

# NOTICE OF MEETING

<b>Meeting:</b>	<b>HOUSING AND HOMELESSNESS OVERVIEW AND SCRUTINY PANEL</b>
<b>Date and Time:</b>	<b>WEDNESDAY, 15 MARCH 2023, AT 6.00 PM*</b>
<b>Place:</b>	<b>BRADBURY ROOM - APPLETREE COURT, BEAULIEU ROAD, LYN DHURST, SO43 7PA</b>
<b>Enquiries to:</b>	<b>Email: <a href="mailto:karen.wardle@nfdc.gov.uk">karen.wardle@nfdc.gov.uk</a> Karen Wardle Tel: 023 8028 5071</b>

## **PUBLIC PARTICIPATION:**

Members of the public may watch this meeting live on the [Council's website](#).

\*Members of the public may speak in accordance with the Council's public participation scheme:

- (a) immediately before the meeting starts, on items within the Housing and Homelessness Overview and Scrutiny Panel's terms of reference which are not on the public agenda; and/or
- (b) on individual items on the public agenda, when the Chairman calls that item. Speeches may not exceed three minutes.

Anyone wishing to speak should contact the name and number shown above no later than 12.00 noon on Friday, 10 March 2023.

**Kate Ryan**  
Chief Executive

Appletree Court, Lyndhurst, Hampshire. SO43 7PA  
[www.newforest.gov.uk](http://www.newforest.gov.uk)

This agenda can be viewed online (<https://democracy.newforest.gov.uk>).

It can also be made available on audio tape, in Braille and large print.

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# AGENDA

## Apologies

### 1. MINUTES

To confirm the minutes of the meeting held on 18 January 2023 as a correct record.

### 2. DECLARATIONS OF INTEREST

To note any declarations of interest made by members in connection with an agenda item. The nature of the interest must also be specified.

Members are asked to discuss any possible interests with Democratic Services prior to the meeting.

**3. PUBLIC PARTICIPATION**

To note any issues raised during the public participation period.

**4. REVISED GAS SAFETY POLICY FOR HOUSING (LANDLORD SERVICES)**  
(Pages 5 - 62)

To consider the proposed revised Gas Safety Policy for Housing (Landlord Services) which brings the policy in line with the latest regulations and guidance.

**5. HOUSING COMPLIANCE - ANNUAL REPORT** (Pages 63 - 74)

To receive an update on the progress made against the Council's compliance policies.

**6. PRIVATE SECTOR HOUSING ENFORCEMENT POLICY** (Pages 75 - 116)

To consider the proposed draft Private Sector Housing Enforcement Policy.

**7. PRIVATE SECTOR HOUSING AND EMPTY HOMES STRATEGY UPDATE**

To receive an update on the progress of the priorities identified within the Private Sector Housing and Empty Homes Strategies.

**8. HOUSING OMBUDSMAN HOUSING COMPLAINT HANDLING CODE**

To receive an update on the Housing ombudsman housing complaint handling code.

**9. HOMELESSNESS UPDATE**

To receive an update on homelessness.

**10. HOUSING STRATEGY / HRA PROPERTY DEVELOPMENT AND ACQUISITION UPDATE**

To receive an update on the progress of the Housing Strategy and HRA property development and acquisition.

**11. PORTFOLIO HOLDER'S REPORTS AND PERFORMANCE DASHBOARD**  
(Pages 117 - 118)

An opportunity for the Portfolio Holder to provide an update to the Panel on developments within his portfolio.

**12. WORK PROGRAMME** (Pages 119 - 120)

To consider the Panel's future work programme.

**13. ANY OTHER ITEMS THAT THE CHAIRMAN DECIDES ARE URGENT**

To:

**Councillors**

Anne Corbridge (Chairman)  
Ann Sevier (Vice-Chairman)  
Kate Crisell  
Sean Cullen  
Philip Dowd

**Councillors**

Andrew Gossage  
Joshua Kidd  
Neil Tungate  
Alex Wade  
Christine Ward

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## HOUSING AND HOMELESSNESS OVERVIEW AND SCRUTINY PANEL – 15 MARCH 2023

### REVISED GAS SAFETY POLICY FOR HOUSING (LANDLORD SERVICES)

#### 1. RECOMMENDATIONS

- 1.1 That the Housing and Homelessness Overview and Scrutiny Panel: -
- 1.2 Considers the proposed revised Gas Safety Policy for Housing (Landlord Services) which brings the policy in line with the latest regulations and guidance.
- 1.3 Make recommendations to the Portfolio Holder for Housing and Homelessness Services.

#### 2. INTRODUCTION

- 2.1 This report introduces a revised Gas Safety Policy for Housing (Landlord Services), which considers changes in national guidance and gas safety management arrangements following changes in job roles and resources within the Housing Service.
- 2.2 To ensure the Council maintains its responsibilities toward the safety of tenants and other residents it is important to have a robust procedure to enforce the servicing of gas installations and capping of supplies as an interim measure. Section 9 of the policy details the Council's approach to enforcement and welfare support to tenants who may be caught by the procedure, or who may request to have their supply capped.
- 2.3 The updated Gas Safety Policy for Housing (Landlord Services) is attached at Appendix 1.

#### 3. BACKGROUND

- 3.1 There are 4,564 NFDC owned domestic dwellings with a domestic gas installation, and 404 dwellings served by 21 communal boiler plant rooms, and 4 further boilers serving tenants communal facility space.
- 3.2 In October 2019, Cllr Cleary, the Portfolio Holder for Housing Services approved the Gas Safety Policy for Housing 'Landlord' Services, following the support and recommendation of the Housing and Homelessness Scrutiny Panel on 18 September 2019.
- 3.3 This Policy details the Council's responsibilities in discharging its statutory gas safety duties and functions across its Housing property portfolio, to ensure that those visiting, working, or living in such buildings are adequately protected from the risk of gas escape, explosion, fire, or carbon monoxide poisoning.

- 3.4 From April 2023 a new Social Housing Regulatory Regime begins with the introduction of 22 new Tenant Satisfaction Measures, one of which will monitor the Council's performance against servicing gas installations prior to the anniversary service date.
- 3.5 The Policy has now been reviewed to ensure that it remains fit for purpose, reflects current guidance and internal changes, and a review of modern-day resident welfare needs.

#### **4. THE GAS SAFETY POLICY FOR HOUSING (LANDLORD SERVICES) KEY COMPONENTS**

- 4.1 Regulation 36 of the Gas Safety (Installation and use) Regulations 1998 (as Amended) states that landlords are legally responsible for the safety of their tenants in relation to gas safety. By law landlords must:
- Repair and maintain gas pipework, flues and appliances in safe condition.
  - Ensure an annual gas safety check on each appliance and flue.
  - Keep record of each safety check.
- 4.2 The policy reflects recent changes to the legislative and regulatory duties of the Council as Landlord and defines roles and responsibilities to align with the current organisational structure. The Policy supports the Council's commitment to ensuring that the risk of gas escape, explosion, fire, or carbon monoxide poisoning is kept as low as reasonably practicable, and that gas burning appliances are serviced and inspected at annual intervals.
- 4.3 The policy expands its scope to cover interim and permanent capping of gas installations, and where a tenant requests their installation to be capped due to affordability issues. Such requests will only be considered in exceptional circumstances following a welfare review and approved by joint agreement of both the Housing Maintenance and Compliance and Housing Estates Service Managers. Any property where a decision is reached to approve capping, will be subject to an ongoing annual welfare check and gas safety inspection to prove the gas installation is still capped
- 4.4 The policy sets out the responsibilities across the whole of Housing Services and deals with the Council's commitment to an independent 3<sup>rd</sup> party accredited quality assurance assessment programme.
- 4.5 It is proposed that the revised Gas Safety Policy for Housing (Landlord Services) be adopted by way of a Portfolio Holder decision following consultation with the Tenant Involvement Group.

#### **5. CRIME & DISORDER IMPLICATIONS**

- 5.1 There can be serious implications for housing providers not dealing with their gas safety responsibilities, including criminal sanctions and fines in the most serious of cases.

## **6. EQUALITY AND DIVERSITY IMPLICATIONS**

- 6.1 There is likely to be an impact on tenants who have not engaged with the gas servicing process for their domestic property. This could be for several reasons but could be linked to mental health or other vulnerabilities. It may be necessary to commence legal proceedings and/or cap the gas supply to the property leaving the home without heating/hot water and cooking facilities.
- 6.2 A welfare assessment is proposed to be carried out in all cases such cases which determines what additional support the tenant may need to engage with the process, or to provide the necessary health and well-being support following any capping of the gas supply.

## **7. ENVIRONMENTAL IMPLICATIONS**

- 7.1 There are none directly associated with this report.

## **8. FINANCIAL IMPLICATIONS**

- 8.1 There are none directly arising from this report.

### **For further information contact:**

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### **Background Papers**

[Gas Safety Policy for Housing \(Landlord Services\) Portfolio Holder Decision - Housing and Homelessness Service 16 October 2019](#)

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**HOUSING LANDLORD SERVICES**

# **Gas safety policy**



**DRAFT**



# Document

<b>Name of policy</b>	Housing Landlord Services Gas Safety Policy
<b>Purpose of policy</b>	<p>New Forest District Council (NFDC) is committed to its legal and moral obligations in accordance with The Gas Safety (Installation and use) Regulations 1998, The Gas Industry Unsafe Situations Procedure and The Housing Act 2004.</p> <p>This policy sets out the guiding principles and arrangements for Housing Landlord Services, in line with current regulations for the undertaking and enforcement of gas safety within its housing stock.</p>
<b>Policy applies to</b>	This policy and the subsequent arrangements apply to all directly and indirectly employed housing staff within New Forest District Council and, where appropriate, tenants, contractors and members of the public.
<b>Lead officer</b>	Service Manager – Housing Maintenance
<b>First issued</b>	1 November 2019
<b>Latest update</b>	1 February 2023
<b>Version control</b>	<p>V1.0 1 November 2019</p> <p>V1.1 1 February 2023</p>
<b>Review period</b>	At least every two years from date of issue or as a result of legislative, organisational change or an incident investigation.
<b>Update overview</b>	<ul style="list-style-type: none"> <li>- February 2023, changes to legislation, update of roles and responsibilities, structure of gas management arrangements, competencies and training, quality assurance and DSEAR risk assessments.</li> </ul>

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	7. Housing Estates Management Letter 3
	8. Legal Service Referral Form
	9. Gas Capping Risk and Welfare Assessment Form

# 1. Introduction

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New Forest District Council is committed to complying with best practice and its statutory duties in accordance with The Gas Safety (Installation and use) Regulations 1998 (as amended) and The Gas Industry Unsafe Situations Procedure and The Housing Act 2004 to ensure that all Council owned and managed properties which contain gas-fired appliances and installation pipework, and where statutory responsibility rests with the Council as 'Landlord' are maintained and undergo an annual gas safety inspection.

This Gas Safety policy details how the Council, in line with current regulations, will manage and enforce gas safety and servicing of every residential property owned or managed by Housing Landlord Services.

The Scope of this policy ensures Housing Landlord Services complies with its obligations under the Gas Safety (Installation and Use) Regulations 1998 (as amended) ('the Regulations') and including appropriate Codes of Practice for Solid Fuel, Oil and LPG installations. (See section 2 for full list of relevant legislation).

The Council will ensure that Gas Safety for maintenance, repair and servicing will reflect the following overall principles:

- To protect the health and safety of tenants, visitors, general public, employees and contractors so far as is reasonably practicable.
- To maintain all gas appliances that are New Forest District Council's Housing Landlord Services' responsibility in safe working order and in accordance with any manufacturer's Instructions.
- To identify and manage all risks involved.
- To promote and enforce gas safety.
- To provide relevant gas safety information and maintain a dialogue with tenants and employees, and to work in partnership with contractors.
- To ensure that all council properties are safe and suitable for letting from a health and safety perspective and comply with all legal requirements.
- Raise awareness to residents and staff of carbon monoxide and gas safety including recognising the symptoms of carbon monoxide poisoning and the procedure to follow.

## 2. Legislative and regulatory context

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There is significant legislation and regulations around gas safety in residential and commercial buildings that have been adopted, implemented, and reviewed over many years, and gives practical advice and guidance on how to comply with the law.

### **The Gas Safety (Installation and use) Regulations 1998 (as Amended)**

The Regulations 1998 deal with the safe installation, maintenance and use of gas systems, including gas fittings, appliances and flues, mainly in domestic and commercial premises. The Regulations generally apply to any 'gas' as defined in the Gas Act 1986. The requirements therefore include both natural gas and liquefied petroleum gas (LPG).

These Regulations place responsibilities on a range of people, including those installing, servicing, maintaining or repairing gas appliances or fittings, as well as landlords.

The enforcing authority for the regulations is the Health and Safety Executive (HSE).

Within the scope of the Regulations, a landlord is defined as 'the person who own premises that are occupied under a lease or tenure'.

In respect of the landlord's 'duties', the regulations specify:

**Regulation 35, Duties of employers and self-employed persons:** Require an employer of self-employed person to ensure that any gas appliance, flue or installation pipework installed at a place of work they control is maintained in a safe condition.

**Regulation 36, Duties of Landlords:** This states that landlords are legally responsible for the safety of their tenants in relation to gas safety. By law landlords must:

- (1) Repair and maintain gas pipework, flues and appliances in safe condition.
- (2) Ensure an annual gas safety check on each appliance and flue.
- (3) Keep record of each safety check.

### **The Gas Industry Unsafe Situation Procedure (GIUSP)**

This Procedure has been drawn up by the Gas Industry, to assist competent engineers to meet their legal duties in accordance with the Regulations and associated Approved Code of Practice and Guidance and correctly classify unsafe gas installations. The GIUSP outlines the appropriate actions which are deemed as best practice by the industry that engineers need to take to ensure they comply with legislations.

The priority in this procedure is for gas engineers when encountering an unsafe situation, to safeguard life and property. It is essential that gas engineers can identify gas installation and appliances which present a danger.

## 2. Legislative and regulatory context (cont'd)

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### **The Health and Safety at Work etc. Act 1974**

The Health and Safety at Work etc. Act 1974 (HSAWA) is the primary piece of legislation covering occupational health and safety in Great Britain. This legislation sets out the general duties employers have towards employees and members of the public, and duties employees have to themselves and to each other. For the Council to meet its duties under the HSAWA, the Council will seek to mitigate all risks relating to gas and gas installations to as low likelihood of occurring as is reasonably practicable.

### **Report of Injuries, Diseases and Dangerous Occurrences Regulations 2013 (RIDDOR)**

Under RIDDOR, registered businesses or their engineers are required to notify the Health and Safety Executives (HSE) of certain unsafe situations.

The following situations and injuries are reportable under RIDDOR when they result from a work-related accident and the respective regulations that cover this:

- (1) Gas-related injuries and hazards (Regulation 11)
- (2) The death of any person (Regulation 6)
- (3) Specified Injuries to Workers (Regulation 4)
- (4) Injuries to non- workers which result in them being taken directly to hospital for treatment premises. (Regulation 5)

### **The Dangerous Substances and Explosive Atmospheres Regulations 2002 (DSEAR)**

Dangerous substances can put peoples' safety at risk from fire, explosion and corrosion of metal. DSEAR puts duties on employers to protect people from these risks to their safety in the workplace, and to members of the public who may be put at risk by work activity.

Key areas of DSEAR are to:

- a) Identify the dangerous substance or gases within the workplace and the risk involved.
- b) Put control measures in place to either remove those risks or, where this is not possible, control them.
- c) Put controls in place to reduce the likelihood of an incident and emergencies involving dangerous substances or gases.
- d) Prepare plans and procedures to deal with accidents, incidents and emergencies involving dangerous substances.
- e) Make employees aware and properly informed and trained to control or deal with any risks from dangerous substances and gases.
- f) Identifies and classify areas of the workplace where explosive atmospheres may occur and avoid ignition sources.

