any follow-up works required following the completion of a legionella risk assessment or where identified by the competent person when undertaking required maintenance activities.
- 8.2 The Council will ensure that there is a robust process in place to collate and record details of all remedial works and water testing completed against individual installations.

Key controls and reporting

9. Record Keeping

- 9.1 The Council will establish and maintain a spreadsheet of all properties that have a written scheme of control for water hygiene in place. This register will also hold data against each property asset of the legionella risk assessment carried out.
- 9.2 Inspection and re-inspection dates, along with LRA and monitoring records will be held on the spreadsheet or on the shared drive.
- 9.3 The Council will establish and maintain accurate records of all written schemes of control and any associated remedial works and water testing, as per the organisation's Data Retention Policy.

- 9.4 The Council will maintain log books for all relevant sites as required to record the details of the results from the ongoing monitoring and inspection, where required.
- 9.5 The Council will hold and maintain accurate records on the qualifications of all consultants, surveyors, risk assessors and engineers undertaking water hygiene works for the organisation.
- 9.6 The Council will ensure robust processes and controls are in place to provide and maintain appropriate levels of security for all water hygiene safety related data.

10. Performance Reporting

- 10.1 Robust key performance indicator (KPI) measures will be established and maintained to ensure The Council is able to report on performance in relation to water hygiene / legionella safety.
- 10.2 KPI measures will be provided to Corporate Leadership Team on a monthly basis and The Council's Cabinet on a quarterly basis as part of the routine performance reporting cycle. As a minimum, these KPI measures will include reporting on:

10.2.1 Data – the total number of:

- Properties – split by domestic properties, communal blocks and 'other' properties;
- Properties on the LRA programme;
- Properties with a valid 'in date' LRA. This is the level of compliance expressed as a number and a percentage;
- Properties where the LRA has expired and is 'out of date'. This is the level of non-compliance expressed as a number and a percentage;
- The number of follow up works/actions arising from any risk assessments or inspections, and the numbers 'completed', 'in time' and 'overdue' – split by domestic properties, communal blocks and 'other' properties.

10.2.2 As well as an explanation of the:

- Current position;
- Corrective action required;
- Anticipated impact of corrective action;
- Progress with completion of follow-up works – number of actions – 'completed', 'in time' and 'overdue'.

11. Quality Assurance

- 11.1 The Council will appoint an independent competent person to complete a programme of compliance audits to 5 per cent of written schemes of control to ensure that all control actions are being fully and robustly implemented. In addition all schemes identified as high risk will receive an annual audit.

12. Non-Compliance/ Escalation Process

- 12.1 The definition of non-compliance in relation to this policy refers to any incident which results in a potential breach of legislation or regulatory standard, or which causes or has the potential to cause a significant risk to health or safety.
- 12.2 Any non-compliance issue identified at an operational level will be formally reported to The Council's Director of Housing and Operations in the first instance.
- 12.3 The Council's Director of Housing and Operations will agree an appropriate course of corrective action with the relevant operational team(s) in order to address the non-compliance issue and report details of the same to the Corporate Leadership Team (CLT).
- 12.4 The Director of Housing and Operations will ensure The Council's Cabinet Member for Housing, Transport and Special Projects is made aware of any non-compliance issue so they can consider the implications and take action as appropriate.
- 12.5 In cases of a serious non-compliance issue The Council's Corporate Leadership Team and Monitoring Officer will consider whether it is necessary to disclose the issue to the Regulator of Social Housing in the spirit of co-regulation, or any other relevant organisation such as the HSE, as part of the Regulatory Framework.

13. Training

- 13.1 The Council will ensure that all operatives working for, or on behalf of, the organisation have the relevant training required for their role. This will be managed via periodic assessments of training needs and resulting programmes of internal and/or external training.

14. Equality and Diversity

- 14.1 An Equality Impact Assessment has been carried out to determine whether the policy would have an impact on any member of staff, tenants or contractor workforce, which unfairly discriminates or disadvantages them in the context of the Equality Act 2010. Adherence to the policy provides the same level of protection for all building users and no impacts have been identified that would adversely affect one group more than any other.

This report will be published on 18 May 2021

Agenda Item 6

**Folkestone
& Hythe**



District Council

Report Number **C/21/05**

To: Cabinet
Date: 26 May 2021
Status: Non-Key Decision
Responsible Officer: Aarron McKinney - Engineering & Buildings Senior Specialist
Alastair Clifford, Operations Lead Specialist
Andy Blaszkowicz, Director Housing & Operations

Cabinet Member: Councillor John Collier, Cabinet Member for Property Management and Grounds Maintenance

SUBJECT: Progress report for the installation of new public conveniences and kiosk at the Lower Leas Coastal Park

SUMMARY: This report sets out the proposal for the agreed capital funding for a new kiosk and toilet block to be provided at the Lower Leas Coastal Park.

