



## HOUSING COMPLIANCE (GAS SAFETY) POLICY

<b>Date of policy</b>	April <del>2021</del> <u>2024</u>
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<b>Policy owner</b>	Director of Housing and Operations, Folkestone & Hythe District Council
<b>Approved by</b>	<b>Pending</b>
<b>Risk register rating</b>	High
<b>Associated documents</b>	FHDC Gas Safety procedure, FHDC Controlled Access procedure

<b>Revision history</b> (internal F&HDC officer use only)			
<b>Version</b>	<b>Date</b>	<b>Revision description</b>	<b>Policy/revision author</b>
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
V2.1	April 2022	Addition to section 7.3 re: dangers associated with wood, coal and open fireplaces	Roy Catling, Assets & Development Lead Specialist. Approval by Director and Portfolio

			holder for Housing and Special Projects
V2.2	Nov 2022	Amendment to 6.18 and Controlled Access procedure as appendix	Jonathan Hicks, Performance Specialist
V2.3 (draft)	Nov 2023	Updated in light of new legislation and current working practices.	Keith Deane, Compliance Senior Specialist; Jonathan Hicks, Performance Specialist
V2.4 (draft)	January 2024	3.4 updated to reflect new powers by the Regulator	Jonathan Hicks, Performance Specialist

#### NEW POLICY / POLICY REVIEW

New policy	
Early review – change in legislation	
Early review – significant changes in practice	
Review due – significant changes	YES
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 To ensure the accountability for managing this policy reflects the current working practices of the housing and compliance team, and to comply with new legislation

#### CONSULTATION

List of people/roles who have been consulted	Date
Keith Deane, Senior Compliance Specialist	Oct/Nov 2023
Stephanie Jupe, Compliance Specialist	Oct/Nov 2023
Mick Hale, Assets & Development Lead Specialist	Oct/Nov 2023

EQUALITY IMPACT ASSESSMENT	Completed	Date
	Yes	Nov 2022

#### DISSEMINATION

Role	Awareness	Essential
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Compliance team		YES
All housing staff	YES	

<b>TRAINING</b>		
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Role	Trainer	Date completed
Compliance Specialists	Compliance Senior Specialist	TBC

<b>MONITORING AND COMPLIANCE</b>		
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Method	Responsibility	Frequency
Internal audit review	EK Audit partnership	Annually or as required

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[Appendix 1: Controlled Access Procedure](#)

[Appendix 2: Controlled Access procedure flowchart](#)

## **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 used by tenants. 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 to ensure Council officers and contractors understand the obligations placed upon the Council to maintain a safe environment for tenants within their homes, and within all communal areas of buildings and any ‘other’ properties (owned and/or 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 (3<sup>rd</sup> Edition 2018)
- [The Smoke and Carbon Monoxide Alarm \(Amendment\) Regulations 2022](#)

3.4 **Sanctions**

3.4.2 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, and/or prosecution under the Corporate Manslaughter and Corporate Homicide Act 2007 ~~and via a serious detriment judgement from the Regulator of Social Housing.~~

3.4.2 In addition, the Regulator of Social Housing has powers to proactively intervene where landlords are performing badly on consumer issues (including non-compliance with building safety measures) and may conduct routine inspections to investigate systematic issues.

3.5 **Tenants and 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 procedure (see 6.18 and Appendix 1).

3.6 **Additional legislation**

This 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 this policy is fully implemented to ensure 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 this policy and for ensuring compliance is achieved and maintained.
- 4.4 The Council's ~~Director of Housing and Operations~~ Assets & Development Lead Manager will be responsible for overseeing the delivery of the agreed gas safety programme. The ~~Director~~ Assets & Development Lead Manager 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~~ Chief Officer for 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.
- #### 4.7 Competent Persons
- 4.7.1 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.

- 4.7.2 ~~Where the appropriate qualification has not yet been obtained, the Council will seek assistance from a relevant third-party consultant, until the Council employee(s) has obtained the qualification(s). 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.~~
- 4.7.3 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.
- 4.7.4 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.
- 4.7.5 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.
- 4.7.6 **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.
- 4.7.7 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 Gas servicing regulations as set out in the Homes (Fitness for Human Habitation) Act 2018, allow landlords to undertake their annual gas safety checks in the two months prior to their due date, whilst retaining the existing expiry date.

5.3 The Council will therefore aim to service all gas supplied properties on a 10-month rolling cycle from their anniversary date. However, we reserve the right when re-tendering (or at a time of mutual consent with the incumbent gas contractor) to alter the servicing cycle if necessary.