## 2. Legislative and regulatory context (cont'd)

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### **The Housing Act 2004, which introduced the Housing Health and Safety Rating System (HHSRS)**

The Housing Act 2004 introduced the housing health and safety rating system (HHSRS). The HHSRS is a risk-based evaluation tool used to assess potential risks and hazards to the health and safety of occupants from deficiencies identified in residential properties in England and Wales.

- a) The assessment method focuses on the hazards that are present in housing and tackling these making housing healthier and safer to live in.
- b) The assessment covers 29 categories of hazard which includes the threat of uncontrolled fire and smoke.

### **Other Legislation, Approved Codes of Practice and Guidance Notes**

Other legislation, approved codes of practice and guidance notes relating to Gas Safety, but which is not exhaustive:

#### Legislation

- a) Gas Act 1986.
- b) Gas Safety (Right of Entry) Regulations 1996.
- c) The Gas Safety (Management) Regulations 1996.
- d) Building Regulations 2010: Approved Documents:
  - Part A – Structure
  - Part B – Fire Safety
  - Part F – Ventilation
  - Part G – Particularly Hot water and water Efficiency
  - Part J – Combustion Appliances and Fuel Storage systems
  - Part L – Conservation of Fuel and Power
  - Part M – Access to and use of buildings
  - Part P – Electrical safety
- e) Confined Spaces Regulation 1997.
- f) Control of Hazardous to Health Regulations (COSHH) 2002.
- g) The Landlord and Tenant Act 1985.
- h) The Housing Act 2004.
- i) BS 7671:2018 Requirements for Electrical Installations – IET Wiring Regulations (18<sup>th</sup> Edition);
- j) Electrical Equipment (Safety) Regulations 2016.
- k) The Health and Safety at Work Act 1974, particularly Section 3: - General duties of Employers and Self-employed persons other than their employees.

## 2. Legislative and regulatory context (cont'd)

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### Approved Codes of Practices

- a) Gas Safe Technical Bulletins.
- b) HSE Leaflet – LANDLORDS. A Guide to Landlords Duties: Gas Safety (Installation and Use) Regulations 1998 as amended Approved Code of Practice and guidance.
- c) HSE Leaflet – GAS APPLIANCES. Get them checked, Keep them Safe.
- d) Detailed guidance on the safe installation, operation and maintenance of Solid Fuel Appliances is contained in the HETAS Guide.
- e) OFTEC Requirements for oil.

# 3. Definitions

Term	Definition
Appropriate Fitting	Means of fitting which – <ul style="list-style-type: none"> <li>a) has been designed for the purpose of effecting a gas tight seal in a pipe or other gas way</li> <li>b) achieves that purpose when fitted; and</li> <li>c) is secure, so far as is reasonably practicable, against unauthorised opening and removal.</li> </ul>
Chimney	Structure consisting of a wall or walls enclosing a flue of flues. Landlord responsibility to maintain if conveying of products of combustion from gas appliance to external air.
Distribution Main	Means any mains through which a transporter is for the time being distributing gas and which are not being used only for the purpose of conveying gas in bulk.
DSEAR	The Dangerous Substances and Explosive Atmospheres Regulations of 2002 is to reduce the risk of fatality or serious injury resulting from a dangerous substance igniting or potentially exploding.
Emergency Control Valve	Means a valve for shutting off the supply of gas in an emergency, being a valve intended for use by a consumer of gas. Abbreviated to ECV
Emergency Service Provider	Emergency Service Providers respond to and make safe all reported gas emergencies, including escapes and CO/fumes, as soon as reasonably practicable. Abbreviated to ESP
Fire Stop	A non-combustible seal which is designed to prevent the transmission of smoke or fire.
Flue	Means of passage for conveying the products of combustion from a gas appliance to external air and includes any part of the passage in a gas appliance duct which serves the purpose of a flue.
Gas	Means any substance which is or (if it were in a gaseous state) would be gas within the meaning of the Gas Act 1986, except that it does not include gas consisting wholly or mainly of hydrogen when used in a non-domestic premise.
Gas Appliance	A type of equipment within a Council property designed to produce heating, hot water or for cooking purposes.
Gas Fittings	Type of fitting used within a domestic property.
Gas Safe (Installation and Use) Regulations 2018	The main regulatory legislation which sets the standard for Gas Safety for those who install, service, maintain or repair gas appliances and other gas fittings, as well as suppliers and users of gas, and including landlords. Abbreviated to GSIUR
Gas Storage Vessel	Means a storage container designed to be filled or refilled with gas at the place where it is connected for use, or a re-fillable cylinder designed to store gas.
Gas Water Heater	Includes a gas fired central heating boiler.

## 3. Definitions (Cont'd)

Term	Definition
Gas Work	<p>In relation to a gas fitting includes any of the following activities carried out by any person, whether an employee or not, that is to say:</p> <ul style="list-style-type: none"> <li>a) installing or re-connecting the fitting.</li> <li>b) maintaining, servicing, permanently adjusting, disconnecting, repairing, altering or renewing the fitting or purging it of air or gas.</li> <li>c) where the fitting is not readily movable, changing its position; and</li> <li>d) removing the fitting.</li> </ul> <p>but the expression does not include the connection or disconnection of a bayonet fitting or other self-sealing connector.</p>
Installation Pipework	Any pipework for conveying gas for a particular consumer and any associated valve or other gas fitting including any pipework used to connect a gas appliance to other installation pipework and any shut off device at the inlet to the appliance.
Landlord	The owner of property (such as houses, land or apartments) that is leased or rented to another.
Landlord Gas Safety Record	<p>Means a legal document produced for a landlord of properties and provided during an Annual Gas Safety check to the tenants.</p> <p>Abbreviated to LGSR</p>
Liquefied Petroleum Gas	Abbreviated to LPG
Manufacturer instruction	Documentation of a manufacturer's appliance that provide specification of technical data, installation instruction, servicing and maintenance.
Primary Gas Meter	Means the meter nearest to and downstream of a service pipe or service pipework for ascertaining the quantity of gas supplied through that pipe or pipework by a supplier.
Purge	The use of gas to displace air prior to introducing or reinstate gas through any pipework.
Operating Pressure	In relation to a gas appliance, means the gas pressure which it is designed to operate.
Room Sealed Appliance	Means of an appliance whose combustion system is sealed from the room in which the appliance is located, and which vents the product of combustion directly to open air outside the premises.
Service Pipework	Means a pipe for distributing gas to premises from a distribution main, being any pipe between the distribution main and the outlet of the first emergency control, downstream from the distribution main.
Service Valve	<p>Means a valve (other than an emergency control) for controlling a supply of gas, being a valve –</p> <ul style="list-style-type: none"> <li>a) incorporated in a service pipe, and</li> <li>b) intended for use by a transporter of gas; and</li> <li>c) not situated inside a building.</li> </ul>

### 3. Definitions (Cont'd)

Term	Definition
Supplier	<p>In relation to gas means.</p> <ul style="list-style-type: none"> <li>a) a person who supplies gas to any premises through a primary meter, and</li> <li>b) a person who provides a supply of gas to a consumer by means of the filling or re-filling of a storage container</li> </ul> <p>a person who provides gas in re-fillable cylinders for use by a consumer.</p>
Tenant	A person who occupies land or property rented from a landlord.
Transporter	In relation to gas means a person who conveys gas through a distribution main.
The Responsible Person	In relation to any premises, means the occupier of the premises or, where there is no occupier, or the occupier is away, the owner of the premises or any person with authority for the time being to take appropriate action in relation to any gas fitting therein.
Work	<p>In relation to a gas fitting includes any of the following activities carried out by any person, whether an employee or not, that is to say:</p> <ul style="list-style-type: none"> <li>a) installing or reconnecting the fitting;</li> <li>b) maintaining, servicing, permanently adjusting, disconnecting, repairing, altering or renewing the fitting or purging it of air or gas;</li> <li>c) where the fitting is not readily movable, changing its position; and</li> <li>d) removing the fitting;</li> </ul> <p>but the expression does not include the connection or disconnection of a bayonet fitting or self-sealing connector.</p>

## 4. Roles and responsibilities

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We will ensure that all relevant Council housing staff are fully aware of their role enforcing gas safety to minimize the risk of gas escape, explosion, fire or the effects of carbon monoxide inhalation as far as reasonably practicable.

### Chief Executive

The Chief Executive is the 'Responsible Person' for the purposes of the Gas Safe (Installation & Use) Regulations 1998 and will nominate one or more persons to act on their behalf to discharge their responsibilities as set out below:

### Strategic Director of Housing, Communities and Governance

The Strategic Director of Housing, Communities and Governance has overall strategic responsibility for the Council's approach to gas safety, in social housing controlled by the Council, and is responsible for ensuring that the requirements of the Gas Safe Installation and Use Regulations, the Gas Industry Unsafe Situations and Housing Act 2004, and supporting Regulations are applied and implemented and nominate one or more persons to act on their behalf to discharge their responsibilities as set out below:

The Strategic Director of Housing, Communities and Governance will ensure that adequate time, resources, and training are allocated to managing risk.

### Service Manager – Housing Maintenance and Compliance

The Service Manager – Housing Maintenance and Compliance is responsible for the overall effectiveness of the Housing Landlord Services Gas Safety Policy and will:

- Formulate and revise the Council's Housing Gas Safety Policy and Action Plan;
- Be the 'Responsible Person' for the purposes of the Gas Safe (Installation and Use) Regulations 1998;
- Ensure adequate processes, procedures and resources are in place to manage gas works;
- Ensure all gas systems/appliances, pipework and associated equipment within premises have suitable and sufficient arrangements in place for compliance with Gas Safety Legislation and relevant standards;
- Ensure the person(s)/services, or organisation who will be undertaking any work on gas systems, appliances and pipe work are Gas Safe registered and hold the appropriate appliance or work activity category, and are selected and monitored in accordance with the policy;
- Monitor the performance of staff and contractors;
- Ensure that any members of the public, staff and contractors are not unnecessarily exposed to unsafe gas risk;
- Advise the Strategic Director of Housing, Communities and Governance of any problem arising in connection with the management of gas risk;
- Provide regular compliance updates related to gas safety to the Executive Management Team and Housing Safety Panel;
- Review and approve/decline 'Permit to Work' requests relating to housing schemes served by communal gas plant.

## 4. Roles and responsibilities (Cont'd)

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### Housing Service Managers

Housing Service Managers are responsible for the delivery of services within their respective areas that impact on the overall effectiveness of the Housing Landlord Services Gas Safety Policy and will:

- Support and assist the Housing Maintenance and Compliance Service Manager in discharging and undertaking their duties, and respond to matters within their respective service areas;
- Ensure suitable and sufficient information, instruction and training on gas safety is carried out for staff and contractors;
- Monitor the performance of staff and contractors;
- Ensure that members of the public, staff and contractors are not unnecessarily exposed to unsafe gas risk;
- Ensure adequate resources are allocated to manage gas safety risk;
- Monitor the performance of their subordinates against the policy;
- Advise the Strategic Director of Housing, Communities and Governance and the Housing Maintenance and Compliance Service Manager of any problem arising in connection with the management of gas safety risk;
- Review and approve/decline 'Permit to Work' requests relating to housing schemes served by communal gas plant.

### Gas Manager

The Gas Manager is responsible for overseeing the day-to-day management of gas work provided within the Council's housing stock, ensuring compliance with gas safety legislation and relevant standards, reporting directly to the Service Manager for Housing Maintenance and Compliance, and will:

- Manage gas safety of all gas fired appliances and associated pipe works identified within the Council's housing stock to ensure compliance with gas safety legislation and relevant standards;
- Ensure each person and contractors who undertakes any gas work within Council housing properties are gas safe registered and hold the appropriate work category for appliances;
- Ensure that annual gas safety checks are carried out on gas appliances and associated flues and pipework;
- Ensure that all new gas appliances and fittings acquired and installed for use at premises meet the necessary BS Safety standards, have a CE safety standard marking and are accompanied by the Manufacturer's instructions;
- Provide clear, comprehensive, and unambiguous systems, procedures, instructions, method statements, risk assessments and quality assurance systems so that gas safety and statutory requirements are fully met;
- Liaise with the responsible person and alert employees and others of risk where gas work will be taking place;
- Report and investigate any dangerous occurrences involving the installation, service, maintenance or repair of gas appliances, fittings or flue systems and complete an Incident Report form;
- Investigate and communicate findings when work fails to comply with current legislation;
- Ensure all gas related certification is collected and updated for record keeping in accordance with retention schedule;

## 4. Roles and responsibilities (Cont'd)

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- Provide records of gas installations, checks and inspections to the responsible person;
- Provide technical support and knowledge to staff where investigations are carried out for gas safety concerns;
- Inform directly employed staff that carry out gas safety work of any legislation or regulatory updates provided by gas governing bodies, and provide periodic toolbox talks on gas safety matters;
- Ensure the arrangements to service and maintain Landlord gas appliances is achieved within the 12 monthly servicing cycle, and where appropriate take further action to escalate to Housing Estates Management team and legal services where access attempts have failed;
- Responsible for ensuring gas training and competencies for staff undertaking gas work are maintained to the required standard;
- Maintain all Gas Analyser instrument ensuring they are calibrated each annual service and upkeep the record of each device;
- Manage Quality Checks on all gas work activities undertaken across the Council's housing stock by staff and commissioned gas contractors;
- Undertake Periodic Gas Safety Inspections;
- Undertake Periodic Carbon Monoxide Detection Inspections;
- Keep up to date with any changes required to commercial plant rooms;
- Ensure DSEAR risk assessments are produced by a competent person for all commercial boiler installations.

### Gas Supervisor

The Gas Supervisor is responsible for the day-to-day delivery and direct supervision of employed Gas Engineers, monitoring gas activities, action incidents and situations that may arise, assisting with gas investigations, and will:

- Ensure cyclical gas inspections are delivered in a timely manner and report any shortcoming or risk concern following servicing that could lead to legal proceedings or RIDDOR, reporting directly to the Gas Manager;
- Assist the Gas Manager in providing support to Gas Engineers where gas safety concerns are raised;
- Provide technical support and knowledge to staff where investigations are carried out following gas safety concerns;
- Undertake property inspections and associated risk assessments for all planned works;
- Coordinate problematic situations that may arise through day-to-day gas activity work;
- Carry out periodic internal quality assurance checks on Gas Engineers work and report any areas of concerns to the Gas Manager.

## 4. Roles and responsibilities (Cont'd)

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### Gas Engineers

Gas Engineers are responsible for ensuring all gas works undertaken in Council properties comply with gas safety legislation, relevant standards and manufacturer's instructions and control measures for dealing with gas and unsafe situations, and will:

- Ensure all gas systems and appliances are in safe working order, maintained, serviced and used according to any Manufacturer's Instructions and to the Gas Safe (Installation and Use) Regulation 26 (9);
- Hold a Gas Accredited Certification Scheme (ACS) and relevant competencies relevant for undertaking the necessary gas work on gas appliances or associated equipment;
- Provide tenant with a copy of any Gas Compliance Certificate for their own record;
- Enforce health and safety for themselves and others at work;
- Escalate any immediate unsafe situations to the Gas Supervisor or Gas Manager;
- Maintain good communication between managers, responsible person, planners, other employees, tenants and general public where gas safety is involved;
- Report any dangerous occurrence to the responsible person, Gas Manager and Corporate Health and Safety team.

### Housing Estates Management Team

Housing Estates Management Team are responsible for assisting the Housing Maintenance and Compliance Gas Department, and will:

- In an event of a tenant refusing access to Council staff and/or approved contractors, make every effort to contact tenants to facilitate the necessary access and coordinating a further visit; then;
- Where no access is made on the 3rd attempt, refer to the Council's legal service to commence injunction proceedings via the Courts to force entry;
- Provide support where tenants refuse or identify being unable to facilitate a gas safety inspection appointment due to affordability to provide sufficient credit on pre-payment gas meters for the gas safety inspection to be carried out.