REASONS FOR RECOMMENDATIONS:

Cabinet is asked to agree the proposal and project plan in order to deliver new enhanced facilities for the park to cater for high demand.

RECOMMENDATIONS:

1. To receive and note report C/21/05.
2. To agree the proposed project plan for delivery of new public conveniences and kiosk.

1. BACKGROUND

- 1.1 The Council's latest approved General Fund capital programme includes £150,000 to deliver a new kiosk and public convenience block at the Lower Leas Coastal Park to address a shortfall in the existing provision.
- 1.2 The existing facilities are in reasonable condition but are relatively small in scale resulting in large queues and the need to hire event toilets to deal with the seasonal influx of visitors. Last year due to the pandemic and increase in numbers the toilets were inundated daily.

2. PROJECT DELIVERY

- 2.1 It is intended to deliver an additional 3 – 4 unisex cubicles with direct access (similar to those at Dymchurch Seawall) with a small kiosk on the end of the building.
- 2.2 The proposed location for the block is to the west of the Amphitheatre, site on the north bank, see plan AR0134-1001 (*Appendix 1*).
- 2.3 The site is well situated for users approaching the park from the Zig Zag path and will provide facilities at either end of the play area zone.
- 2.4 A review of the title deeds indicates that the block will be sited on The Leas title which is a long lease granted by the Radnor Estate. The title has restrictions on development and profit taking. Smith Woolley has confirmed that, in principle, the Folkestone Estate will give consent for the proposed new toilet block subject to detailed plans being provided for the proposed development and the reimbursement of Lessor's costs for providing the relevant consent. This would normally be with a simple approval of the plans but Clause 18 of the Lease dated 24 October 1913 prevents the sale of any goods or commodities. Smith Woolley acknowledge the Council's intention is to use the rent to fund the operation of the toilet block and state this will require a variation of the lease to permit such a use. Subsequent consent will then be required for any sublease, the terms for which need to be agreed in due course. The freeholder's solicitor, Boodle Hatfield will need to confirm their fees but for a standard Deed of Variation for a freehold restrictive covenant, their fees are £750 plus VAT. Their surveyors' fees will be £250 plus VAT, assuming the matter does not become more complex.
- 2.5 The Estates & Assets team are liaising with the Radnor Estate and have received initial approval to the proposals.
- 2.6 Cleaning costs for the block while mitigated due to the presence of park keepers on site are still expected to be in the region of £13-15,000 per annum with cyclical maintenance at £2,000.
- 2.7 The design of the building is intended to be sympathetic of the area and will be relatively small in scale, single storey with a flat roof and clad in timber materials. The building may benefit from an overhang over the kiosk, subject to further design/budget considerations. See reference photographs for Port Isaac & Plymouth (*Appendix 2&3*).
- 2.8 Healthmatic have been instructed to assist with the design/pre tender stage of the project. The company has previous experience of working for the Council having been involved with the Dymchurch Seawall & Sandgate Esplanade public conveniences. The company specialises in the delivery of prefabricated public facilities.

- 2.9 The Engineers and Building team will work with Healthmatic over the next 5 weeks on the preparation of detailed design and specification for submission to planning and for tender purposes. Healthmatic will also provide a cost estimate for the project. Typical designs can be seen in appendices 2&3.
- 2.10 The first action is to undertake an access survey and establishment of feasibility of the site. This will determine whether prefabricated construction off site with assembly is possible. This is the preferred option as it offers increased speed of construction (1-2 week assembly), reduced disruption for the duration of the works and better quality of construction.
- 2.11 A Full Planning Permission and Building Regulations application will need to be submitted by the Engineers and Building team.
- 2.12 Utility connections are envisaged to be relatively simple and achievable due to the proximity of existing services. However, as with any statutory application for connection these can take some time and a small cost. It is therefore proposed that following the detailed site survey and design the Engineers and Building team will submit the application while the planning and tendering process is ongoing.
- 2.13 As part of the project the team have been tasked with considering whether a changing places toilet can be included within the design. This provides equal access facilities to those that need it After discussion with Healthmatic and user groups through seminars, the site does not maximise the benefit to the user group and nor is it particularly feasible as a location. Changing Places toilets are best located adjacent to car park spaces where the users will typically arrive or depart. Officers have been working as part of the place plan to identify suitable provision moving forward and have attended seminars on best practices. At time of writing this report funding provision has been detailed by government but not allocated. Officers will continue to monitor and explore this moving forward.
- 2.14 In addition, the footprint of the toilet is a minimum of 3.5m by 4.5m, with a requirement for an additional 1.2m path in front. Together, this would mean that it is probably the only toilet that could be located by the amphitheatre as the space is not adequate for a kiosk plus other cubicles plus the changing places toilet.
- 2.15 For the purposes of budget consideration estimates from Healthmatic suggest that a Changing Places cubicle would be in the region of £50,000 due to additional structural considerations and the provision of equipment. A standalone block would be in the region of £75,000. The agreed capital budget does not allow for this.

