

This Report will be made public on 23 January 2024

Report Number **C/23/86**

To: Cabinet
Date: 31 January 2024
Status: Non-Key Decision
Director: Andy Blaszkwicz, Corporate Director of Housing and Operations
Gill Butler, Chief Officer Housing
Cabinet Member: Councillor Shoob, Cabinet Member for Housing and Homelessness

SUBJECT: HOUSING COMPLIANCE (GAS AND FIRE SAFETY) POLICIES

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

1. Housing Compliance (Gas Safety) Policy
2. Housing Compliance (Fire Safety) Policy

REASONS FOR RECOMMENDATIONS:

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

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

RECOMMENDATIONS:

1. To receive and note report C/23/86.
2. To approve the proposed changes to the Council's Housing Compliance (Gas and Fire Safety) Policies outlined in the report and in the appended track-changed documents.

1. BACKGROUND

- 1.1 Six policies covering the FLEGAL (Fire, Legionella, Electric, Gas, Asbestos and Lifts) areas of health and safety compliance were approved by Cabinet in May 2021. These policies are due to expire in April 2024.
- 1.2 An audit on tenant health and safety was conducted by the East Kent Audit Partnership (concluded in August 2023) which awarded the Council with 'Reasonable Assurance' that it has a robust system of internal controls in place for the management of tenant health and safety. Part of this assurance is based on evidence that the Council has clear and up-to-date policies on the 'big six' aforementioned 'FLEGAL' areas of tenant health and safety compliance.
- 1.3 All six policies have undergone an internal review to ensure that they reflect current legislation and best practice. In addition, all six policies have been amended to reflect changes in regulatory powers to the effect that, from 01 April 2024, the Regulator of Social Housing will be able to proactively intervene or carry out inspections where landlords are underperforming.
- 1.4 Gas and Fire safety are deemed to be the highest risk, so we are proposing to present these policies to Cabinet first (in this report), followed by Asbestos and Electric in February, then Legionella and Lifts in March. Both Gas and Fire policies have been updated with significant changes noted below (and highlighted as track changes at appendices 1 and 3).

2. HOUSING COMPLIANCE (GAS SAFETY) POLICY

- 2.1 Broadly, the aim of this policy is to meet the requirements of the Gas Safety (Installation and Use) Regulations 1998 (as amended). In addition to this, the policy provides assurance to the Council that measures are in place to comply with these regulations and to identify, manage and/or mitigate risks associated with gas appliances in its tenanted properties.
- 2.2 The policy was updated in November 2022, to include a 'Controlled Access Procedure' as an appendix to the policy and referenced at section 6.18 of the policy (see appendix 1). This sets out the steps Council officers and contractors must follow to request, arrange and/or gain entry to a property where access has been refused by the tenant. Changes were approved under delegated authority from the Director of Housing and Operations and the Council's portfolio holder for Housing and Special Projects.

3. PROPOSED CHANGES TO THE POLICY

- 3.1 The substantive changes being proposed to Cabinet are:
 - 3.1.1 A commitment to install a Carbon Monoxide detector in every dwelling that has a fixed combustible appliance (e.g. gas boiler) as required under the Smoke and Carbon Monoxide Alarm (Amendment) Regulations 2022, referenced at sections 3.3 and 7.3.3. of the policy (see appendix 1).

- 3.1.2 An amendment to reflect the Council's current practice of conducting gas safety checks on a (MOT-style) rolling 10-month cycle from the anniversary date (Appendix 1: section 5.3); and an amendment to the Controlled Access Procedure (CAP) to remove the paragraph regarding court warrants (which is no longer relevant); to clarify who will attend a 'controlled' entry; and when this will be carried out (Appendix 1: CAP Section 2.2 and Section 6, respectively).
- 3.2 Other minor changes, including re-phrasing or re-wording, and updates to job roles and responsibilities, have been made throughout the policy.

4. HOUSING COMPLIANCE (FIRE SAFETY) POLICY

- 4.1 Broadly, the aim of this policy is to meet the requirements of the Regulatory Reform (Fire Safety) Order 2005 (FSO) and provide assurance to the Council that measures are in place to identify, manage and/or mitigate risks associated with fire within F&HDC-owned housing.
- 4.2 Substantive changes have been made to the Housing Compliance (Fire Safety) policy to ensure it reflects the current working practices of the housing compliance team and to comply with new legislation, as set out below.