5.42 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.

5.53 These obligations apply to both gas heating and liquid petroleum gas heating systems.

5.64 **Other heating types** – with regards to all other heating types as set out in 1.3 of this policy, ~~although~~ there is no legal requirement for carrying out safety checks. ~~However,~~ ~~the~~ Council will aim to complete an annual safety check for all properties with these heating types, in exactly the same way as ~~they do it does~~ for properties with gas ~~and LPG~~ heating. The competent person will require alternative qualifications which are set out in section 4 of this policy. Note that, as there is no legal requirement to undertake these checks, the controlled access procedure (as set out in Appendix 1) will not apply.

## **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).
- 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).
- 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 procedure in place should any tenant refuse access to carry out essential gas/heating safety related inspection and remediation works. The Council will make every effort to obtain access within the 12-month period. However, if access has still not been granted, we will take enforcement action to gain entry to the property if necessary. This may mean undertaking a '~~forced~~ controlled entry'.
- 6.19 Where a controlled entry is required, a locksmith appointed by the Council will gain entry to the tenant's home and change the lock. Work will be completed with or without the tenant's presence and the tenant will be recharged for the work.

**See the Council's Controlled Access Procedure at Appendix 1**

- 6.20 The Council will ~~attempt to 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. However, where there are particular concerns around a tenant's vulnerability, every effort will be explored to gain access with the tenant's consent, before any action to undertake a 'controlled entry' is considered, and that this as a last resort.
- 6.21 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.
- 6.22 The Council will ensure that all contractors' employee and public liability insurances are up to date on an annual basis.
- 6.23 The Council will ensure contracts/service level agreements are in place with the contractors responsible for delivering the compliance service.
- 6.24 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.
- 6.25 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.
- 6.26 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.
- 6.27 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.

7.3.1 **The Council does not permit installations of new wood burners, coal appliances (including smokeless) and open fireplaces.**

Dangers associated with these installations include:

7.3.2 **Potential Fire Risk** - Even burning wood in a safely engineered, regularly inspected and swept chimney still poses a danger. There are also wider risks if an errant spark from the burning wood escapes the confines of the fireplace and alights on carpeting, furniture or other flammable materials. While modern appliances are often equipped with glass doors or mesh screens designed to prevent sparks escaping, accidents may still occur.

7.3.3 **Carbon Monoxide Poisoning** - The Smoke and Carbon Monoxide Alarm (Amendment) Regulations 2022 came into force in October 2022. Although the regulations do not stipulate where the alarms should be placed, a carbon monoxide alarm should be installed in every room which is used as living accommodation containing a fixed combustion appliance (excluding gas cookers). FHDC will follow the individual manufacturer's instructions when installing the alarms. Almost all cases of carbon monoxide poisoning with solid fuel are the result of a blocked or leaking chimney. Chimneys must be inspected regularly to identify defects that may allow gases to escape into the atmosphere or flow back into the property. Gas could also escape into an adjoining property, through a common chimney, with possible deadly results.

7.3.4 **Environmental Effects** - Smokeless fuels or DEFRA approved wood/coal burners produce less pollution than non-approved appliances; however these still create air pollution which contradicts the Council's commitment to improving air quality. Where the contractor or FHDC staff visit a property and find an open fire or wood/coal burner which has not been granted written permission from FHDC and Building Control approval, the tenant will be required to remove it.

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 it has~~ records of all valid LGSRs for any properties it owns, where the lease of that property is managed by someone else (e.g. charity or other managing agent) 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.
- 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 performance indicator measures will be established and maintained to ensure the Council is able to report on performance in relation to gas/heating safety.

10.2 Performance measures will be produced and provided ~~to~~ Corporate Leadership Team (CLT) and Cabinet as part of the reporting cycle, as required. Performance on gas safety will also be monitored and scrutinised through contractor meetings.

10.32.4 As a minimum these measures will include reporting on: ~~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 expressed as a number and/or as a percentage;
- Properties where the LGSR/certification has expired and is ‘out of date’. This is the level of non-compliance expressed as a number and/or as a percentage.

10.42.2 ~~Narrative – an explanation of the:~~

- ~~• Current position;~~
- ~~• Corrective action required;~~
- ~~• Anticipated impact of corrective action;~~

~~Progress with completion of follow-up works.~~ In addition, performance reporting may include (where necessary) written narrative on the current position, mitigating circumstances and/or progress on corrective action.