2.16 The projected programme is as follows:

Lower Coastal Park - New Public Conveniences & Kiosk											
Item	Duration	April	May	June	July	August	September	October	November	December	January
Feasibility Study	1 Week										
Detailed Site Survey	1 Week										
Design, Specification	2 Weeks										
Planning Application	8-12 Weeks										
Building Regulations	4 Weeks										
Utility Connections	8 Weeks										
Tender	6-8 Weeks										
Manufacture	12-16 Weeks										
Site Works	4 Weeks										

3. CONCLUSION

- 3.1 Financial provision has been made available to increase the provision of toilets within the ever popular coastal park. Further commentary on the financial position for this scheme is included with the Finance Officer's comments shown in section 4.2 of this report.
- 3.2 The inclusion of a kiosk will help to offset the costs of running this extra provision whilst providing a useful service to users of the park.
- 3.3 Full planning permission and utility connections are yet to be approved, though should be fairly straight forward.
- 3.4 The provision of a changing places toilet although recommended and important to the community poses financial and logistical complications in this location. The provision of such should be picked up as part of the place plan.

4. LEGAL/FINANCIAL AND OTHER CONTROLS/POLICY MATTERS

4.1 Legal Officers Comments (NE)

There are no legal implications arising directly from this report but the restrictions that the Radnor Estate have the benefit of will need to be varied or extinguished before the installation can proceed.

4.2 Finance Officers Comments (LW)

The Council's latest approved General Fund Medium Term Capital Programme (MTCP) includes budget provision of £150,000 for this scheme to be met from prudential borrowing on the assumption it will generate a small net additional revenue stream of approximately £6k per year, after allowing for annual capital financing costs.

The MTCP item originally assumed the scheme would take place on land at the Coastal Park belonging to the Folkestone Parks and Pleasure Grounds Charity. However, the report clarifies the scheme is to take place on Council owned land adjacent to the Coastal Park. This has no bearing on the existing budget approval for the scheme.

5. CONTACT OFFICERS AND BACKGROUND DOCUMENTS

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

(Aarron McKinney – Engineering & Buildings Senior Specialist)

Telephone: 01303 853309

Email: Aarron.mckinney@folkestone-hythe.gov.uk

The following background documents have been relied upon in the preparation of this report: None

Appendices:

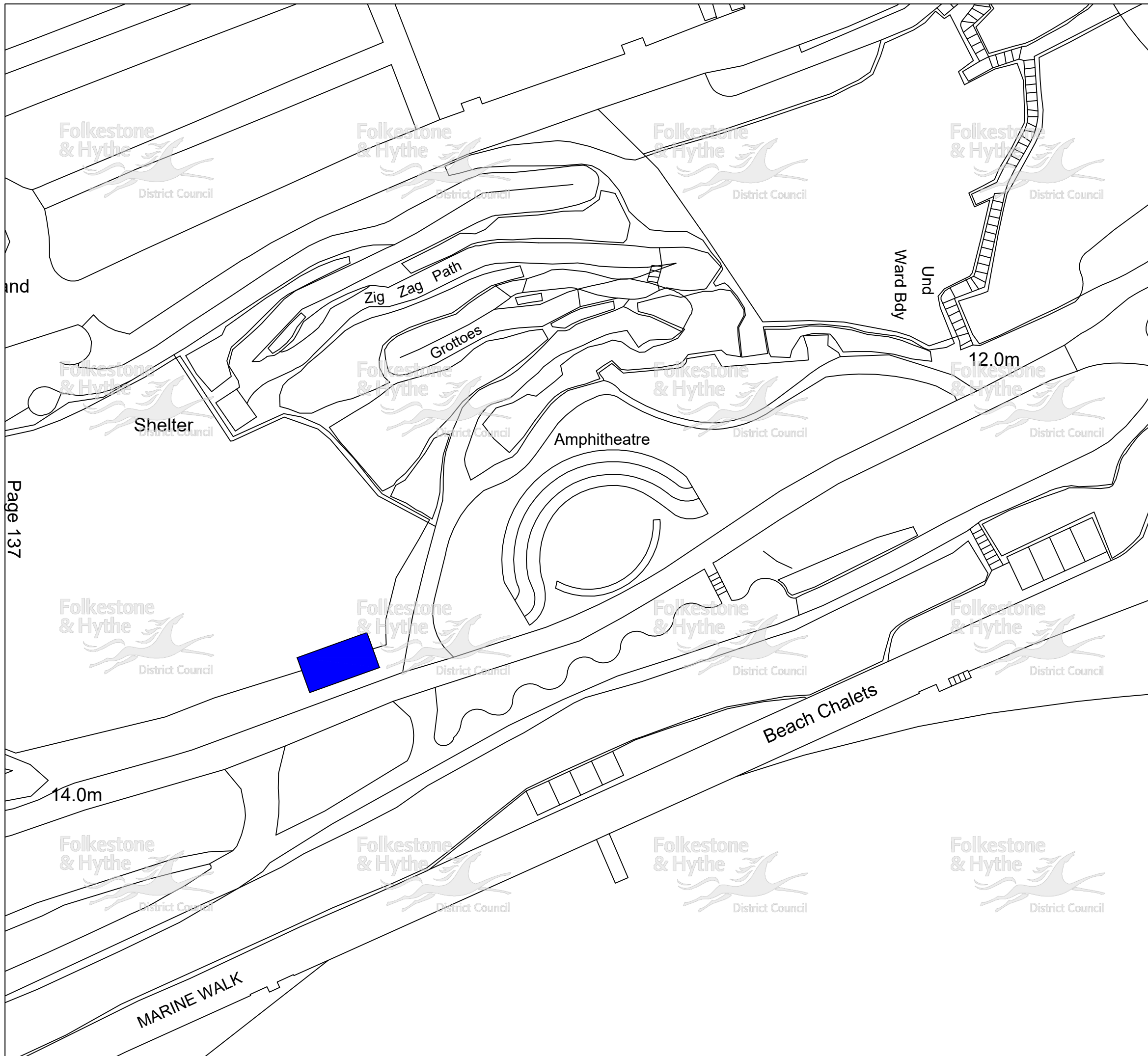
Appendix 1: AR0134-1001 Coastal Park Kiosk Block Plan.pdf

Appendix 2: Plymouth.jpg

Appendix 3: Port Isaac.jpg

Aarron McKinney, Engineering & Buildings Senior Specialist
Alastair Clifford, Operations Lead Specialist
Andy Blaszkowicz, Director – Housing & Operations

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Notes

- 1. Do not scale
- 2. Dimensions are in millimetres unless stated otherwise

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REV	DESCRIPTION	DATE	BY	CHKD
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Folkestone & Hythe District Council
 Strategic Development Projects,
 Civic Centre, Castle Hill Avenue
 Folkestone, Kent, CT20 2QY
 Tel: 01303 853000
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Project Lower Leas Coastal Park
 Proposed Kiosk & Toilets Installation

Drawing Title
 Block Location Plan

ORIGINAL DRAWING SIZE A3

Drawn: ADM Checked: AC Date: March 2021

Scale 1:500 @ A3 Drawing Number AR0134-1001 Rev

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This report will be published
on 18 May 2021

Report Number **C/21/04**

To: Cabinet
Date: 26 May 2021
Status: Non Key Decision
Responsible Officer: Alastair Clifford, Operations Lead Specialist
Andy Blaszkowicz, Director – Housing & Operations
Cabinet Member: Councillor John Collier, Cabinet Member for Property
Management and Grounds Maintenance

SUBJECT: Progress report for the refurbishment of public conveniences

SUMMARY: This report provides an update on the proposed Capital Programme project for the refurbishment of Public Conveniences across Folkestone & Hythe. The Engineering and Buildings team have undertaken condition surveys for all toilet blocks and identified areas of improvement for each. Four priority PC's have been identified for refurbishment, Pleydell Gardens Folkestone, Somerset Road Cheriton, Dymchurch High Street and Station Road Lyminge.

REASONS FOR RECOMMENDATIONS:

Cabinet are asked to note the survey work completed across the toilet block assets and the programme of work that has been designed for improvements to the identified blocks in 21/22.