### Contractor

Commissioned contractors working on behalf of the Council are responsible for complying with gas safety legislation, relevant standards and control measures for dealing with gas, and will:

- Hold the correct Gas Safe Register registration and relevant competencies relevant for undertaking the necessary gas work on gas appliances or associated equipment;
- Protect the health and safety of themselves and others at work;
- Raise any concerns they may have related to problems or shortcomings they identify with safety arrangements (e.g., information, guidance, local procedure/protocol, equipment);
- Ensure that any alteration or installation work to Council properties are subject to the supply of suitable and sufficient risk assessments and method statement and the Construction (Design and Management) Regulations 2015, where appropriate and the planning of any such work must consider the continued safety of any gas fittings that are likely to be affected.

## 4. Roles and responsibilities (Cont'd)

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### Housing Assets (Maintenance) Manager and Maintenance Delivery Manager

The Housing Assets (Maintenance) Manager and Maintenance Delivery Manager will assign a responsible person for Projects under contract where Gas Works are involved, and will:

- The person managing the project on behalf of the Council must ensure that any necessary work to gas fittings is performed by competent persons covered by the Gas Safety Register;
- Monitor and promote gas safety whilst works are delivered;
- Maintain regular and open communication with contractors where gas works are being carried out;
- Regularly check and inspect any areas where gas works are involved and immediately report any concerns regarding safety arrangements to the Gas Manager and Corporate Health and Safety Team;
- Provide copies of relevant gas certification to the Gas Manager upon completion of such work.

### Corporate Health and Safety

The Corporate Health and Safety Team is responsible for guidance and advice in respect of Health and Safety to all Council services, and will:

- Conduct audits to ensure that the provisions within the Gas Safety Policy are being enforced to the required standard;
- Investigate accidents and near miss incidents, record findings and root causes to reduce the risk of such incidents reoccurring, to reduce financial loss and to improve gas risk precautions;
- Work closely with the Housing Maintenance and Compliance Gas Team and wider housing teams in enabling a 'safety first' gas risk prevention culture.

### Council Staff (Non-Gas)

All employees that do not hold the competencies to carry out Gas Works **shall not** undertake any such works and are responsible to report immediately any incidents involving gas to their line manager or responsible person.

### Service Manager - Legal Services

The Council's legal team are responsible for the process in which the Council seek a court injunction for access into a landlord property, and will:

- Support the Gas Manager and Housing Estates Manger in securing right of access;
- Undertake the necessary work to seek an application to the Courts for an injunction.

## 4. Roles and responsibilities (Cont'd)

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### Tenants

Under the terms of the tenancy, the contractual arrangement, Council housing tenants are required with notice to give access to Council employees or people authorised by the Council, entry into their property to undertake statutory 'Landlord' gas compliance functions or activities for the safety and protection of themselves, others and property, including gas safety inspections, gas emergencies and responsive repairs, and will:

- Be responsible for the installation, repair and maintenance of their own gas cooking appliance and that any such installation is carried out by a Gas Safe Registered engineer or company and in accordance with the Manufacturers instruction of the appliance;
- Obtain written permission from the Council's Housing Landlord Service for consent to undertake any work involving gas installation or appliances, including alterations or new gas appliance installation.

### Independent Auditor

An independent commissioned external auditor will work with the Council to provide comprehensive information, instruction, training, and quality assurance supervision to help the Council ensure the health, safety and welfare of its employees or persons who may be affected by gas work they undertake, as far as is reasonably practicable, and will, upon request:

- Provide competent and appropriately qualified independent external auditor to carry out quality assurance monitoring of work carried out by in house gas engineers, and appointed gas contractors, and provide a written report to the Gas Manager and Housing Maintenance and Compliance Service Manager, at periodic intervals to identify trends or areas of competency concern.

# 5. Training and competencies

The Council is a Gas Safe registered business operator under Gas Safe No. 213196, and all directly employed gas engineers operate under this registration and are issued with a Gas Safe Identification and Competencies Card. All staff involved in undertaking gas work will undergo the Gas Accredited Certification Scheme (ACS), and competencies for their specific areas of work. Gas Engineers will undertake competencies through a nationally recognised governing body to be able to demonstrate their competency in undertaking gas work.

Under the Regulations, the Council will ensure that all gas engineers hold the minimum necessary gas qualification and competencies to undertake gas work within a domestic setting and for those who undertake gas work in a commercial setting hold the relevant additional competencies in the relevant work categories to enable them to do so.

As employer, the Council will maintain the gas qualification and competencies training required for all staff undertaking gas work on behalf of the Council. Gas training and competency expiry dates of all registered gas engineers operating under the Council’s Gas Safe registered business are held by Gas Safe and are downloadable via the Council’s business operator account. Competencies will be reviewed on a rolling monthly basis and identified training needs instigated as they become due and completed prior to expiry to maintain compliance.

All employees and contractors that do not hold the necessary gas competencies shall NOT undertake gas works.

<b>Core gas competencies</b>	<b>Description</b>
CCN1	Core Domestic Gas safety, pipework, flues, ventilation
CPA1	Flue Gas Analyser
CENWAT	Domestic Gas Fired Central Heating Water & Heating Appliances
CKR1	Domestic Cooking Appliance
HTR1	Domestic Gas Fires and Wall Heaters
<b>Additional gas competencies</b>	<b>Description</b>
MET1	Domestic Gas Meter
LAU1	Gas Tumble Dryers
CMDDA1	Domestic Co/Co2 Atmosphere and Appliance Testing
<b>LPG competencies</b>	<b>Description</b>
CONGLP1PD	Natural Gas to LPG - Permanent Dwellings
CONGLP1RPH	Natural Gas to LPG - Residential Park Homes
<b>Commercial gas competencies</b>	<b>Description</b>
CODNCO1	Domestic to Commercial Natural Gas
CIGA1	Commercial Indirect fired Heating Appliance
CORT1	Commercial Indirect fired Heating Appliance
TPCP1	Commercial Testing & Purging on Pipework up to 7 bar
TPCP1A	Commercial Testing & Purging on Pipework up to 21mbar

## 6. Procurement and selection of contractors

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The selection and appointment of gas contractors is undertaken in accordance with the Council's Standing Orders following a competitive tender process.

As part of the tendering process, Invitations to Tender include an Outcome Specification and tender submissions must include the following documents:

1. Supplier self-declaration setting out the necessary standards and accreditations of suitability and capability.
2. Cost and Service response questionnaire, including a minimum of 2 Client references,
3. Pricing response.

Contractors are also required to confirm if the company/organisation have been issued with Prohibition or Improvement Notices by the Health and Safety executive (HSE) within the past 3 years.

Only approved competent gas contractors and engineers will be allowed to work on or install any associated gas systems and appliances. Any contractor companies and engineers must be registered on the Gas Safe Register.

All contractors will be required to show evidence of their Gas Safe Registration and provide the correct competencies for each individual engineer that will be working on any of the Council's properties at the point of selection. This will also confirm which areas of gas work the individual engineers are qualified and certified to carry out, and all details of business registrations and competencies will be stored on the Council's Sharepoint electronic data records management system (EDRMS) and will be reviewed and updated annually upon anniversary expiry.

Regular contract performance meetings will be held with the contractors for delivery monitoring, quality assurance and KPI's.

# 7. Documents and records

The Council will ensure that all documentation and paperwork is compliant with the Gas Safe Installation and Use Regulations, Building Regulations and Manufacturer’s Instructions. All contractors carrying out gas works will be required to provide the Council with the relevant gas compliance certification and associated paperwork.

All gas certification landlord gas safety records (LGSR) will be held securely for a minimum of 2+ current years, in accordance with the requirements of Gas Safe, and for the life of the appliance for certified new installation work requiring Building Control certification. A copy of the LGSR will be given to the tenant after the completion of a gas safety inspection. Records are held electronically within the Council’s asset database system Keystone and in line with the Housing Maintenance Asset and Compliance retention policy.

## Documentation produced

Document	Requirement	Frequency
Landlord Gas Safety Record (CP12)	Landlord gas safety inspection	Annual gas safety inspection / prior to new tenancy / at mutual exchange / new installation
Engineer Report Form	Carrying out gas work to a gas installation or appliance	After gas work has been performed
Benchmark Form	New or replacement gas fired boiler	Produced after every gas boiler installation
Non-domestic Inspection Form	Commercial gas servicing	Annual gas safety service to commercial housing building or new commercial gas installation
Gas Testing & Purging Non-domestic Form	Commercial gas tightness testing and purging pipework	Annual commercial gas servicing or installation and disruption to gas pipework
Warning Do not Use Notice	Warning notice for unsafe gas appliances or installation	Every time an unsafe situation is identified
Carbon Monoxide (CO) Investigation Form	Carbon monoxide investigation report	Every time a carbon monoxide alarm investigation is carried out

# 8. Gas appliance breakdown and repair

All Council housing repair requests are reported to the Council via The Housing Support Hub. Tenants can report repairs via:

- During office hours, by calling (023) 8028 5222. The Housing Support Hub is open on Monday to Thursday between 8.30am and 5.15pm, and on Friday between 8.30am and 4.45pm;
- Outside office hours by calling (023) 8028 5250 or 07771 259098.
- by email ([housing.supporthub@nfdc.gov.uk](mailto:housing.supporthub@nfdc.gov.uk));
- by Web Chat ([www.nfdc.gov.uk](http://www.nfdc.gov.uk)) Housing Repairs and Maintenance.

## 8.1 Repair Categories and Target Timescales for their completion

The Council has established categories of responsive repair, these are:

Category	Target	Response	Repair
E	3 hours	<b>Emergency</b>  Response to make safe/temporary repair only	Work necessary to prevent danger to life or extensive damage to property, or if the problem will have an adverse effect on a medical need.
U	24 hours	<b>Urgent</b>  Prevent suffering undue inconvenience or further damage to property	Loss of hot water (31 <sup>st</sup> Oct – 1 <sup>st</sup> May) Loss of heating (31 <sup>st</sup> Oct – 1 <sup>st</sup> May)
P	5 working days	<b>Priority</b>  These are repairs that may affect the comfort of residents and likely to cause damage to the property if not carried out as a priority	Examples of priority repairs would include:  Loss of hot water (1 <sup>st</sup> May – 31 <sup>st</sup> Oct) Loss of heating (1 <sup>st</sup> May – 31 <sup>st</sup> Oct)
R	20 working days	<b>Routine</b>  Includes all other minor repairs	All other general repairs

# 8. Gas appliance breakdown and repair

(cont'd)

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## 8.2 Repair Appointments

The Council's repairs system 'Uniclass' records and manages the workflow of repairs from appointment to scheduling.

When repairs are ordered the target timescale for completion is determined by the repair category and Tenants will be offered the first available appointment timeslot which are predefined as:

ALL DAY	08:00 – 16:30
AM	08:00 – 12:30
SCHOOL RUN	09:30 – 14:30
PM	12:00 – 16:30

Tenants will be provided with the option to opt into our repairs mobile text messaging service. This service provides mobile text message alerts at key stages in the repair cycle:

- confirmation of repair appointment;
- 24 hours pre-repair appointment reminder;
- on route.

A Repair ordered will confirm the following details:

- a summary of the repair ordered;
- contact name, address and telephone number for which the repair relates;
- the timescale for completing the repair.

Should a tenant wish to rearrange an appointment, they are able to contact Customer Services.

## 8.3 Out of Hours

Any faults reported which threatens harm to person or property, emergency repairs shall be responded to within 3 hours from initial call raised by the tenant or member of the public.

Defect or faults to gas installation and/or appliances shall be made safe from the installation where suspected to cause harm or injury to persons or property. If a temporary make safe repair is made, follow up works will be made to replace/repair during normal working hours and temporary electrical fan heaters offered.

## 8.4 Gas Emergency

- Gas leaks must be passed straight through to the National Gas Emergency Service Provider by the Council receiver of the information on:  
**0800 111 999**
- Activation of Carbon Monoxide Alarms or where harm has been caused due to exposure, must again be passed straight through to the National Gas Emergency Service Provider by the Council receiver of the information.

# 9. Landlords domestic gas safety inspection

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The Council's Housing Landlord Service, as 'Landlord', is required to carry out a gas safety inspection and service every 12 months on gas appliances and flues in all rented properties in accordance with the Gas Safe (Installation and Use) Regulations 1998, as Amended under Regulation 36. It is important that the Council has effective measures in place to gain prompt entry to carry out these inspections, to comply with its statutory obligations. Under the Regulation it is a requirement that all tenanted properties have a current in date Landlord Gas Safety Record (LGSR).

## 9.1 Cyclical Servicing Appointments

Gas appliances will be inspected annually and attempts to gain access will commence on a 9-month annual cycle to ensure that every effort has been made to complete the safety inspection by the annual inspection anniversary. The appointment cycle offers a 90-day window prior to the anniversary expiry date proving as much time as possible to offer and complete 4 appointments, as set out below:

- 1<sup>st</sup> Appointment 1<sup>st</sup> attempt
- 2<sup>nd</sup> Appointment 2<sup>nd</sup> attempt
- Housing Estates Management Referral Assisted 3<sup>rd</sup> attempt
- Legal Intervention Injunction letter before Action 4<sup>th</sup> and final attempt

Cyclical servicing appointments are auto generated and appointed via a weekly batch run based on the gas appliance servicing due date. The Council's scheduling appointment system is dynamic and appoints job orders in order of due date, priority and location for maximum delivery efficiency and reduced travel time from job to job. Gas engineers pick up, attend, and deliver appointed cyclical servicing jobs through their Personal Data Assistant (PDA) device.

Cyclical appointments offered:

AM	08:00 – 12:30
PM	12:00 – 16:30

Tenants are written to and offered an appointment for a Gas Safety Inspection to be carried out. Every effort will be made to work with the tenant to make an appointment at a time that is convenient.

Housing Landlord Services will make every effort in providing an out of hour's appointment where it is required by the tenant to aid successful access.

Housing Landlord Services will take all reasonable steps to gain access to complete the annual gas safety check. And where no access is gained into a tenanted property, all necessary steps under this policy will be adhered to.

Legal action will be taken against tenants who do not respond to requests to complete a gas safety check, or consistently refuse access to their property. In such cases action will be taken to obtain a Court Injunction to enter the property. Legal action will only be taken as a last resort.

Where access to a property is obtained through the Courts, Housing Landlord Services will be responsible for securing the property and making good any damage caused by entering the property. The cost of this work will be re-charged to the tenant.

Where installation and/or appliances are found to be unsafe, then The Gas Industry Unsafe Situations Procedure will be adhered to and ensuring installation/appliances are made safe and communicated to the responsible person for further action.

# 9. Landlords domestic gas safety inspection (Cont'd)

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## 9.2 1<sup>st</sup> Appointment

The Council's asset repairs system will auto generate a cyclical batch of jobs 105 days before the annual inspection expiry due date and appointed within 90 days scheduling window. Appointment letter (Appendix 5 - Gas Appointment Letter 1) are produced via the Gas Operational Planner. Where requested, the Council will make every effort to rearrange appointments for another suitable time, including weekend appointments as a last resort.

On the appointment date, the Council's gas engineer will undertake the necessary safety checks to complete a full Landlord Gas Safety Inspection under the Gas servicing Procedure. If access is not gained through the 1st visit, the 'no access' procedure will be followed. The visiting gas engineer will leave a card of the visit instructing the tenant to contact the Council to arrange another appointment convenient to the tenant.

## 9.3 2nd Appointment

Upon a failed 1<sup>st</sup> appointment visit, a 2<sup>nd</sup> appointment will be arranged through the Gas Operational Planner and booked directly over the phone with the tenant at the earliest date. This is to help confirm and secure an appointment with the tenant to prevent any failed attempt to gain access into the property. A letter is sent to the tenant confirming the appointment date (Appendix 6 - Gas Appointment Letter 2).