## 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 certifications. 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~~Corporate Leadership Team (CLT) and/or the appropriate Cabinet Member(s) 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 ~~t~~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.
- 14.2 Where a tenant has or may have a protected characteristic under the Equality Act 2010, in particular, where the tenant may be disabled, have mental health issues, language or learning difficulties, the Council will make reasonable adjustments to its controlled access procedure (see Appendix 1).

## Appendix 1



# GAS & HEATING CONTROLLED ACCESS PROCEDURE

Related policy	Compliance (Gas Safety) Policy <del>2021</del> <u>2024</u>
Date for review	<del>Nov 2023</del> <u>March 2026</u>
Procedure author	Roy Catling, Assets and Development Lead Specialist; Jonathan Hicks, Performance Specialist
Procedure owner	Keith Deane, Compliance Senior Specialist
Approved by	Andy Blaszkowicz, Director of Housing and Operations; Cllr Godfrey, portfolio holder for Housing and Special Projects

<b>Revision history</b>			
Version	Date	Revision description	Procedure author
0.1	16 Nov 2022	Draft created from existing documents and Legal advice	Jonathan Hicks, Performance Specialist
<u>0.2</u>	<u>24 Nov 2023</u>	<u>Updated in line with current practice</u>	<u>Jonathan Hicks, Performance Specialist</u>

### NEW PROCEDURE / PROCEDURE REVIEW

New procedure	No
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### Reason for new procedure / summary of changes

To provide clarity on the process for gaining access to properties when this is not given by the tenant.

### CONSULTATION

List of people/roles who have been consulted	Date

### DISSEMINATION

Role	Awareness	Essential
Housing Operations	Yes	Yes

## 1. Purpose of the Procedure

- 1.1 The Council's Housing Compliance (Gas Safety) Policy states that we 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' procedure.
- 1.2 The purpose of this procedure is to set out the process Council officers will follow, in relation to gas safety. In addition, it explains the steps we will follow to gain access to a property in an emergency and when we may need to complete other safety checks, such as for fire, water, electricity and asbestos.

## 2. Legal / Regulatory Framework

- 2.1 **Landlord and Tenant Act 1985.** This includes a statutory responsibility for repairs to be carried out on gas installations in rented properties. Section 11b: "To keep in repair and proper working order the installations in the dwelling-house for the supply of water, gas and electricity and for sanitation (including basins, sinks, baths and sanitary conveniences, but not other fixtures, fittings and appliances for making use of the supply of water, gas or electricity)".

~~2.2 **Housing Act 2004.** Section 240 provides a mechanism for [housing providers] to obtain a court warrant to enter premises (by force if necessary), where access has not been forthcoming to carry out a gas safety inspection.~~

- 2.23 **Housing Act 1988.** Section 16 of the Housing Act 1988 states the tenant shall afford to the landlord access to the premises for executing any repairs which the landlord is entitled to execute.

## 3. Tenancy Agreement

- 3.1 The FHDC Tenancy Agreement (section 8.6) states that: "By law all homes with gas appliances must have a safety check every year. We will try to arrange for an annual gas safety inspection at a time that suits you. If we cannot carry out the inspection because you do not respond to our request to let us into your home, we will serve a seven-day notice telling you when we will call again. If you do not let us in, we will force entry to carry out the safety check." And:
- 3.2 "We will take reasonable care in forcing entry and we will secure your home as we leave. When the Council needs to carry out the annual gas safety check or in an emergency, when either the property or the person's safety is at risk, we may require immediate access to the property. If the property is unoccupied the Council may force entry into the property to deal with the emergency. The property will be properly secured and repaired as necessary (unless entry was necessary as a result of your carelessness or neglect)."

#### 4. **Non-access/~~forced~~controlled entry**

- 4.1 The Council will make every effort to obtain access within the 12-month period. However, if access has still not been granted, we will take enforcement action to gain entry to the property if necessary. This may mean undertaking a 'forced entry' as indicated in the Tenancy Agreement (see 3.1 above). In all cases where we have not been granted access to the property, the following procedure will be applied:

#### 5. **The Procedure**

##### Access for Gas Safety Checks (See also flow chart below)

- 5.1 The Service Provider will provide flexible appointment times to tenants to carry out a Gas Safety Check & Service including evening and Saturday appointments. The following timescales are ideal and given as a guide.
- 5.2 **64 days before LGSR expiry date.** An initial letter will be sent to the tenant(s) 10 days prior to the appointment by the gas service provider and they will provide them with a free phone contact number to rearrange the appointment if not convenient.
- 5.3 **54 days before LGSR expiry date.** If access cannot be obtained at the time of the first appointment, the gas engineer will leave a call card advising the tenant of a second appointment for the gas servicing allowing 7 days' notice. The call card will also advise the tenant to contact the gas service provider within 7 days to rearrange the appointment if the time is inconvenient. The gas service provider will supply photographic evidence of the call card at the property address, clearly showing the entrance door and call card before being posted through the letterbox.
- 5.4 **47 days before LGSR expiry date.** If access cannot be obtained on the second appointment, the gas engineer will leave a second call card advising the tenant to contact the gas service provider within 7 days to arrange a new appointment. The engineer will provide photographic evidence of the call card at the property address clearly showing the entrance door and 'out-card' before being posted through the letterbox.
- 5.5 **40 days before LGSR expiry date.** If access cannot be obtained on the third appointment, a final letter will be left giving the tenant 7 days to contact the gas service provider.
- 5.6 **33 days before LGSR expiry date.** If no contact has been received from the tenant within 7 days, the gas service provider will refer the case to the Council's Compliance Specialist for gas safety. The Compliance Specialist will send a 'Pre-Authorised Access' letter, giving the tenant 7 days' notice of pending action.

- 5.7 **26 days before LGSR expiry date.** If no contact has been made by the tenant or access to the property granted, the Compliance Specialist will seek authorisation from the Assets and Development Lead Specialist to authorise a forced entry to the property. (See section 6 below). At this point, a member of the Council's housing team will attempt to contact the tenant by telephone, email, ~~social media~~, or by visiting the property within the next 7 days to arrange access.
- 5.8 **11 days before LGSR expiry date.** If access has not been granted by the tenant an appointment will be made for the gas safety check and a letter sent confirming the intention to gain access to the property.
- 5.9 **10 days before LGSR expiry date.** Authorised Access appointment arranged with gas service provider. If access is not granted by the tenant, the Council and gas service provider will proceed with a 'forced entry' to the property to ensure the LGSR is completed. (See below).

## 6. ~~Forced-Controlled~~ entry

6.1 If access has still not been granted by the tenant after all previous steps have been followed (5.1 to 5.9 above,) or in the case of an emergency, the Council will carry out a ~~forced-controlled~~ entry. This will be carried out the day after the LGSR expires. Locks will be changed, and new keys passed to the Neighbourhood Officer or Independent Living Officer. Notification will be left at the address advising the tenant the nature and the reasons for the forced entry and where to collect the keys.

6.2 Where a controlled entry is required, a locksmith appointed by the Council will gain entry to the tenant's home and change the lock. Work will be completed with or without the tenant's presence and the tenant will be recharged for the work. (At 2023 prices this is currently set at £95.27, this may be adjusted for inflation).

6.2 The ~~forced entry will require the presence of a~~ locksmith will be accompanied by, in addition to two Neighbourhood/Independent Living Officers or Neighbourhood Surveyors a representative from the Council's gas contractor and a Neighbourhood/Housing Officer to:

- a) take photographic evidence of the doors and locks (before and after drilling, and then after the new lock is fitted and premises re-secured) and remain at the front door whilst the gas installations are being checked, to ensure no one else enters; and
- b) accompany the gas servicing engineer whilst they inspect to ensure no possessions are touched or altered

## 8. Vulnerable tenants

8.1 Where a tenant has or may have a protected characteristic under the Equality Act 2010, in particular, where the tenant may be disabled, have mental health

issues, language or learning difficulties, the Council will make reasonable adjustments to its controlled access procedure. These adjustments may include (but are not limited to):

- 8.1 a) Making additional enquiries, involving third parties or agencies, translation services, or conducting further visits
- 8.1 b) Ensuring the tenant fully understands the process and the reasons why the gas safety check and/or the forced entry is necessary, particularly with tenants who suffer from mental health disabilities or other vulnerabilities
- 8.2 Where there are particular concerns around a tenant's vulnerability, the Council may decide that it is inappropriate to use the forced entry procedure, and that injunctions will be sought instead.
- 8.3 In all cases, vulnerable tenants will be dealt with compassionately, with every avenue explored to gain access with the tenant's consent, before any action to controlled entry is considered, and that this as a last resort. To ensure due process is followed a record of all communication will be kept, to evidence compliance with this policy and procedure.

Where there are particular concerns around a tenant's vulnerability, every effort will be explored to gain access with the tenant's consent, before any action to undertake a 'controlled entry' is considered, and that this as a last resort.

## Appendix 2:

### Landlord Gas Safety ~~Non~~-Controlled Access Procedure (flow chart)