RECOMMENDATIONS:

1. To receive and note report C/21/04.
2. To note the agreed programme of works.

1. BACKGROUND

- 1.1 The District Council of Folkestone and Hythe, approved the spending of £400,000 for the refurbishment of 23 public conveniences across the district.
- 1.2 This follows refurbishment works already completed at Folkestone Harbour toilets, Church Road New Romney and Bouverie Place toilets. Lessons learnt from these projects will be implemented in the future refurbishments.
- 1.3 A separate project to replace the automatic handwashing units (Wallgates) is ongoing and since 2016 the council have replaced 21 units so far. Some Wallgates have been operation since 1995 and have developed faults that are no longer serviceable. The final 5 units that are out of service period will be replaced in 2021-22.
- 1.4 The toilet provision is due for a considerable investment, they are considered to be well used and well loved by both the local community but also visitors to the district. As a key asset it is important to leave a good impression, however due to the age of the buildings this is often not achieved. Complaints primarily stem from smells (caused by poor and old drainage), poor internal lighting and mould (caused by poor ventilation).
- 1.5 Detailed condition surveys have been completed for all toilet blocks. The surveys have identified common improvements for to all blocks such as; a need to improve internal and external LED lighting, better ventilation, repairs to drainage runs and general decoration.
- 1.6 Implications of the Covid pandemic have increased building material and lead time costs significantly, therefore it must be understood that works will be ordered by priority and the scope of works may be limited due to budget implications.
- 1.7 Pleydell Gardens Folkestone, Somerset Road Cheriton, Dymchurch High Street, Station Road Lyminge and Park Street Lydd have been identified as priority toilets for refurbishment. These toilets have high usage and require significant expenditure to modernise and improve provision.
- 1.8 A major refurbishment is proposed for Pleydell Gardens toilets in Folkestone Town Centre, this is toilet block has the highest utilisation throughout the year but requires major works. The layout of the block will be altered to create a new separate entrance to the ladies toilets, by doing so it will allow the creation of a large direct access accessible toilet. Existing drainage arrangements are poor and frequently result in blockages, these will be excavated and rerouted more optimally. Ceilings will be renewed with improved LED lighting, walls retiled as required and ventilation improved.
- 1.9 Somerset Road, Cheriton. Replace all windows, improve entrances to building and renew external doors/gates. Remove timber partitions to cubicles and rebuild in masonry, regularise pipework to remove dead legs and reduce boxing. Full redecoration including improved lighting to vaulted ceilings. Installation of mechanical ventilation.
- 1.10 Station Road in Lyminge is a small rural toilet block with limited use, however it is very dated in appearance. Internal rough cast rendered walls are difficult to clean and unhygienic and the layouts are poor. Break rough cast render and tile full height,

replace all joinery and windows. Renew sanitary ware and install 2 no VUS Wallgates in keeping with the rest of the district.

- 1.11 Dymchurch High Street toilets during the seasonal period are extremely well used so it is important that these improvements are made to ensure a welcoming impression to visitors. Plans include renewal of ceilings, improved lighting throughout, better ventilation and the provision of baby changing facilities in both ladies and gents toilets. External doors will be replaced and external lighting will be improved. Regularise the use of the rear service area by Veolia staff which is currently poorly arranged and a hazard.
- 1.12 Park Street public conveniences in Lydd have experienced frequent incidents of vandalism in recent years, with the block currently closed follow a minor fire. The intent with this block will be to increase security and visibility as well as a much needed decorative refurbishment. Metal gates have been fitted across the entrances following repeated instances of doors being damaged. Exterior lighting on PIR sensors and CCTV will be installed to deter vandalism.
- 1.13 On average around £10,000 - £15,000 will be spent on each toilet block with an increased expenditure to those requiring major refurbishment of repairs to building fabric. The following blocks require less work than those stated earlier in the report.
- 1.14 Roman Remains, Wear Bay Road. Dated toilet block, old artex ceilings, sagging in 1 corner localised repairs, replace missing tiles & redecoration. Service area to the rear - ceiling to be renewed. Replace missing roof tiles.
- 1.15 Radnor Park Toilets. Reinstate guttering and downpipes externally (iron), repairs to brickworks surround ladies. Fit external lighting to park facing elevations. Tile painted walls in gents/ladies 2/3rd height. Renew cubicle joinery. Changing mat to G/L's. Renew "Doc M" package in disabled toilets, this refers to accessibility requirements of Part M of the Building Regulations and will typically comprise a new toilet, a sink without a pedestal to allow wheelchair use, a number of grab rails and a toilet support rail. Improved lighting throughout. Acid clean floor quarry tiles.
- 1.16 Leas Cliff Hall Toilets. Relatively good condition. Renew external doors. Re-grouting tiles where needed, redecorate ceilings and timbers.
- 1.17 Tollgate Toilets Lower Leas Coastal Park. Repairs to drainage runs from root damage, repointing of southern elevation wall & improved ventilation. Renew broken windows and replace external doors. Internal joinery & doors to be renewed. Redecoration throughout.
- 1.18 Folkestone Harbour Toilets – Exterior lighting and repairs to timber cladding. Install mechanical ventilation.
- 1.19 The Fountain, Seabrook - New Ceilings, considering altering layout. Excavate and repair internal drainage run from urinal. Renew joinery internally and provide new "Doc M" fixings to cubicles. Paint external rendered walls, soil & vent pipes and external soffits/bargeboards.
- 1.20 Chapel Street, Hythe - Renew "Doc M" package to disabled toilet. Repaint internal joinery. Strip and skim ceiling in ladies toilets, redecorate. Replace missing tiles. Acid wash floor tiles to remove staining. LED lighting. External - Renew signage, paint doors and joinery. Renew cracked paving externally. Veolia's use of rear service cupboard presents hazard to building must be regularised.