Where no contact is able to be made with the tenant, the Gas Operational Planner will book an appointment at the earliest date and send a further appointment letter to the tenant.

On the day of the 2<sup>nd</sup> appointment access is not gained, the tenant's details will be referred-back to the Gas Operational Planner to make direct contact via phone and or email. If, on making contact with the tenant, they refuse a proposed further appointment date, then a referral to Housing Estates Management Team will be made immediately.

If the tenant is not at the property on the day of the 2<sup>nd</sup> appointment, then a card of the visit will be left by the gas engineer instructing the tenant to contact the Council and a gas referral produced by the Gas Operational Planner and submitted to the Housing Estates Management Team for further action.

## 9.4 Housing Estates Management Team Referral

The Gas Operational Planner will compile the relevant information and refer to the Housing Estates Management Team using (Appendix 8 – Legal Services Referral Form). This will include a schedule of unsuccessful appointment dates attended and all communication made to the tenant, Information will include:

- Gas appliances at the property.
- Anniversary deadline date for the gas inspection.
- Unsuccessful appointment dates the Council have arranged.
- Communication made to the tenant – email and phone.

All attempts for access are recorded as evidence of the Council undertaking all reasonable steps to arrange access for an inspection.

The Neighbourhood and Tenancy Management Officer will make every effort to contact the tenant of the property to arrange a gas appointment, including cold calling and joint visits with any secondary or known support agencies and issue (Appendix 7 - Housing Estates Management Letter). Such attempts to make contact will be recorded in the Tenant's person journal on the Locata Housing Management System (LHMS). Any agreed appointment date made will be notified to the Operational Gas Planner for scheduling. Further evaluation of the tenant may be required where there are welfare concerns. These efforts must continue following a referral to legal services.

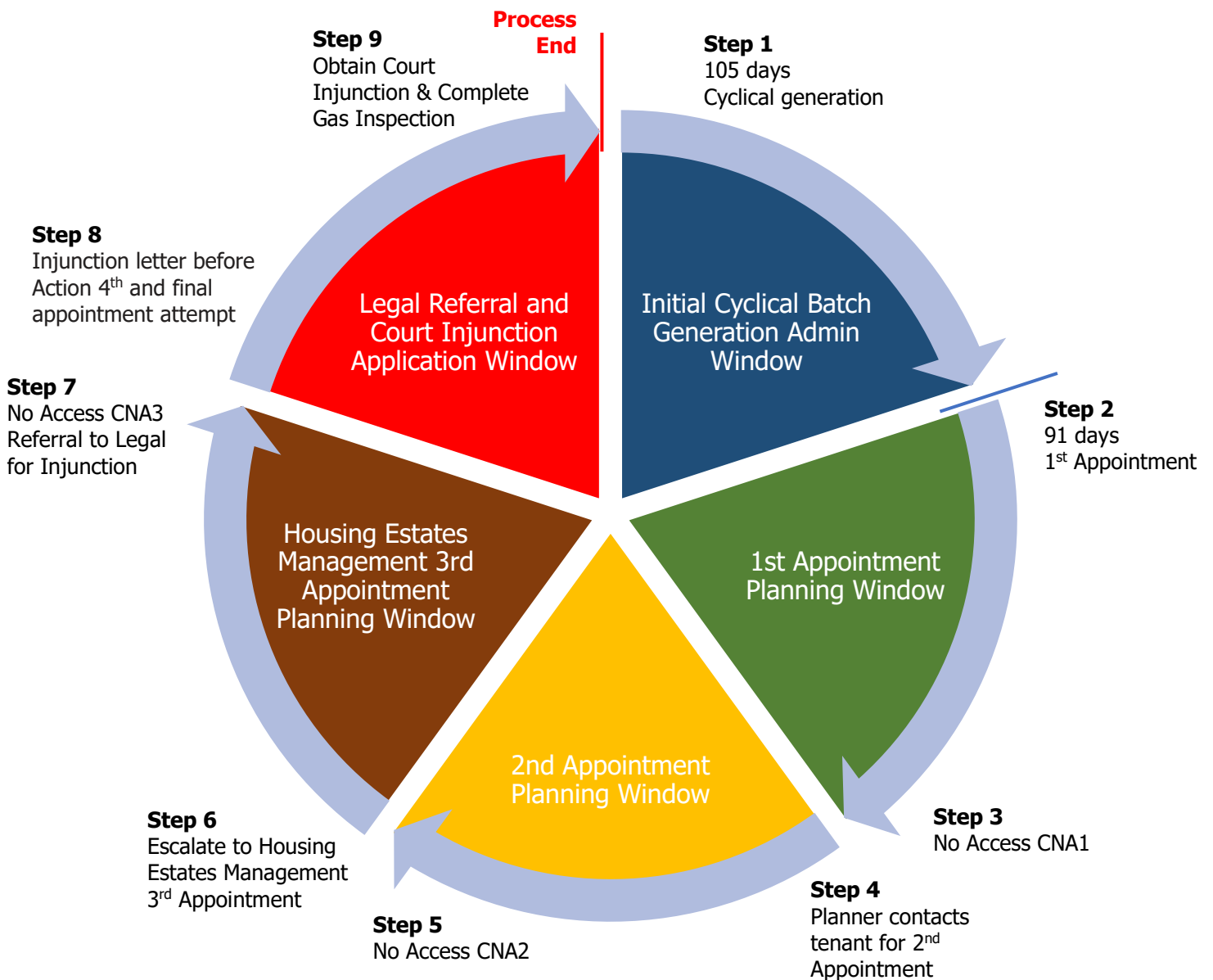
# 9. Landlords domestic gas safety inspection (Cont'd)

## 9.5 Legal Proceedings

Legal proceedings will commence after all attempts to gain access to a property have failed. The Council will apply to the Court for an injunction on the tenant. Furthermore, it is not uncommon for the Court to order a lifetime injunction for tenants that have historically failed or proved problematic in allowing the Council access to perform the statutory functions required as Landlord. A Legal Services Referral form will be submitted to the legal team (Appendix 8 - Legal Service Referral Form).

## 9.6 Process Map

The process map below shows the steps taken to ensure the Council obtains access to carry out statutory annual gas safety inspections:



# 9. Landlords domestic gas safety inspection (Cont'd)

## 9.7 Gas Capping

It will be the Council's policy to cap the gas supply serving gas appliances and/or the gas supply serving the property via the meter in the following circumstances:

- When a single gas appliance in the property is deemed to be unsafe or is no longer in use;
- When the gas installation is deemed to be unsafe;
- When at final notice stage and injunction before action letter has been issued, being the 4<sup>th</sup> and final attempt to gain access;
- Where there is no gas or electricity supply to enable a gas safety check to be carried out, prior to the anniversary expiry.

### Gas appliance is deemed unsafe or is no longer in use

In the event that a single gas appliance is deemed to be unsafe or no longer in use **and** the gas supply serves more than one appliance, the gas supply to that gas appliance will be capped off and made safe until further work has been completed to rectify the safety issue. A gas safety warning notice will be issued, and a label affixed to the appliance.

However, if the gas appliance is found to be immediately dangerous, and the tenant refuses to allow isolation of the appliance, then an emergency referral will be made to the National Emergency Gas Service to action.

Where the appliance deemed to be unsafe is the **sole** gas appliance within the property, the gas will be capped at the meter and a gas safety warning notice issued and label affixed to the gas meter.

### Gas installation is deemed unsafe

In the event that the gas installation is found to be unsafe, the gas supply will be capped off at the meter and made safe until further work has been completed to rectify the safety issue. A gas safety warning notice will be issued, and a label affixed to the meter. However, if the gas installation is found to be immediately dangerous, and the tenant refuses to allow capping of the installation, then an emergency referral will be made to the National Emergency Gas Service to action.

In both scenarios, the Gas Manager will be informed of the action taken in order to instigate the necessary responsive repair as set out at Section 8. If it is deemed likely the gas appliance will require replacement causing repair delay, a request to carry out a gas capping risk and welfare assessment will be instigated and sent to the Housing Estates Management Team, who will immediately undertake a full risk and welfare assessment of the home. (Appendix 9 – Gas Capping Risk and Welfare Assessment Form).

### Final notice stage and injunction before action letter has been issued

When at final notice stage and injunction before action letter has been issued, being the 4<sup>th</sup> and final attempt and access is still not gained, the gas engineer will cap the gas supply serving the property, where the meter can be accessed without entering the property, and a gas warning notice issued and posted through the letter box and a label affixed to the meter.

Where access is gained, but there is no gas or electricity supply to enable the gas safety check to be carried out prior to the anniversary expiry, the gas engineer will cap the gas supply serving the property, and a gas safety warning notice will be issued, and a label affixed to the meter.

# 9. Landlords domestic gas safety inspection (Cont'd)

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Where it is discovered through any contact with a tenant during the annual cyclical gas safety inspection appointment process, that the tenant has no gas or electricity supply to enable the gas safety check to be carried out, the Gas Manager **must** be informed. The Gas Manager will instigate a gas capping risk and welfare assessment and refer to the Housing Estates Management Team, who will commence a risk and welfare assessment of the household.

The Council recognises its responsibilities in ensuring client needs and welfare are considered in all its decision making and will make every effort to assist tenant's and offer support so as far reasonably practicable, to ensure tenants have suitable arrangements in place for heating and hot water provision.

This action is only undertaken as a last resort to protect the safety of the residents following all previous attempts to undertake the annual statutory gas safety inspection.

In such cases, the Gas Manager will be informed of the action taken and a gas capping risk and welfare assessment form instigated and sent to the Housing Estates Management Team or where a previous one has already been instigated, the updated position who will immediately undertake a full risk and welfare assessment of the home.

## Direct request received from tenant to cap their gas supply

In exceptional circumstances, this procedure can be extended to consider direct requests received from tenants to cap their gas supply with the joint agreement of the Housing Maintenance and Compliance and Housing Estates Service Managers.

Following any such request, a gas capping risk and welfare assessment will be instigated and sent to the Housing Estates Management Team, who will undertake a full risk and welfare assessment of the home within 10 working days. The Tenant will be informed that the meter standing charge, payable to the Utility provider, will still apply if the gas meter is still left in situ and not resolved with their energy provider or even removed.

## Gas supply capping decision review

The Council only considers the capping of a gas supply at the meter as an interim measure either to protect the safety of the residents until a satisfactory gas safety inspection can be carried out or at the request of the tenant, and each capping decision will be subject to ongoing periodic review.

All gas capping risk and welfare assessments, periodic reviews and letters **MUST** be documented for the capping of any gas supply. Ongoing welfare needs must be identified, and follow-on actions are expected to offer the tenant support to return to a situation where they are able to live in a home free of hazards and the gas supply uncapped, particularly if there is no other form of heating in the home. The monitoring of welfare will be tasked to the Housing Estate Management Team.

It is the responsibility of the Tenant to immediately contact the Council if they wish for their gas supply to be re-established once they have provided a gas supply through the gas meter.

Any property where the gas supply serving the property is capped at the meter, will still require undergoing an annual gas safety inspection, prior to the anniversary expiry date to prove that the gas supply is still capped and installation safe. To inform the ongoing welfare monitoring the Housing Estates Management Team must be notified upon each annual gas safety inspection of any property where the gas supply remains capped off at the meter.

# 9. Landlords domestic gas safety inspection (Cont'd)

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## 9.8 Tenant's Own Gas Appliances

Tenant's own gas cookers will not be serviced and maintained under this policy. It is the tenant's responsibility to maintain the upkeep and safety of a tenant owned and installed gas cooking appliance within their property. The Council will only carry out a visual inspection for safety only and note this on the Landlord Gas Safety Record. Any safety concerns will be actioned according to the unsafe gas procedure, with permission from the tenant to disconnect or turn off their gas appliance and issue a warning notice and a label affixed to the appliance, with the tenant's signature.

Where tenants have had a gas fire installed and connected to the chimney owned by the Council, the Council **will** carry out a full gas safety check of the gas appliance, including testing the chimney flue throughout its entirety. If the tenants own fire is found to be unsafe, the gas engineer will make the judgement on the severity of the situation, applying the correct classification under this procedure.

However, if any tenant's own gas appliance is found to be immediately dangerous, and the tenant refuses to allow isolation of the appliance, then an emergency referral will be made to the National Emergency Gas Service to action.

# 10. Landlords commercial gas safety inspection

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All Council housing stock, where dwellings are served by communal heating and hot water, and where metering or gas burning appliances are classified as 'Commercial Gas Installations', will be serviced every 12 months.

The Council will ensure that a Commercial Gas Tightness Test is carried out alongside the commercial gas servicing programme to ensure compliance.

Each commercial gas housing and boiler plant rooms shall contain an onsite plan of all gas installation pipework and appliances contained within the building.

A DSEAR risk assessment will be produced on any existing commercial gas pipework installation in multi-occupancy housing stock or when any new installation work is carried out.

All future plant room alterations shall have an updated gas map and DSEAR risk assessment following new installation work being carried out.

All works will be carried out by our in-house Commercial Gas Engineers or approved contractor.

# 11. DSEAR risk assessment

The Dangerous Substances and Explosive Atmospheres Regulations 2002 (DSEAR) requires employers to assess the risk of fires and explosions that may be caused by dangerous substances in the workplace. From June 2015 DSEAR also covers the risk caused by gases under pressure and substances that are corrosive to metals.

DSEAR (Regulation 5) requires employers / user to carry out a thorough risk assessment where a dangerous substance is or is liable to be present at the workplace, the employer shall make a suitable and sufficient assessment of the risks to his employees which arise from that substance.

The risk assessment shall include consideration of:

1. The hazard properties of the substance (Natural Gas or LPG);
2. The circumstances of the work (communal areas and plant rooms);
3. Activities such as installation and maintenance gas works, where there is a potential high risk;
4. And the likelihood of explosive atmospheres and the scale of the anticipated effects.

The intention of the Regulations is to reduce the risk of a fatality or serious injury resulting from a "dangerous substance" igniting and potentially exploding. Examples of a "dangerous substance", as defined by DSEAR, include Natural gas, LPG, sawdust, powders, ethanol vapours, and hydrogen gas.

DSEAR risk assessments shall be carried out by competent persons with the necessary knowledge, skills and experience to identify the potential for fire and explosive atmospheres.

Each risk assessment will be produced after new gas pipework, and where alterations have been made to existing gas installation and will be checked annually that no further alterations have been made to the gas installation that would invalidated the latest risk assessment.

Once each potential sources of release have been identified, this will be classified into Hazardous Area Classification together with the following information:

- Location – Internal, external, ventilation available, and possible accumulation of the dangerous substances.
- Likelihood of Release – as highlighted in below table figure rates:

Rate	Frequency/Duration	During Normal Operation
0	Probability Low	No classification
1	Secondary	Release NOT expected
2	Primary	Release expected
3	Continuous	Permanent release

# 11. DSEAR risk assessment (Cont'd)

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Based on the risk assessment outcome, the results will indicate a zone map in accordance with DSEAR regulation 7 – Places where explosive atmosphere may occur.

<b>Zone 0</b>	Where an explosive atmosphere is present continuously / for long periods / frequently (normally 'continuous' grade of release)
<b>Zone 1</b>	Where an explosive atmosphere is likely to occur in normal operation occasionally (normally 'primary' grade of release)
<b>Zone 2</b>	Where an explosive atmosphere is NOT likely to occur in normal operation, but if it does, will persist for a short period only (normally 'secondary' grade of release)

Identification of each zone will be highlighted on the risk assessment for control measures to be implemented. The key area of these risk assessments is to classify areas as unclassified or zone 2NE where a release is Negligible Extent (NE).

There are a number of key elements that will be factors that create

Zone 2 NE or no classification:

- Pipework installation in accordance with Current IGEN/UP/16 standards.
- Additional localised natural ventilation.
- Periodic tightness testing and inspections.