5. PROPOSED CHANGES TO THE POLICY

5.1 New Legislation

Additional duties have been placed on social landlords following the Grenfell Review and the introduction of four new pieces of legislation:

- 5.1.2 [The Fire Safety Act 2021](#), which came into force in May 2022. The Act clarifies the parts of a premises that apply to the Regulatory Reform (Fire Safety) Order 2005 (FSO), the principal legislation that underpins the Fire Safety policy. In practice this requires the Council to take into account the entire premises (including external walls, windows, balconies, flat entrance doors and the building structure) as part of its Fire Risk Assessment (FRA) programme – known as a Type 3 FRA survey.
- 5.1.3 [The Fire Safety \(England\) Regulations 2022](#), which came into force in January 2023. These regulations require the Council to identify any blocks that are over 11 metres in height, plus any that are over 18 metres in height. Taller blocks place additional responsibilities upon the Council regarding fire safety.

(The Council has 15 blocks over 11 metres, and no blocks over 18 metres. In practice, this means that for those 15 blocks over 11 metres, we need to survey the entrance doors at least every 12 months, and all communal fire doors at least every 3 months.)

- 5.1.4 [The Smoke and Carbon Monoxide Alarms \(Amendment\) Regulations 2022](#), which came into force in October 2022. These regulations upgraded the detector responsibilities placed upon the social housing sector. As stated in 2.2 above (for gas safety) these regulations stipulate that we must install a CO detector in every dwelling that has a fixed combustible appliance.
- 5.1.5 [The Building Safety Act 2022](#), which came into force in October 2023. This establishes a new and enhanced regulatory requirement for the structural fire safety of buildings. This Act provides clearer guidance to landlords on how residential buildings should be maintained and made safe.
- 5.2 Additional amendments to the policy have been made to reflect changes in working practice of the housing compliance team in relation to: record-keeping, Person-Centred Fire Risk Assessments (PCFRA), prioritisation and timescales for Fire Risk Assessment actions, and the information provided to residents about fire safety.
- 5.3 Other minor changes, including re-phrasing and/or re-wording, and updates to job roles and responsibilities, have been made throughout the policy. Additional fire safety guidance has been included as an appendix to the policy.

6. CONSULTATION

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

7. CONCLUSION

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

8. RISK MANAGEMENT ISSUES

8.1 A summary of the perceived risks follows:

Perceived risk	Seriousness	Likelihood	Preventative action
If the policies expire or are not adopted by Cabinet, the Council cannot provide assurance that it recognises its duty, or that it has the necessary controls in place to manage Gas and Fire safety in tenants' homes effectively	High	Low	The policies are being presented to Cabinet for approval before they expire. The changes outlined in both policies are already in place/will be in place by 01 April 2024; the legislative changes as listed in both policies are required to be followed, by law.
Failure by the Council to discharge its responsibilities for Gas and Fire safety could lead to a range of sanctions including prosecution by the Health and Safety Executive under the Health and Safety at Work Act 1974, and/or prosecution under the Corporate Manslaughter and Corporate Homicide Act 2007	High	Low	An audit of tenant health and safety completed by the East Kent Audit partnership in 2023, provided 'reasonable assurance' that the Council has a robust system of internal controls in place. These policies form part of that assurance. In addition, KPIs for Gas and Fire safety are monitored by the housing team weekly/monthly and reported to Cabinet quarterly.
Failure by the Council to demonstrate compliance with the regulatory framework and consumer standards may lead to an intervention and/or inspection by the Regulator of Social Housing (RSH)	High	Low	A mock assessment by the RSH against its new consumer standards (as part of a pilot exercise Jan-Mar 2023) concluded that the Council's data and controls did not suggest any potential breaches of consumer standards. The housing team are preparing to submit data against the standards for the 2023/24 year.

9. LEGAL/FINANCIAL AND OTHER CONTROLS/POLICY MATTERS

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

10. CONTACT OFFICERS AND BACKGROUND DOCUMENTS

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

Jonathan Hicks, Policy and Performance Senior Specialist
Telephone: 01303 853721
Email: jonathan.hicks@folkestone-hythe.gov.uk

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

Appendices:

1. Housing Compliance (Gas Safety) policy (track changes)
2. Housing Compliance (Gas Safety) policy (clean version)
3. Housing Compliance (Fire Safety) policy (track changes)
4. Housing Compliance (Fire Safety) policy (clean version)