- 1.21 Elham High Street. Remove efflorescence to front elevation, paint doors externally, repointing, Clean walls and grouting. Repaint ceilings. Improve lighting.
- 1.22 High Knocke, St Mary's Bay – Repairs to roof finishes and outlets to prevent water penetration. Repairs to render externally and internal to concrete ceilings. Pipework to be regularised pipework and renewed where corroded. Prepare walls, stabilise and redecorate. Redecorate joinery. Remove spikes to parapet. Provide external shower facility.
- 1.23 Church Road, New Romney - Renew skirting with tile upstands. Replace windows with opening panes. "Whiterock" wall cladding to be mechanically fixed to wall. New external signage.
- 1.24 The Lade, Greatstone – Good condition modern toilet block Mechanical ventilation, redecorate ceilings, renew lighting, repaint internal joinery.
- 1.25 Jolly Fisherman - Remove AIB asbestos board to external overhang. Clean upvc fascia's & Soffits. Renew windows where required. Improve drainage provision for external showers with land drains. Repaint cubicles and joinery throughout. Installation of baby changing tables. Renew artex ceilings and replace missing tiles to walls.
- 1.26 Dymchurch Seawall – Good condition redecorate externally.
- 1.27 Sunny Sands, Folkestone – Ongoing lease negotiations with Southern Water to include renewal of external doors & shutters and refurbishment of disabled WC.
- 1.28 Consideration during the scope of works was given to changing places toilets which provide service provision to those who need accessibility considerations. Unfortunately due to the physical size implications required none of the current toilet provision is able to include or have an addition for this. Officers have been working as part of the place plan to identify opportunities and funding provisions for this in the future. It should be noted that currently government funding for this has been advertised but not officially available as of writing of this report.

2. FINANCE

- 2.1 The Council's latest approved Medium Term Capital Programme (MTCP) includes a budget of £400,000 for this scheme.

3. PROGRAMME OF WORKS

- 3.1 We intend to have sent out for tender of Pleydell Gardens toilets by the end of May 2021, with an aim to commence early in September expecting a 6-8 week programme of works.
- 3.2 Somerset Road, Dymchurch High Street & Station Road require further investigation, specification and design prior to tender, the intent is to commence works towards the end of the summer season in September/October.
- 3.3 The remaining works will generally be less disruptive and have a shorter duration, these projects will be completed over the course of the financial year.

4. RISK MANAGEMENT ISSUES

4.1 There are considered to be few risks with this project. Reducing work during peak summer seasons and tight financial control considering the recent increase in prices and lead times for goods and services.

5. CONCLUSION

5.1 Finance for the project has been agreed as part of the MTFS. Known historical issues and recent stock condition survey has been undertaken to ensure funding is directed to the most important works.

6. LEGAL/FINANCIAL AND OTHER CONTROLS/POLICY MATTERS

6.1 Legal Officers Comments (NE)

There are no legal implications arising directly from the report.

6.2 Finance Officers Comments (LW)

A budget of £400,000 has been provided for this scheme in the Council's latest approved General Fund Medium Term Capital Programme and is planned to be financed from the capital receipts reserve.