# 12. Domestic boiler capital replacement

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As part of the Decent Home Standard, New Forest District Council aims to replace Gas Boilers which are 15 years and older within its housing stock, installing a more energy efficient appliance. The annual replacement schedule is generated from stock condition data that indicates properties containing gas appliances, date of installation and its approximate date of renewal, and are subject to the annual capital replacement budget approval process.

From time-to-time Gas Boilers can become problematic with ongoing issues and repairs and although not due for replacement, for cost effectiveness reasons these boilers are brought forward for replacement and scheduled in at the earliest opportunity.

The Council will notify tenants of properties due for replacement. Once a survey has been completed and the work is due be scheduled, an appointment will be made with tenants on a mutually agreed date to complete the work.

All boiler installation works shall be carried out according to Manufacturer's Instructions, complying with the Regulations, Building Regulations, and any relevant standards and approved code of practice.

Upon completion of all gas appliance installation work, appliances will be registered with Gas Safe for Building Compliance, a LGSR produced, and benchmark paperwork completed and returned to Housing Landlord Services.

# 13. Voids and mutual exchange

---

## Voids

At the earliest opportunity, and before any other trades are allowed to work in a Void property, Housing Landlord Services shall ensure that:

- The gas meter is capped at the outlet immediately when the property becomes void and subject to extensive work.
- The gas meter is uncapped, and a Landlord Gas Safety Record (CP12) is produced once all gas works are fully completed and the property is ready for re-letting and copy supplied to tenant upon possession of the property.
- All gas appliances in the property will be assessed and repaired or renewed if a boiler is scheduled for replacement due to age, fault or condition.
- The cooker bayonet and pipework will be capped or plugged ready for new occupants/tenants.
- All Smoke and Carbon Monoxide alarms will be checked and tested, or replaced where faulty, missing or passed its expiry date.
- Any debt left on gas meter from previous tenant will be cleared at the end of the void process, ready for new occupant.
- Manufacturer's Instructions for heating controls and any other necessary paperwork will be provided to tenant upon property possession.

## Mutual Exchange

The statutory Landlord Gas Safety Inspection will be carried out, on the day the mutual exchange takes place.

All Smoke and Carbon Monoxide alarms will be checked and tested, or replaced where faulty, missing or passed its expiry date.

Outgoing tenants' own appliances will not be included in the safety check inspection, as the responsibility of the appliance rests with the tenant. The cooker point gas bayonet will be removed, and pipework capped or plugged.

It is the responsibility of the incoming tenant to commission their own gas safe registered engineer to connect and commission a gas cooking appliance when installed in its new location.

# 14. Quality assurance

---

The Council is committed to ensuring that all gas work carried out on its housing stock by employed gas engineers is undertaken to the highest standard, and that those staff are competent, and such work is carried out in accordance with this policy.

The Council will appoint a third-party Corgi Accredited Assessor to carry out Quality Control inspection audits on 5% of the work carried out by the Council's employed gas engineers each year.

The third-party inspections will mainly cover the annual gas safety inspection regime but will also include an element of reactive repair work and replacement installations.

Inspections will be carried out on a rolling monthly basis and require the Assessor to produce reports at monthly intervals setting out the scope and results of those inspections carried out and set out any recommendations or improvement measures necessary. Any immediate concerns will be escalated to the Gas Manager by the Assessor.

The rolling programme will allow the Council to monitor quality assurance performance to ensure that any issues identified are dealt with promptly and appropriately.

# 15. Gas equipment

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## **Portable Gas Flue Analyser**

All employed Gas Engineers who undertake gas work for the Council will have the use of a portable Gas Flue Analyser to undertake works involved in flue testing, CO room safety checks and gas test, and will hold a valid calibration certification of the analyser supplied to them.

Gas Flue Analysers will be calibrated annually by an approved third party supplier and all calibration certificates, repair sheets or recalibration sheets are held by the supplier, and are accessible by the Council via a web-based client portal. A copy of the certificate is also provided with the Analyser following calibration.

## **Personal Carbon Monoxide Monitor**

In the event of a Carbon Monoxide investigation, Gas Engineers will be provided with a gas flue analyser that meets BS7967, which incorporates a Carbon Dioxide (CO<sub>2</sub>) cell within the device. This is to ensure that all measurements recorded in the air are accurate in locating and identifying the build-up of CO within a property.

All Council Gas Engineers will be supplied with Personal Carbon Monoxide Monitors in the event they are required to enter a property where there could be presence of CO. The devices added protection activates when it exceeds the action level of 30PPM (parts per million) CO in ambient air which becomes harmful to any persons. The devices will be maintained by the Council and replaced every 2 years or as per the manufacturers recommended life expectancy.

Personal Carbon Monoxide Monitors will be calibrated annually by an approved third-party supplier and all calibration certificates, repair sheets or recalibration sheets are held by the supplier, and are accessible by the Council via a web-based client portal. A copy of the certificate is also provided with the Monitor following calibration.

# 16. Smoke, heat and carbon monoxide detection

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During the annual gas safety inspection or installation of gas appliances all Gas Engineers will inspect and test all Smoke, Heat and Carbon Monoxide Detectors to ensure they remain in working order and are within the manufacture's expiry date of the unit and record their locations and expiry dates on the LGSR Certificate.

LGSR Certificates will be scanned and uploaded to the Council's Keystone asset management system and cyclical asset attribute data records verified and amended where necessary in the Council's Uniclass Repairs and Maintenance system.

The scanning, uploading, and data verification process is undertaken by the Gas and Compliance Administrators, and any data verification concerns **must** be escalated to the Gas Manager or Gas Supervisor.

## Carbon Monoxide Alarms

Carbon monoxide alarms are only required in rooms containing a solid fuel burning appliance (i.e., rooms containing an open fire, log burning stove, etc.). However, as gas appliances can emit carbon monoxide, the Council will fit a Carbon Monoxide detector in every room containing a gas fueled appliance which will be inspected each year as part of the annual gas safety inspection visit. E.g., in the living room where a gas fire may be installed and the kitchen where a boiler may be installed. These will be installed even where the Council has not installed the appliance e.g., fire.

## Smoke and Heat Detectors

Smoke detectors will be fitted and hardwired in a suitable place in every rented property (minimum one per floor) and will normally be within the fire escape route (hallway and landing).

Smoke detectors will be replaced as part of a 10-year rolling replacement schedule or when a deficiency is identified.

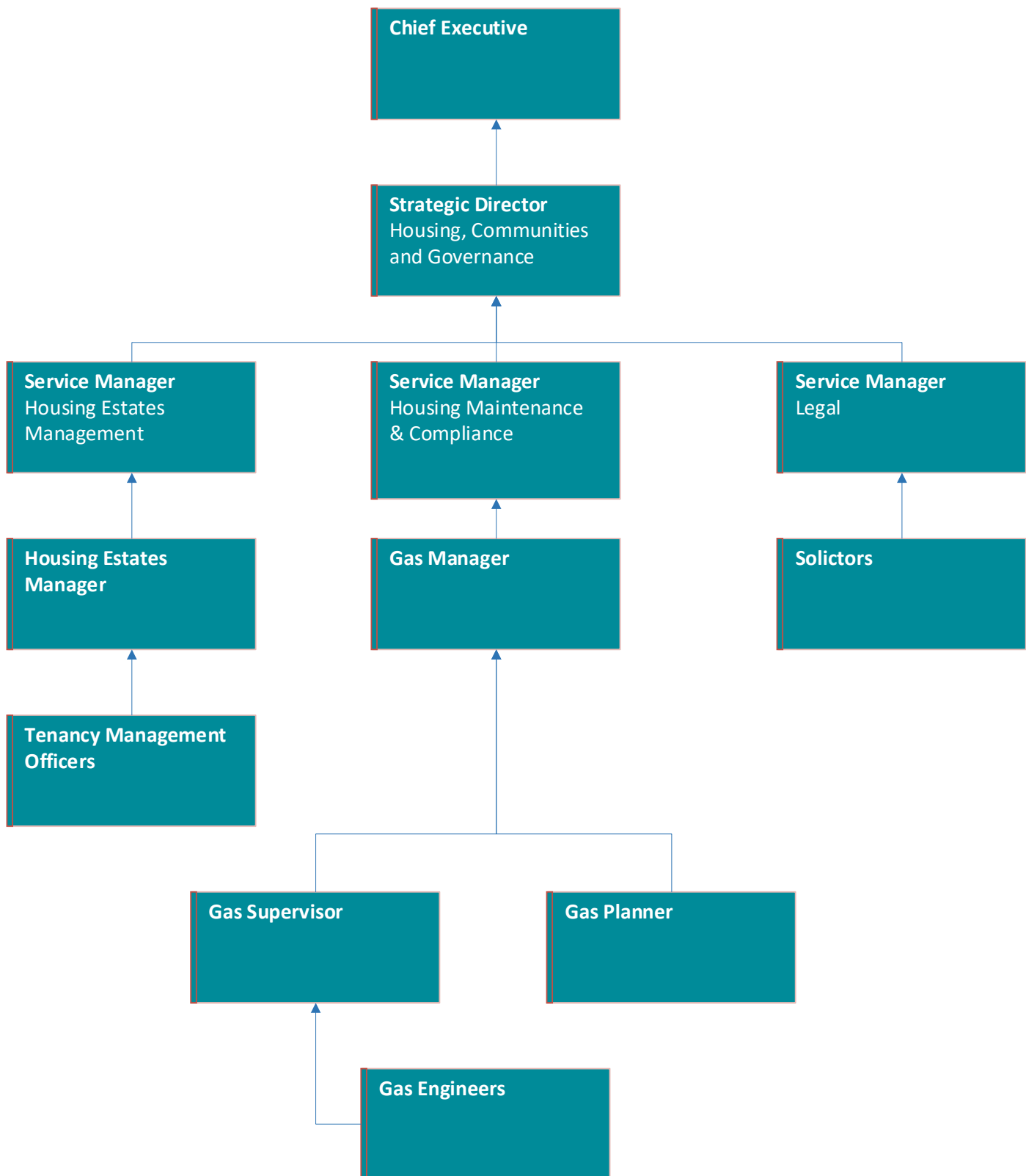
## Fire Risk and Safeguarding

As part of the annual gas safety inspection regime, where additional risks are identified by staff (i.e., hoarding, adaptations made to property presenting a fire risk, specific disability or other fire risk), a safeguarding report **must** be made to the Housing Estates Management Team and Housing Fire Safety Manager.

# 17. Appendix 1

## Gas Management Structure

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# 17. Appendix 2

## Gas Emergency Procedure

In the event of a person reporting any of the following gas emergency:

- A gas escape;
- Smell of gas;
- Suspected emissions of products of combustion;
- Carbon Monoxide (CO) detector activation;

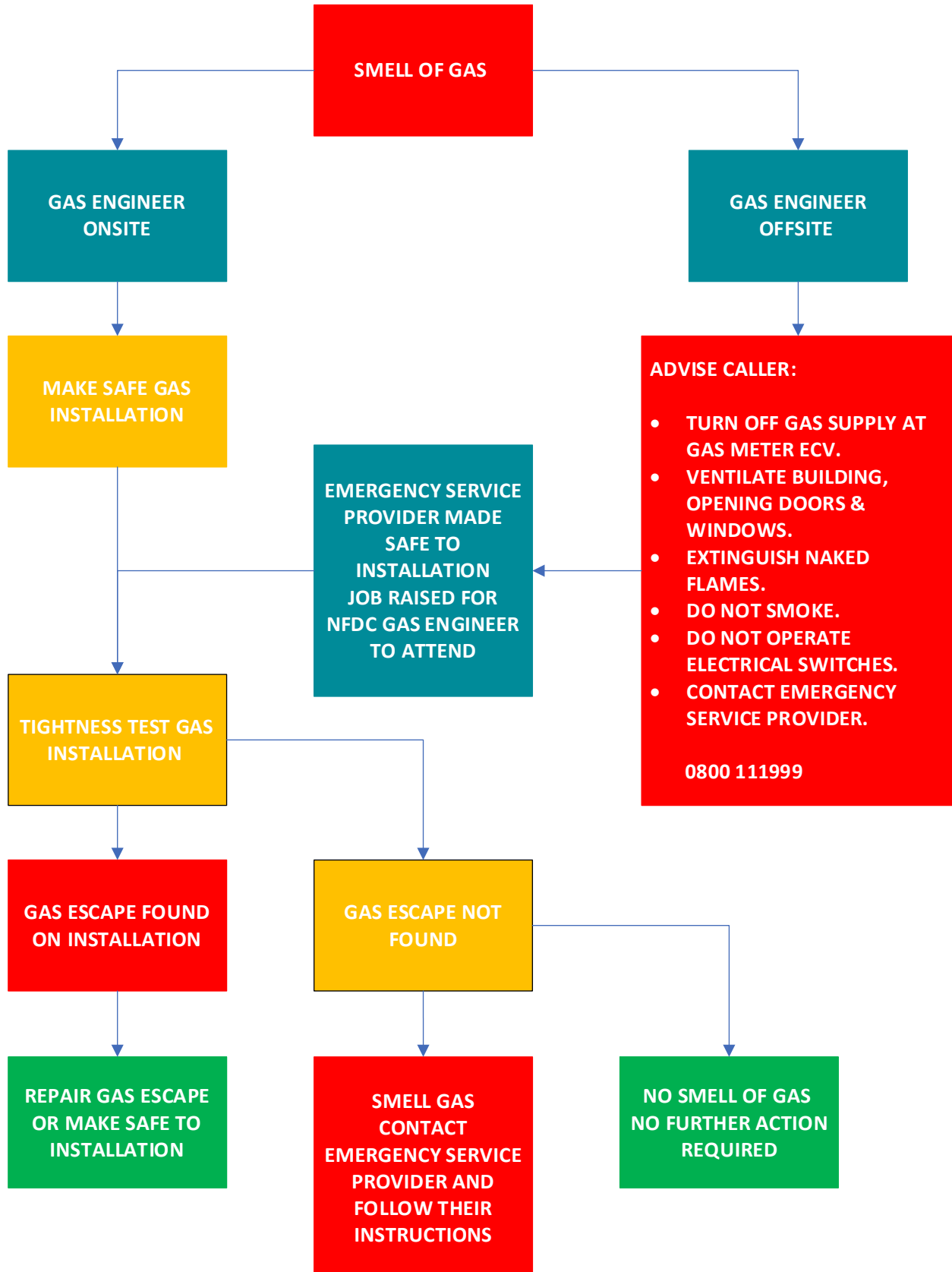
When a call is raised through to the council’s customer services, the following process map for gas emergency procedure will apply to ensure that the council’s duty of care is fulfilled.

<b>1</b>	<p>Call Handler to obtain and record the Caller’s details:</p> <ul style="list-style-type: none"> <li>▪ Name;</li> <li>▪ Address;</li> <li>▪ Postcode;</li> <li>▪ Mobile Telephone Number.</li> </ul>
<b>2</b>	<p>Call Handler must instruct the Caller to:</p> <ul style="list-style-type: none"> <li>▪ Turn off the gas supply immediately at the gas meter via the emergency control valve (ECV) or LPG gas cylinder valve;</li> <li>▪ Ventilate the building(s) by opening doors and windows (if safe to do so);</li> <li>▪ Extinguish all naked flames (if safe to do so);</li> <li>▪ Do not smoke;</li> <li>▪ Do not turn electric switches on or off (including use of telephones or mobiles);</li> <li>▪ Call the gas Emergency Service Provider, obtaining a job reference number for the emergency.</li> <li>▪ Make sure access can be gained into the property.</li> </ul> <p><b>National Gas Service Call Centre</b> <b>0800 111 999</b></p>
<b>3</b>	<p>In addition, if the Caller believes that they have been or are being affected by fumes, smells, spillage, or leakage of products of combustion, the Call Handler <b>must</b> inform the Caller to:</p> <ul style="list-style-type: none"> <li>▪ Get out into fresh air immediately, and;</li> <li>▪ Seek immediate medical attention.</li> </ul> <p>This includes symptoms of nausea, dizziness, chest pains, headaches, and/or palpitations, collapse and loss of consciousness.</p>
<b>4</b>	<p>All reports of gas emergencies <b>must</b> be escalated to the Council’s gas team to action and inform the Council’s Health and Safety Department. Where relevant, the HSE shall be notified by the Council’s Health and Safety Department, who will also undertake incident investigations.</p>
<b>5</b>	<p>NFDC Gas engineer will attend to property following the visit made by the Emergency Service Provider. All works will be documented on a Landlord Gas Safety Record or Engineer Report form to confirm rectification of repairs.</p>

# 17. Appendix 3

## Gas Escape Procedure

The flow chart below shows the procedure when a report of gas smell/leak has been reported to the Council or to an onsite Gas Engineer:



# 17. Appendix 4

## Gas Unsafe Situation Procedure

This procedure has been produced for the Council when dealing with unsafe situations in domestic and non-domestic properties own by the landlord. The purpose of this procedure is for gas engineers when encountering an unsafe situation is to safeguard life and property and take prompt corrective actions to eliminate such dangers.