7. CONTACT OFFICERS AND BACKGROUND DOCUMENTS

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

(Alastair Clifford – Operations Lead Specialist)
Telephone: 01303 853327
Email: Alastair.clifford@folkestone-hythe.gov.uk

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

None

Alastair Clifford, Operations Lead Specialist
Andy Blaszkowicz, Director – Operations and Housing

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This Report will be made public on 18 May 2021



Report Number **C/21/07**

To: CABINET
Date: 26 May 2021
Status: Key Decision
Responsible Officer: Helen Hensel – Estates & Assets Lead Specialist
Andy Blaszkowicz – Director, Housing & Operations
Cabinet Member: Cllr Monk – Leader & Portfolio Holder for Finance
Cllr Collier – Property Management & Grounds Maintenance

SUBJECT: URGENT DECISION: CONNECT 38 - ADDITION OF CAT A WORKS TO GENERAL FUND CAPITAL PROGRAMME

SUMMARY: In May 2019, Folkestone & Hythe District Council purchased the investment property known as Connect 38 in Ashford, Kent. At that time, the first floor and part of the second floor were vacant and required finishing to a Category A (CatA) specification before leasing out. Unfortunately this space remained vacant as a result of low interest in office space through the Covid pandemic.

Recently however there has been a resurgence of interest in office space and the council has agreed draft heads of terms with a potential new tenant who requires occupation by 30 July 2021. Therefore the CatA works to the second floor need to be undertaken immediately to enable this deadline to be met. Urgent approval is now required to modify the Council's capital programme to allow the CatA works to be undertaken in order to let the vacant space.

REASONS FOR RECOMMENDATIONS:

1. There is currently no budget approved in the Council's General Fund capital programme for the CatA works. However, the £400,000 monies identified for the original works is held in an earmarked reserve and available to spend for this purpose.
2. This is an urgent requirement to secure a deal to lease part of the vacant space at Connect 38 by 30 July 2021. Cabinet is requested to approve the budget for the CatA works to be added to the General Fund capital programme.

RECOMMENDATIONS:

- 1. To receive and note report C/21/07.**
- 2. To make an urgent decision to add £400,000 to the General Fund capital programme to allow the necessary Cat A works to the Connect 38 building to be met from monies received under the legal agreement for the original property acquisition (held in the Capital Grants and Contributions Unapplied Reserve).**
- 3. To note that this matter will be reported to Full Council at the next available opportunity.**

1. BACKGROUND

1.1 FHDC purchased the investment property Connect 38 in May 2019. At this time, the first floor (12,000sqft) and two-thirds of the second floor (c.7,300sqft) were vacant space and still required finishing to a CatA standard. Upon purchase of the building, there was an agreement in place – the Deed of Guarantee – between Quinn Estates (the developer) and FHDC whereby Quinn Estates were committed to paying the rent and associated costs with the vacant space until the time they leased the remainder of the space to third parties. Under this agreement, they were also obliged to complete the CatA fitout as part of any new leases agreed and £400,000 was held in escrow to enable Quinn to carry out the works. Despite several leads, the space was not leased by Quinn. The difficulty letting the space was exacerbated by the Covid pandemic when interest disappeared. The Deed expired in November 2019 following which the escrow monies were returned to FHDC.

1.2 Two months ago, the marketing agent for the building confirmed interest in office space had returned, with four leads in Connect 38. Officers started to explore options for undertaking the CatA fit out works to the second floor so that the space should be ready to let in the event that there was firm interest from potential tenants. Last month, FHDC appointed Martello Consultancy to prepare a Cat A specification and tender the works through the Kent Business Portal. Simultaneously, the agent's lead for approximately 5,300sqft on the second floor has been very quickly progressed and final heads of terms to let the space have been prepared. The headline terms as currently drafted are set out as follows:

- Term: 6 year lease with a break and review at Year 3
- Rent: £108,650pa
- Service Charge: £15,900pa
- Rates: liability estimated at - £85,000 Rateable Value
- Incentive: 3 months rent free start of lease; and 3 months rent free at Year 3
- Commencement: end-July 2021

2. REASONS FOR URGENT DECISION

2.1 The deal agreed with the potential tenant has moved very quickly and one of the terms is that they require occupation by 30 July 2021 with completion of the CatA works by that date. If the Council continued with tendering the CatA works, it would not meet this deadline (total tender time to completion of the works is estimated 5-6 months). The only way in which the Council can meet the deadline is to appoint a contractor directly to commence the works immediately. The Council has been discussing the possibility of Quinn Estates undertaking the works as they are familiar with the building (having built it and completed all other CatA works here) and have subcontractors who could be mobilised to meet the timeframe. Even so, the timescale has little room for delay: Quinn require a 3-4-week lead-in time and then around 6 weeks to undertake the works. It is possible that by working with the tenant's contractor for their CatB fit-out works some reduction in the time period could be achieved. However, if the contractor is not appointed

imminently, the works cannot be completed by 30 July 2021 and the Council will not secure this tenant for the second floor.

- 2.2 To enable the works to be carried out, approval is required to create budget in the Council's General Fund capital programme for the CatA works for the vacant space. The funding for this scheme is secured as outlined within the report through the sum previously allocated to escrow and now being held within reserves.
- 2.3 Subject to Cabinet approving the additional budget to the capital programme, a waiver will be sought to appoint the contractor (Quinn Estates) due to the tight timelines involved and their intimate knowledge of the building.
- 2.4 It is intended that Martello Consultancy will be appointed as employer's agent on behalf of FHDC to oversee the works and ensure that the Council receives value for money.

3. FINANCIAL IMPLICATIONS

- 3.1 The proposed cost of the capital works required to the Connect 38 building can be fully met from the £400,000 contribution received under the legal agreement to purchase the building. This sum is held in the Capital Grants and Contributions Unapplied Reserve and is ring-fenced to meet the works outlined in this report.
- 3.2 The financial implications to the Council of not undertaking the second floor CatA works immediately would jeopardise securing the proposed new tenancy. This could mean the Council losing the opportunity to secure an additional rent of £108,650pa for the potential 6 year lease duration and the council would also remain liable for service charges and rates of about £60,000pa.
- 3.3 It should be noted that the full sum of £400k is for the CatA fit out of the remainder of the vacant space across the whole building, i.e. all of floor one and the remaining part of floor two. Floor two will be fitted out immediately following budget approval and officers anticipate that the spend profile of this remaining budget will be through 21/22 but may go over into 22/23 depending upon demand from the market in the vacant space. Updates on the spend profile will be made through the budget monitoring of the Medium Term Capital Programme.

4. URGENT DECISIONS OUTSIDE THE AGREED BUDGET OR POLICY FRAMEWORK

- 4.1 Part 4 of the Constitution allows for urgent decisions to be made outside of the agreed budget framework. Where it is not possible to convene a quorate meeting of the full Council (in this case due to time and operational complexities due to covid restrictions) the Chair of Overview and Scrutiny Committee must agree that the decision is a matter of urgency.

4.2 The report has been discussed with the Chair of Overview and Scrutiny Committee and it has been agreed that the decision is a matter of urgency.

4.3 This matter will be reported to Full Council at the next available opportunity.

5. RISK MANAGEMENT ISSUES

5.1 The risk management issues associated with this approval are limited and set out below:

Perceived risk	Seriousness	Likelihood	Preventative action
Acting outside of the Budget framework	High	Low	Seek urgent approval of Cabinet to add the £400K to the General Fund Capital Programme
Cabinet not agreeing the decision leading to loss of potential tenant and a rental income of £108,650pa.	High	Low	Decision made to add the £400k budget to the General Fund Capital Programme
Construction material costs increasing due to Covid pandemic	Medium – could increase budget cost	Medium	Martello appointed to oversee works and keep costs under control

6. CONCLUSION

6.1 It would be prudent for the Council to take advantage of current market conditions before they wane and secure the proposed new tenant as soon as possible. If this tenant is secured, the Council will benefit from additional revenue of £108,650pa together with savings from the service charge and rates (c. £60,000pa).

6.2 Whilst there is currently not a specific scheme in the capital programme for the Connect 38 CatA works therefore no budget approval, there is £400,000 available to spend for this purpose as it has been ring-fenced by Finance following return of the monies held in escrow. Cabinet approval is urgently requested to authorise the addition of the CatA works to the General Fund Capital Programme. This would then facilitate the current deal being proposed for the second floor space at Connect 38 and secure the on-going rental income.

7. LEGAL/FINANCIAL AND OTHER CONTROLS/POLICY MATTERS

7.1 Legal Officer's Comments (NM)

There are no legal implications arising directly from this report.

7.2 Finance Officer's Comments (LW)

No budget provision currently exists in the Council's approved General Fund capital programme for the works outlined in this report. The Council received a payment of £400,643.59 in March 2021 under the legal agreement signed at the time the building was acquired. This sum is held in the Capital Grant and Contributions Unapplied Reserve and is available to meet the cost of the works. The impact to the Council's General Fund revenue budget of proceeding with the scheme are outlined in the Financial Implications section of the report.

7.3 Diversities and Equalities Implications

There are no equalities implications directly arising from this report.

8. CONTACT OFFICERS AND BACKGROUND DOCUMENTS

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

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

Appendices: none