Under the Gas Safe (Installation and Use) Regulations 34 clearly defines this as:

- (1) The responsible person for any premises shall not use a gas appliance or permit a gas appliance to be used if at any time he knows or has reason to suspect that it cannot be used without constituting a danger to any person.
- (2) For the purposes of paragraph (1) above, the responsible person means the occupier of the premises, the owner of the premises and any person with authority for the time being to take appropriate action in relation to any gas fitting therein.

All gas engineers that undertake gas works are competent in such area and understand where to apply the unsafe situation procedure based on their professional judgement and interpretation of the rule. This includes both in-house and external contractors. This will help support the gas engineer to meet their legal duties and correctly classify unsafe gas installations and appliances.

When an engineer identifies an unsafe situation, the principal objective shall be to make safe and advise the responsible person not to use the appliance/installation. The classification of each unsafe situation and actions:

<b>1. Immediately Dangerous (ID)</b>	Is a dangerous appliance/installation, which if left connected to a gas supply is an immediate danger to life or property. Examples of this are fossil fuel burning appliances burning incorrectly, and gas escapes
<b>Action</b>	<ol style="list-style-type: none"> <li>1. Explain to the user / tenant the reason for the unsafe situation and why it is 'immediately dangerous'.</li> <li>2. The appliance/installation to be disconnected and sealed from the gas supply with an appropriate fitting.</li> <li>3. Attach a "DANGER DO NOT USE" label to the appliance/installation in a prominent position.</li> <li>4. Complete a "warning notice" which shall emphasise the words "DANGER DO NOT USE" obtain a signature from the tenant and leave a copy on site.</li> </ol>
<b>2. At Risk (AR)</b> <i>(removing the risk)</i>	Is a potentially dangerous appliance/installation where one or more faults exist and which, as a result may in the future constitute a danger to life or property. An example of this is inadequate ventilation.
<b>Action</b>	<ol style="list-style-type: none"> <li>1. Explain to the user /tenant the reason for the unsafe situation and why it is 'at risk'.</li> <li>2. The appliance/ installation is turned off at the gas supply.</li> <li>3. Attach a "DANGER DO NOT USE" label to the appliance/installation in a prominent position.</li> <li>4. Complete a "warning notice" which shall emphasise the words "DANGER DO NOT USE" obtain a signature from the tenant and leave a copy on site.</li> </ol>

# 17. Appendix 4

## Gas Unsafe Situation Procedure (Cont'd)

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<b>3. At Risk (AR) (Not able to remove risk)</b>	In a limited number of cases, turning off the installation will not remove the risk. Examples of this are, in a non-emergency situation, where there is restricted access, or there is not a handle fitted to the Emergency Control Valve (ECV) at the gas meter.
<b>Action</b>	<ol style="list-style-type: none"><li>1. Explain to the user /tenant the reason for the unsafe situation and why it is 'at risk' and why turning off will NOT reduce the risk.</li><li>2. Do not attach a "DANGER DO NOT USE" label.</li><li>3. Complete a "warning notice" which shall emphasise who the gas user/responsible person should contact for further investigation.</li></ol>

### Report of Injuries, Disease, and Dangerous Occurrences Regulations 2013 (RIDDOR)

There is a requirement under RIDDOR for certain types of injuries and dangerous fittings to be reported to the HSE. It is the responsibility of the employer to report any such incidents and will allow the HSE to investigate and monitor incidents and give appropriate publicity to them in the interests of public safety.

2 Areas that fall under gas are RIDDOR regulations 11 (1) & (2)

#### RIDDOR 11(1) – Gas Incident

RIDDOR regulation 11(1) applies when someone has died, been unconscious or taken to hospital in connection with gas, as a result of carbon monoxide (CO) poisoning, exposure to un-burnt gas, fire and/or explosion incidents. Incidents where people have taken themselves to hospital or have been taken to another medical facilities are not reportable.

The duty to report under regulation 11(1) rests solely with the conveyor of Natural Gas or filler, importer or supplier (within the council district this would be Southern Gas Network).

#### RIDDOR 11(2) – Dangerous Gas Fittings

RIDDOR regulation 11(2) requires registered gas businesses/engineers to report any gas fittings (including appliances and flues or ventilation used with appliances) which are dangerous to such an extent they have caused or are likely to cause:

- Death
- Loss of consciousness
- Taking to hospital of a person

Due to the design, construction, manner of installation, modification, or incorrect servicing of the gas fitting that could or has resulted in an accidental leakage of gas, incomplete combustion of gas or inadequate removal of products of combustion of gas. This is commonly referred to as poor workmanship or design.

### Immediately Dangerous (ID) situations not reportable under RIDDOR 11(2)

Most RIDDOR situations are likely to be classified as ID. Some ID situations are not reportable under RIDDOR, even when due to poor workmanship or design. These situations can be reported to Gas Safe.

# 17. Appendix 4

## Gas Unsafe Situation Procedure (Cont'd)

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Timeframe for Report RIDDOR to HSE	
<b>RIDDOR 11 (1)</b>	Notify HSE without delay (i.e., within 2 hours of attending the incident) and send online within 14 days of incident
<b>RIDDOR 11 (2)</b>	Send online report to HSE within 14 days of discovery.

In the event of an incident under RIDDOR, the Gas Manager **must** be notified immediately, and the incident reported to the Corporate Health and Safety Team, and an incident form completed for recording of the incident.

The Council's Corporate Health and Safety Team record all near misses, accidents and RIDDOR reportable incidents and are delegated corporate responsibility for notifying the HSE on behalf of the Council.

# 17. Appendix 5

## Gas Appointment Letter 1

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Dear

**IMPORTANT ANNUAL GAS SAFETY INSPECTION**

According to our records your Annual Gas Safety Inspection is now due. We would therefore like to inspect your Gas Appliances & Smoke Detectors on the following date

Date: Appointment slot:

As part New Forest District Council's ongoing commitment to providing the best possible service, we are undertaking quality assurance checks throughout the district to ensure we continue to meet our high standard of work. As such you may be contacted in the month following your safety inspection by Corgi Technical Services who are carrying these out on our behalf, to arrange a visit.

\*\*\*\*\*  
**CARBON MONOXIDE CAN KILL!**  
\*\*\*\*\*

**Working Safely during Coronavirus (COVID-19)**

**As your Landlord, the Council have a duty to carry out annual gas safety inspections, whilst observing social distancing guidance, please allow for this to happen, wherever possible.**

Prior to our visit, please contact a member of the Housing Team if you or a member of your household has tested positive for or is displaying symptoms of COVID-19. If a member of your household has tested positive or is displaying symptoms of COVID-19 and we are unable to complete the safety inspection, your appointment will be rescheduled.

Council maintenance staff are provided with PPE (personal protective equipment) consisting of gloves, anti-bac gel (hand sanitizer), face coverings, and used in conjunction with regular hand washing and surface cleaning. We understand that you may be anxious and expect our staff to offer the necessary reassurance and reaffirm the importance of social distancing and increased hygiene control when working in properties.

All pets must be shut away in another room prior to our staff entering your property.

Please ensure the working area is clear of household items and is accessible to our staff, if you are unable to move furniture or heavy items, please make us aware prior to the visit.

If you are unable to make this appointment, please contact us on **(023) 8028 5040** as soon as possible to arrange an alternative date.

**We continue to actively engage with tenants, but if access is refused on a number of occasions, we will obtain the help of our Legal Section and may seek access via the Courts.**

Yours Sincerely

**Gas Manager**

**Tel: (023) 8028 5040**  
**Email: [Housing.supporthub@nfdc.gov.uk](mailto:Housing.supporthub@nfdc.gov.uk)**

New Forest District Council is committed to protecting and respecting your privacy. For further information go to [www.newforest.gov.uk/privacy](http://www.newforest.gov.uk/privacy)

# 17. Appendix 6

## Gas Appointment Letter 2

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Dear

### **URGENT OUTSTANDING GAS SAFETY INSPECTION**

On «CNA DATE» a Gas Engineer visited your property to complete an Annual Gas Safety Inspection to your gas boiler and appliances. You were not in for this appointment.

**If you are not allowing access due to COVID-19 (Isolating due to symptoms experienced by anyone in the household, due to recent known contact with someone with symptoms or awaiting test results) please let us know as soon as possible.**

To ensure this inspection is carried out without delay we have rearranged for our Engineer to visit your property on the following date (Unless we hear from you).

Date: Appointment Slot:

Council maintenance staff are provided with PPE (personal protective equipment) consisting of gloves, anti-bac gel (hand sanitizer), face coverings, and used in conjunction with regular hand washing and surface cleaning. We understand that you may be anxious and expect our staff to offer the necessary reassurance and reaffirm the importance of social distancing and increased hygiene control when working in properties.

All pets must be locked away in another room prior to our staff entering your property.

Please ensure the working area is clear of household items and is accessible to our staff, if you are unable to move furniture or heavy items, please make us aware prior to the visit.

**It is imperative that this work is completed. Failure to do this will result in a breach of tenancy and we will have no alternative than to pass your case to our legal team for court proceedings.**

To discuss this letter or reschedule this appointment, please telephone the Gas Team on **(023) 8028 5040** within 3 working days of receiving this letter.

Yours Sincerely

**Gas Manager**

**Tel: (023) 8028 5040**

**Email: [Housing.supporthub@nfdc.gov.uk](mailto:Housing.supporthub@nfdc.gov.uk)**

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# 17. Appendix 7

## Housing Estates Management Letter 3

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Dear

### **LEGAL ACTION TO GAIN ENTRY FOR GAS SAFETY INSPECTION**

On «CNA DATE» you were sent a letter by the Council's Gas Team stating that it was your final opportunity to allow them access in order to complete the outstanding Gas Safety Inspection. Again, we were not successful in completing the inspection.

The matter has been referred to me to commence legal action to allow our Gas Team access, which means to apply for an injunction that will require you to allow us entry into your home.

**The Council is required by law to carry out this inspection. The inspection is for your own wellbeing as gas leaks can cause explosions, and carbon monoxide poisoning from faulty appliances that can kill.**

**Failure to allow us access to complete these works may result in us forcing entry to your property, replacing the lock and leaving you to collect keys from your local offices. You will be charged for this work.**

FINAL OPPORTUNITY: I have arranged for an engineer to visit you on *[Insert Date]*. You must make sure that there is clear access to the meter, the boiler and all gas appliances. If you have a pre-paid meter, you must also ensure that you have sufficient credit on your meter. **You must have a minimum of £5 credit.**

If you do not let us carry out the gas safety inspection and service, I will pass the matter to the Council's Legal Team, who will take immediate steps to apply for an injunction. You will receive a County Court claim and injunction application through the post. The Council will hold you responsible for all court costs, including the Court issue fee of £308.

This action has been taken against other tenants who have not allowed us access to their home to carry out an inspection. In the past the Court has ordered tenants to pay the Council costs of £500, which the Council incurred in applying for an injunction. **You can avoid court action, and the costs associated with it, if you allow us entry to your property now.**

I urge you to ensure that we can access the property on *[Insert Date]* to carry out the gas safety inspection and service.

If you wish to discuss this matter, please telephone me immediately on (023) 8028 5222.

Yours Sincerely

**Tenancy Management Officer**

**Tel: (023) 8028 5222**

**Email: [\[TMO name\]@nfdc.gov.uk](mailto:[TMO name]@nfdc.gov.uk)**

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# 17. Appendix 8

## Legal Services Referral Form

**GAS SAFETY ACCESS INJUNCTION**

**Tenant name(s):**

**Property address:**

**Tenure:**

**Tenancy Commencement:**

**Who is living at the address?**

Name:	DOB:	Relationship to tenant:

**Tenants Income details:**

**What gas appliances are in the property?**

**When were the gas appliances last serviced?**

**Have standard letters been sent?**

Letter	Date letter sent	Date of visit
Standard Gas Team letter No. 1		
Standard Gas Team letter No. 2		
Housing Estates Management Team letter No 3		

**Contact by Gas Service Team:**

Aside from standard letters, please detail any contact/attempted contact by the Gas Team (including dates):

(Please use this box to set out whether there has been any contact with the tenant. For example, has access been explicitly refused? Or has the tenant made no contact at all? Please include with your instructions copies of any record/notes made of contact/attempted contact.)

# 17. Appendix 8

## Legal Services Referral Form (Cont'd)

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### Contact by NATMO:

Aside from the standard letter, please detail all contact/attempted contact by the NATMO team in connection with access for a gas safety inspection (including dates):

(Please use this box to set out whether there has been any contact with the tenant. NB – In addition to the standard letter and visit referred to therein, NATMO should have tried to make contact by telephone. Please include with your instructions copies of any record/notes made of contact/attempted contact)

Has the Council encountered problems accessing the property to carry out a gas safety inspection in previous years? **YES/NO**

If yes, please give details:

Previous legal service referral:

Is the tenant vulnerable/do they have capacity issues? **YES/NO**

If yes, please give details:

Any other information which may be relevant:

# 17. Appendix 8

## Legal Services Referral Form (Cont'd)

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### CHECKLIST

Have you enclosed with these instructions:

A copy of the tenancy agreement	<b>YES</b>
Copies of all letters sent by the Gas Team?	<b>YES</b>
Copies of all letters sent by the NATMO Team?	<b>YES</b>
Copies of any notes/records of attempts made to contact tenant/telephone conversations with tenant?	<b>YES</b>
A draft witness statement from the Gas Safety Supervisor?	<b>NO*</b>
A draft witness statement from the NATMO?	<b>NO*</b>

Prior to instructing Legal Services, have you considered whether the tenant may be vulnerable/may lack capacity?  
**YES/NO**

Have you raised a cheque in the sum of £280 in respect of the Court issue fee, payable to HMCTS? **NO\***

**\*To be provided if 'letter before action' sent by legal proves unsuccessful**

# 17. Appendix 9

## Gas capping risk and welfare assessment form

### GAS SUPPLY CAPPING AND WELFARE ASSESSMENT FORM

#### SECTION ONE Property Information

Name of Tenant/s	
Address	
Tenure	
Tenancy commencement	Click or tap to enter a date.

#### SECTION TWO Who is living at the address

Name:	DOB:	Relationship to tenant:
	Click or tap to enter a date.	
	Click or tap to enter a date.	
	Click or tap to enter a date.	
	Click or tap to enter a date.	
	Click or tap to enter a date.	
	Click or tap to enter a date.	
	Click or tap to enter a date.	
	Click or tap to enter a date.	

#### SECTION THREE Background

Date Gas Safety Inspection Due	Click or tap to enter a date.	
1 <sup>st</sup> Appointment attempt	Click or tap to enter a date.	Access gained: Yes <input type="checkbox"/> No <input type="checkbox"/> If yes, no credit <input type="checkbox"/>
2 <sup>nd</sup> Appointment attempt	Click or tap to enter a date.	Access gained: Yes <input type="checkbox"/> No <input type="checkbox"/> If yes, no credit <input type="checkbox"/>
3 <sup>rd</sup> Appointment attempt	Click or tap to enter a date.	Access gained: Yes <input type="checkbox"/> No <input type="checkbox"/> If yes, no credit <input type="checkbox"/>
Injunction letter before Action 4 <sup>th</sup> and final Appointment attempt	Click or tap to enter a date.	Access gained: Yes <input type="checkbox"/> No <input type="checkbox"/> If yes, no credit <input type="checkbox"/>

# 17. Appendix 9

## Gas capping risk and welfare assessment form (Cont'd)

---

### SECTION FOUR Capping details

Date gas capped	Click or tap to enter a date.
Name of engineer who capped	
Reason for capping	Choose an item.
Provide further detail for capping	
List all gas appliances within property	
Or	
Date of receipt of tenant's request to cap supply	Click or tap to enter a date.

### SECTION FIVE Gas utility

Who is the current gas utility provider?	
Is the gas meter prepaid or not?	
Does the tenant have debt?	Yes <input type="checkbox"/> No <input type="checkbox"/>
And if so – how much?	£
Has the tenant made contact with their utility provider and agreed a debt recovery plan?	
Is the tenant aware that they will still receive metering standing charge fees, even if the gas supply is capped?	Yes <input type="checkbox"/> No <input type="checkbox"/>

# 17. Appendix 9

## Gas capping risk and welfare assessment form (cont'd)

### SECTION SIX Welfare Assessment Part 1 (Property Risk factors)

Risk factors	Risk response	Risk Rating
What alternative heating provision does tenant have available?		Choose an item.
Does this form of heating present an increased risk due to its use or condition of the property? I.e., hoarding, fire etc.		Choose an item.
What alternative hot water provision does the tenant have available?		Choose an item.
Does this form of hot water provision present an increased risk due to its type or use?		Choose an item.
What alternative cooking provision does the tenant use, or have available?		Choose an item.
What is the general condition of the property?		Choose an item.
Are there any signs of the following: (tick all that apply)	Damp <input type="checkbox"/> Hoarding <input type="checkbox"/> Mould <input type="checkbox"/> Excess storage of flammable items <input type="checkbox"/> Condensation <input type="checkbox"/> Obstructions in an emergency <input type="checkbox"/>	Choose an item.

# 17. Appendix 9

## Gas capping risk and welfare assessment form (cont'd)

---

### SECTION SEVEN Welfare Assessment Part 2 (Financial Risk Factors)

Risk factors	Risk response
What is the tenant's reason for not wanting gas? Changes in circumstances that has led to decision? If applicable I.e. Environmental choice Rising cost Inability to pay Alternative means in place Other	
Tenant's current rent account position?	
Is the client in receipt of all their entitled benefits?	
Is there any hardship support that may be available? Armed Forces, Local grants etc.	

# 17. Appendix 9

## Gas capping risk and welfare assessment form (cont'd)

### SECTION EIGHT Welfare Assessment Part 3 (Disabilities, Vulnerability and Health Risk Factors)

Risk factors	Risk response	
Disability, vulnerability or health risks: (tick all that apply)	Disability <input type="checkbox"/>	NHS community nursing at home <input type="checkbox"/>
	Elderly <input type="checkbox"/>	medical condition <input type="checkbox"/>
	Children under 5 <input type="checkbox"/>	Social Services home care package <input type="checkbox"/>
	Mental health diagnosis <input type="checkbox"/>	Ill health diagnosis <input type="checkbox"/>
		Medical condition <input type="checkbox"/>
<i>Choose an item.</i>		
<i>Detail information – particularly any ongoing concerns of the tenant living in cold conditions</i>		
<i>Any safeguarding concerns?</i>		
<i>Does the tenant require additional support to be actioned by the Housing Service?</i>		

### SECTION NINE Assessment Signatories

Title	Name	Date
Visiting Officer		Click or tap to enter a date.
Housing Estates Manager		Click or tap to enter a date.
Gas Manager		Click or tap to enter a date.
Service Manager		Click or tap to enter a date.

New Forest District Council  
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## HOUSING AND HOMELESSNESS OVERVIEW AND SCRUTINY PANEL – 15 MARCH 2023

### HOUSING COMPLIANCE – ANNUAL REPORT

#### 1. RECOMMENDATION

- 1.1 It is recommended that the Housing and Homelessness Overview and Scrutiny Panel: -
- 1.2 Note the proposed annual Housing Compliance Report in respect of the Housing Services' performance against key statutory compliance measures.

#### 2. INTRODUCTION

- 2.1 This report provides Members with a comprehensive annual report on compliance performance across a range of statutory safety requirements in respect of the Council's housing stock. The Council's Executive Management Team also considers the report.

#### 3. BACKGROUND

- 3.1 Compliance with statutory safety standards is a high priority across the Housing Service. In recent years there has been enhanced reporting of compliance performance with an annual report taken to the Housing and Homelessness Overview and Scrutiny Panel, and twice annual reports to the Council's Executive Management Team.
- 3.2 The new social housing regulatory regime, implemented through the Social Housing Residents' Charter, the recent introduction of Tenant Satisfaction Measures and the new Social Housing Regulation Bill from April 2023, places greater emphasis on tenant safety, and brings about a range of new significant measures to improve the services provided to tenants by registered providers. All registered providers will have to report annually to the Regulator of Social Housing on a wide range of matters, including performance with statutory compliance measures.
- 3.3 One key aspect of the new Social Housing regime is the proposed requirement for registered providers to appoint a named officer to be the health and safety lead. This is a statutory role and the person appointed will be responsible for ensuring the landlord is complying with health and safety regulations and assessing whether it is at risk of non-compliance and report to the Regulator of any risks and failures in compliance. The role will also involve advising the Regulator on how these risks and failures can be addressed, whilst self-referring any breaches of health and safety responsibilities.
- 3.4 The Council's Executive Management Team will consider the appointment of a named officer to perform this proposed function, upon the further detail of requirements being published in the new legislation later in the year.
- 3.5 This report gives a comprehensive overview of all statutory compliance measures across Housing Services.

3.6 The Housing Compliance Team, operate under a suite of policies covering the core statutory compliance areas as follows:

- Control of Asbestos
- Electrical Safety
- Fire Safety
- Gas Safety
- Legionella
- Lifts and Lifting Equipment
- Playgrounds and Play Equipment

#### **4. QUALITY ASSURANCE AND PROFESSIONAL MEMBERSHIPS**

##### **4.1 GAS SAFE**

4.1.1 The Gas Safe Register is the official list of gas engineers in the United Kingdom, who can work legally on gas appliances and installations and deals with all aspects of the downstream gas industry regulations and operates under an agreement with the Health and Safety Executive (HSE).

4.1.2 The Council is a registered Gas Safe Business, employing 14 registered engineers (including Gas Manager and Gas Supervisor). These Engineers receive training every 5 years to maintain their core competencies, and the Council has to re-register with Gas Safe each year, including the register of Gas Engineers operating under the Council's registered business.

4.1.3 Membership provides the Council with access to technical support, exclusive use of the Gas Safe brand, access to individual Gas Safe Register ID cards and Engineers who can self-certify and notify work required under Building Regulations.

4.1.4 In addition, the Council has commissioned a third-party Corgi Accredited Assessor to carry out a rolling quality assessment regime on a minimum of 5% of the work carried out by the Council's gas engineers each year. The assessment regime allows the Council to monitor performance against regulatory standards, national benchmarking for continuous improvement and gives assurance that identified issues are dealt with promptly and appropriately.

##### **4.2 NATIONAL INSPECTION COUNCIL FOR ELECTRICAL INSTALLATION CONTRACTING**

4.2.1 The National Inspection Council for Electrical Installation Contracting (NICEIC) is the largest voluntary register of electrical businesses and assesses over 36,000 registered businesses to ensure that installation work they undertake meets the standards expected.

4.2.2 The Council is a registered business under the NICEIC Approved Contractor Scheme employing 12 registered engineers (including the Electrical Manager and Electrical Supervisor who take the role of registered Qualified Supervisor). These engineers receive training at each edition update of The IET Wiring Regulations to maintain competency.

4.2.3 Membership provides the Council with access to technical support, exclusive use of the NICEIC brand, and Engineers who can self-certify and notify work required under Building Regulations.

4.2.4 Both of these registration schemes require periodic inspection regimes, typically at 3 yearly intervals, to assess that employer businesses have robust safety management processes and/or procedures in place and that these are producing safe work, coupled with selective field work inspections to ensure competency of Engineers. The last audit of the Council's gas and electrical business activities took place in July 2021 and August 2021 respectively, with satisfactory ratings.

#### **4.3 ASSOCIATION OF SAFETY AND COMPLIANCE PROFESSIONALS**

4.3.1 The Association of Safety and Compliance Professionals (ASCP) is the leading professional membership organisation for asset safety management and compliance within social housing and facilities management.

4.3.2 The Council joined the scheme in 2019 with member benefits including, twice yearly technical meetings with peer groups and subject matter experts, discounted qualifications/courses, regular industry updates and news, access to online resources – technical bulletins, regulatory updates and presentations. It also provides networking opportunities for benchmarking, learning, and to consider new initiatives or practices within the market to further improve compliance regimes.

#### **4.4 SOUTHERN INTERNAL AUDIT PARTNERSHIP**

4.4.1 Regular reviews form part of the Council's annual internal audit plan with Southern Internal Audit Partnership. A review has recently been undertaken on the Council's statutory safety management arrangements for playgrounds and play equipment and EMT will consider the report, alongside recommendations and management responses when it is published in mid-March. A separate audit review is underway for Legionella checks and a further review of electrical safety is due to be completed by the end of June 2023.

### **5. KEY COMPLIANCE MEASURES**

#### **5.1 ASBESTOS**

5.1.1 Following a review of the Council's approach to asbestos in 2020/21, several recommendations were implemented, including the adoption of a new Asbestos Policy in October 2021.

5.1.2 The Asbestos Policy ensures that there is clarity in terms of structure and responsibility for asbestos across the Council, with an established Asbestos Working Group overseeing the Council's approach to ensure good practice.

5.1.3 The Housing Service take a lead role in ensuring a consistent approach across the whole Council, with individual Service Managers being required to comply with the same policy for the property assets falling within their respective areas of responsibility. The Council agreed new financial resources as part of its 2022/23 budget to ensure that sufficient staffing levels are in place to support the strengthened arrangements, including a new Corporate Asbestos Manager sitting within the Housing Service.

5.1.4 The Council established a multi-supplier 4-year framework in April 2021 for the provision of providing specialist asbestos related works and services, including surveying, analytical work, training and asbestos removal.

5.1.5 To support the delivery of the Asbestos Policy, a Standard Operating Procedure has been implemented for the control of asbestos which sets out the day-to-day

management systems and associated safe systems of work to prevent, so far as is reasonably practicable, exposure to asbestos fibres from asbestos containing materials (ACMs). This was presented to the Asbestos Working Group on 24 January 2023 following consultation through the Housing Health and Safety Panel and will be launched through a number of staff training sessions during March and April.

- 5.1.6 There is an ongoing training programme to ensure that staff who are likely, in the course of their duties, to come into contact with asbestos or who may have responsibility for managing it, are appropriately trained.
- 5.1.7 A programme of asbestos surveys of all communal areas of housing blocks commenced in December 2020 and is 100% complete, with the remaining surveys complete by March 2022. In addition, 470 individual flats have been surveyed to support the ongoing Housing fire safety work.
- 5.1.8 In addition, asbestos surveys are carried out on all void social housing properties (approx. 350 each year) prior to any maintenance work commencing, which enables the Council to provide asbestos information guides to the incoming tenants.
- 5.1.9 A programme of surveys on all corporate buildings, including offices, depots, public conveniences etc., where maintenance and repairing responsibilities rests with the Council commenced in July 2022 and the programme was concluded in November 2022. The same approach will shortly be followed for corporate leased buildings, where responsibility rests with the council.
- 5.1.10 The roll out of a mobile app containing a simple version of our asset management system will allow our staff to have immediate access to asbestos information from any location, and will go live as part of the Standard Operating Procedure roll out. This will be a major benefit allowing immediate access to asbestos information for operatives 'out in the field' to help prevent any exposure incidents.

## 5.2 **ELECTRICAL SAFETY**

- 5.2.1 It is considered best practice that the Council carry out periodic electrical installation safety inspections on all housing stock, including communal landlord supplies every 5 years, and at a change of tenancy, as recommended by BS 7671 IET Wiring Regulations. This ensures that national standards for electrical safety are met by the Council. These inspections are carried out by the Council's Housing Maintenance Service using the in-house team of qualified electricians.

### DOMESTIC

- 5.2.2 From a total of 5,303 5-year cyclical inspections there are currently 67 inspections overdue, of which 38 have appointments booked, a further 28 have been escalated to the Housing Estates team to support engagement with tenants to gain access and 1 case has been escalated to Legal Services to seek an injunction to gain access. Compliance currently sits at **98.74%**.

### LANDLORD COMMUNAL

- 5.2.3 The Council has 165 housing blocks with communal power and/or lighting. Of these landlord electric installations 13 inspections are now overdue having been last inspected in early 2018. External contractors have been commissioned to carry out these inspections as soon as reasonably practicable, with a number already underway. Therefore, compliance currently sits at **92.13%**.

## 5.3 FIRE SAFETY

### BACKGROUND

- 5.3.1 Housing Services adopted a new Fire Safety Policy in 2019 which set out a process for obtaining fire risk assessments and the intervals when these are due. The Fire Safety Policy requires:
- an annual fire risk assessment (FRA) to be carried out in respect of the Council's Extra Care blocks of accommodation, as well as its hostels; these being higher risk properties and,
  - 3 or 5 yearly fire risk assessments in respect of other general needs blocks of accommodation depending on their characteristics and occupancy restrictions.

5.3.2 At the time of adopting the Fire Safety Policy in 2019, the Council carried out fresh fire risk assessments for all its 204 blocks of accommodation to have a baseline of information with which to program necessary fire safety works. These fire risk assessments were carried out by an external contractor during 2019 and 2020.

5.3.3 These assessments raised a total of 1,088 actions requiring work. These ranged from the need to carry out fire door inspections/surveys to consider whether new doors are required, compartmentation surveys, other remedial works and new alarms.

5.3.4 A Fire Safety Operational Group was set up to progress and coordinate all the necessary actions, through three workstreams. These workstreams have been prioritised depending on the nature and characteristics of the properties and are set out below: -

**Workstream A** - covers the actions in the 3 Extra Care Blocks of accommodation, the 3 historical hostels and 16 number of age restricted blocks of accommodation which have communal lounges and laundry rooms.

**Workstream B** – Covers 90 blocks considered to be lower risk, as they have limited communal accommodation, largely consisting of communal stairways, and low numbers of vulnerable residents.

**Workstream C** - Covers the remaining 80 lowest risk blocks of accommodation, most of which have their flat entrance doors open to the air, rather than a communal corridor.

The balance of 12 blocks includes new build developments or recent conversions where no fire risk actions have been raised.

5.3.5 The Council is using a combination of in-house resources and external contractors to deal with the necessary actions and previously set aside £5.5 million within the Housing Public Sector Capital Expenditure Programme over 3 years for FRA work, made up of £3 million in 2022/23, £2 million in 2023/24 and £500,000 in 2024/25.

5.3.6 The Council has retained the services of project management consultants and a fire safety specialist who is assisting the Council and is working closely with the Fire Service through the Joint Fire Steering Group Liaison Meetings.

5.3.7 During 2022/23 significant progress has been made in dealing with these 1,088 actions. At this present time:

- 377 actions have now been completed and closed,

- 544 are in progress with an estimated completion for the majority by Autumn 2023 and,
- 167 lower risk actions are currently outstanding, which will be scheduled in the course of ongoing maintenance activities over the next 12 months. Low risk actions are those where there is little in the way of heat/flame or fire ignition sources and should a fire occur, tenants will be able to react in plenty of time. Examples may include electrical sockets or an uncovered notice board within a communal escape route.

5.3.8 As FRAs are undertaken on a rolling basis continually throughout the year there are always likely to be outstanding actions reported. Each FRA is reviewed within 14 days of completion and high-risk actions scheduled as a priority.

### INTERIM PROGRESS

5.3.9 Following the completion of FRAs the Council commissioned detailed fire compartmentation surveys, and fire door inspections of the Council's 3 Extra Care Blocks and a further 12 age restricted blocks, to include preparing floor plans and fire strategy reports. These reports are aiding Officers in scoping the necessary safety works in consultation with enforcement authorities.

5.3.10 A programme of work commenced in the Spring of 2022 on the 3 Extra Care blocks to deal with compartmentation issues, install a new fire alarm system including a Telecare system (to ensure communication between tenants and the onsite care provider), install circa 215 fire doors and other remedial works. Forming part of this work, the Council is piloting a newer innovation, in the form of a fire suppression system, i.e. a sprinkler system in one of the Extra Care buildings. This decision was taken due to the shallow roof pitch of the building, which made it difficult to insert traditional compartmentation materials. The first Extra Care block which includes the pilot fire suppression system is due to complete mid-March, the second mid-April and the third mid-May 2023.

5.3.11 There was a need to temporarily decant 2 buildings (Compton House and Sarum House in Totton) to enable necessary safety work to be undertaken. A two-phase programme of work commenced in the Spring of 2022, and officers made arrangements with each and every tenant of these two buildings to ensure they were adequately housed elsewhere to facilitate the completion of the initial phase over a period of 6 weeks. Tenants returned to Compton House in late May and Sarum House in early August 2022. The second phase of work at Compton House commenced early October 2022 and is nearing completion and Sarum House is currently underway and expected to be completed around late August 2023. In addition to the necessary safety work including 120 replacement fire doors, the scope was extended to include the replacement external doors, windows and roof coverings and internal communal decoration, floor coverings and lighting improvements.

5.3.12 There is also a need to temporarily decant a further building (Robertshaw House in Lyndhurst) to enable necessary safety work to be undertaken. The work necessary within this block replicates that of Compton and Sarum House, including circa 60 replacement fire doors. It is envisaged that the tenants will be absent for a period of 6 weeks commencing early April 2023 and every effort will be made to expediate the work to enable their return. Officers are currently making arrangements with each and every tenant of this building to ensure they are appropriately rehoused during this period.

- 5.3.13 Retrofitted glazed screening enclosing what were originally open balcony walkways on 2 further housing blocks has been removed, and further remediation work is currently in the planning phase and subject to building control approval.
- 5.3.14 Work to retrofit 32 double glazed panels with smoke vents within the stairwells at 7 North Milton Housing blocks is also planned. A building control application has been approved and manufacturing is now underway and will be installed as soon as reasonably practicable. Smoke vents within stairwells are used as a method to effectively expel smoke, heat and fumes in the event of fire breaching a compartment to the means of escape.
- 5.3.15 All blocks of accommodation (across all 3 workstreams in 5.3.4) requiring door inspections and/or fire stopping surveys, have been arranged according to priority as follows:- those blocks where records show that the doors may be non-compliant being treated as a top priority; those that have notional fire doors (i.e. doors that met the standard when the block was originally built) but require inspection to ensure the doors still operate as a fire door; and then other doors, which records show were compliant at the time of installation, but require inspection to ensure they have not been damaged since then. In addition to those fire doors set out in Sections 5.3.10, 11 and 12 above, a further 315 fire doors have been inspected. Of these, 295 have been identified as requiring planned replacement of which 127 have been replaced so far.
- 5.3.16 The Council has appointed a dedicated Housing Fire Safety Manager, supported by a team of 3 Building Safety Officers, who has specific day to day responsibility for ensuring that the highest standards of fire safety measures are in place and embedded across the Council's housing stock.

## POLICIES

- 5.3.17 Housing Officers have undertaken a periodic review of the Fire Safety Policy for Housing (Landlord Services). The existing Fire Safety Policy has been updated to incorporate changes in national guidance, expert advice and picks up relevant staffing changes within the Council's Housing Service. The new Policy was presented to the Housing and Homelessness Overview and Scrutiny Panel on 15 June 2022 and adopted by way of Housing Portfolio Holder Decision on 28 August 2022. [Decision - Fire Safety Policy for Housing \(Landlord Services\) Council Services \(newforest.gov.uk\)](#)
- 5.3.18 At its meeting held on 18 January 2023, the Housing and Homelessness Overview and Scrutiny Panel considered a new Mobility Scooter Policy for Housing (Landlord Services). The policy proposes to introduce a registration scheme whereby residents living in Council owned accommodation would apply to the Council to store a scooter safely. The application would then be considered considering the safe storage of the scooter, in particular ensuring that the scooter did not pose any fire safety risks. The proposed policy was supported and will be adopted by way of Housing Portfolio Holder Decision and further strengthens to reduce risk posed by fire. [Agenda for Housing and Homelessness Overview and Scrutiny Panel on Wednesday, 18th January, 2023, 6.00 pm Council Services \(newforest.gov.uk\)](#) (see Item 7).

## FIRE RISK ASSESSMENT

- 5.3.19 In December 2022, the Council appointed an external specialist to undertake cyclical FRAs to the Council's housing blocks and corporate buildings for the next 3 years.

## THE FIRE SAFETY (ENGLAND) REGULATIONS 2022

5.3.20 The Fire Safety (England) Regulations 2022 have been introduced. The Regulations were introduced under Article 24 of the Regulatory Reform (Fire Safety) Order 2005 and came into force on 23 January 2023 and apply to high-rise buildings, residential buildings with storeys over 11 metres in height and all multi-occupied residential buildings with two or more sets of domestic premises. Although the Council does not have any high-rise or buildings with storeys over 11 metres within its housing stock, the regulations do apply to all multi-occupied residential blocks of flats and requires the Council as Landlord and 'Responsible Person' to:

- Provide tenants with information relating to the importance of fire doors in fire safety, and
- Provide relevant fire safety instructions to tenants, which includes instructions on how to report a fire and any other instruction which sets out what tenants must do once a fire has occurred, based on the evacuation strategy for the building.

5.3.21 The Council included fire door information in the Winter Hometalk edition (sent to all tenants) and wrote to all affected tenants individually on 20 January 2023, enclosing an information leaflet. Information is also included within the sign-up process for new tenancies.

## TRAINING

5.3.22 The Housing Service has developed a training regime for applicable housing staff, which includes a bespoke fire safety training booklet covering all aspects of fire safety. 9 fire safety training sessions were delivered to 121 staff during July and August 2022, across 5 tailored tiers for specific staff groups with all attendees receiving a copy of the booklet.

5.3.23 A further training session took place on 7 March 2023 for specific staff to cover BS 5839: fire detection and alarm systems for buildings.

## 5.4 **GAS SAFETY**

5.4.1 The Council is required to carry out an annual gas safety inspection of all 4,564 housing properties which contain a gas burning appliance. This work is carried out by the Council's Housing Maintenance and Compliance Service using the in-house team of qualified gas engineers.

5.4.2 As at 23/02/23 there were 36 inspections overdue, of which 2 are currently empty properties. 34 were escalated to the Housing Estates team to support engagement with tenants to gain access. As a result of this action 10 appointments are now booked, engagement continues to seek appointments with 19 tenants, whilst 5 others have been escalated to legal services to seek an injunction to gain access. Compliance currently sits at **99.99%**.

5.4.3 In addition to domestic gas appliances the Council has 404 dwellings served by 21 communal boiler plant rooms supplying heating and hot water. These systems are maintained by the Council's appointed commercial gas contractor on a rolling inspection regime and includes safety inspection, maintenance and repair. All 21 services are compliant. The annual capital replacement programme includes resource provision for future replacement.

5.4.4 Housing Officers have undertaken a periodic review of the Gas Safety Policy for Housing (Landlord Services). The existing Gas Safety Policy was adopted in 2019 and has been updated to consider changes in national guidance and gas safety management arrangements following changes in job roles and resources within the Housing Service. The new Policy is currently going through consultation, scrutiny, and formal approval process.

#### 5.5. **LEGIONELLA SAFETY**

5.5.1 Statutory legislation requires weekly flushing of outlets in communal bathrooms and kitchens etc., plus temperature checks at nearest, intermediate and furthest points from feed tanks or calorifiers in 31 housing blocks where communal water tanks or heating cylinders are present. These checks are carried out monthly to ensure compliance.

5.5.2 Additionally, the Council carries out annual risk assessments, including sampling and cleaning of tanks in all 31 housing blocks, and all actions arising from these risk assessments are dealt with as they arise continually throughout the year. There are always likely to be outstanding recommended actions reported due to commissioned work in progress. Compliance currently sits at **96.78%**.

#### 5.6 **LIFTS AND LIFTING EQUIPMENT**

5.6.1 In domestic properties there are currently 155 stairlifts, 22 track hoists, 3 bath lifts, 1 step lift and 7 through floor lifts. In communal areas there are 11 passenger lifts and 10 stairlifts.

5.6.2 In line with statutory requirements, the Council's Lifts and Lifting Equipment Policy sets out the frequency schedule for lift maintenance and safety inspections. Communal passenger lifts are serviced monthly and undergo a detailed inspection every 6 months. Track hoists, through floor, bath and communal stairlifts are serviced and inspected every 6 months, and domestic stairlifts are serviced and inspected annually. Compliance currently sits at **97.61%**.

#### 5.7 **PLAYGROUNDS AND PLAY EQUIPMENT**

5.7.1 The Council has 7 playgrounds which are the responsibility of Housing Services. These are subject to weekly routine visual inspections undertaken by the Council's Stock Condition Surveyors, plus quarterly operational inspections and annual detailed inspections carried out by specialist RoSPA trained contractors.

### 6. **OTHER COMPLIANCE MEASURES**

6.1 The Council has several safety systems designed to detect, give early warning and protection in the event of a fire, or give early warning to the presence of carbon monoxide. These consist of:

- Fire Alarms - 34 Blocks
- Automist and fire suppression systems - 2 Blocks
- Automatic opening vents - 8 Blocks
- Firefighting equipment - 22 Blocks
- Smoke detectors – in every property (inspected annually)
- Carbon monoxide detectors – in every room containing a fuel burning appliance, excluding cookers (inspected annually).

- 6.2 These systems are subject to a statutory 6 monthly or annual inspection regime and are fully compliant.
- 6.3 The Council also has 102 Blocks with emergency lighting which illuminate in the event of a loss of power. These are tested on a monthly rolling basis by an external contractor and are also subject to a full battery drain down on an annual basis. All checks are compliant.
- 6.4 In addition to the more conventional gas or electric fuelled heating systems the Council has several alternative fuel source heating systems consisting of:
- 62 air source heat pumps,
  - 24 solid fuel boilers,
  - 37 oil fired boilers,
  - 18 heat recovery systems.

All these are subject to annual inspection and servicing by appointed specialist contractors. Compliance currently sits at **97.50%**.

- 6.5 The housing stock has 51 automatic opening doors. These range from individual entrance doors to properties for those tenants with disabilities, communal entrance doors to blocks and automatic doors to buggy stores. These are tested and inspected 6 monthly. Compliance currently sits at **98.04%**.
- 6.6 The Council has 35 Closomat wash and dry toilets within domestic dwellings for those tenants with disabilities. These are serviced annually. Compliance currently sits at **91.43%**.

## **7. CRIME AND DISORDER IMPLICATIONS**

- 7.1 It is important for Housing Providers to ensure that statutory safety work is carried out to a high standard. Poorly performing landlords can be fined or prosecuted for failing to take the necessary measures to protect tenants.

## **8. EQUALITY AND DIVERSITY IMPLICATIONS**

- 8.1 The Council is required to consider what adjustments it can reasonably make when carrying out work within a tenant's home to deal with disabilities or other issues arising. Such adjustments are considered on a case-by-case basis following consultation and assessment with the Council's Housing Occupational Therapist. As an example, fitting an automatic door opening device when fitting a new fire door.
- 8.2 Implications arising from the capping of gas supplies to ensure safety and compliance are addressed separately in the Gas Safety Policy and Report, but which provide a welfare assessment and practical support to tenants affected by such action.

## **9. ENVIRONMENTAL IMPLICATIONS**

- 9.1 When carrying out works across its stock, the Council looks to use sustainable materials wherever possible.

## 10. FINANCIAL IMPLICATIONS

- 10.1 The Housing Revenue Account Budget and Housing Public Sector Capital Expenditure Programme 2023/24 was considered by Cabinet at its meeting held on 15 February and is due to be presented to Council at its meeting on 27 February to seek approval.
- 10.2 The cyclical maintenance budget includes resources for the mainstream statutory safety requirements, such as gas, electrical, legionella, and lift inspections etc. Funding of £1.640 million is proposed for 2023/24 to deal with these matters.
- 10.3 The 2023/24 budget also identifies a further £2 million to deal with the necessary ongoing fire safety measures, including compartmentation and new fire doors following fire risk assessments.
- 10.4 The 2023/24 budget also includes additional resources amounting to £459,000 required to meet the requirements placed upon the Council due to the new social housing regulatory regime which delivers high standards of building safety and quality to tenants, plus greater focus on compliance with specific health and safety matters.

## 11. CONCLUSION

- 11.1 Compliance with statutory safety requirements is a key priority for Housing Services. In recent years, extra resources have been made available to strengthen the Council's approach to statutory compliance work. This work is firmly embedded within the day-to-day work and culture of the Council's Housing Services.

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### Background Papers:

[Housing Services Resources 2324 - Arising From The New Social Housing Regulation Changes.pdf \(newforest.gov.uk\)](#)  
- Cabinet 15 February 2023.

[Housing Revenue Account Budget and the Housing Sector Capital Expenditure Programme for 2023/24](#) - Cabinet 15 February 2023.

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## HOUSING AND HOMELESSNESS OVERVIEW AND SCRUTINY PANEL – 15 MARCH 2023

### PORTFOLIO: HOUSING AND HOMELESSNESS SERVICES

## PRIVATE SECTOR HOUSING ENFORCEMENT POLICY

### 1. RECOMMENDATIONS

- 1.1 That the Housing and Homelessness Overview and Scrutiny Panel: -
- 1.2 Considers the proposed Private Sector Housing Enforcement Policy which brings the policy in line with the latest regulations and guidance.
- 1.3 Make recommendations to the Portfolio Holder for Housing and Homelessness Services.

### 2. INTRODUCTION

- 2.1 This report introduces the draft Private Sector Housing Enforcement policy, which sets out the Council's approach to supporting high standards of safe private rented sector accommodation, enforcing licensing where applicable and outlines the available legislation powers at the Council's disposal to remedy property related issues reported by residents of the district
- 2.2 The Policy affirms available civil penalties and introduces charging for enforcement notices which is standard across the sector.

### 3. BACKGROUND

- 3.1 Through the delivery of the Council's Private Sector Housing Strategy the Council is committed to supporting our residents right to live in a safe and healthy home, through supporting and co-operating with landlords and using enforcement powers where required.
- 3.2 The Housing Act 2004 and associated secondary legislation sets out the duties and powers the Council has in relation to regulating housing standards in its capacity as the Local Housing Authority.
- 3.3 The enforcement policy is principally aimed at tackling poor unsuitable housing conditions and Landlords who do not comply with informal action.

### 4. THE PRIVATE SECTOR HOUSING ENFORCEMENT POLICY KEY COMPONENTS

- 4.1 The policy is designed to ensure that all residents within the district are living in a safe and healthy home.
- 4.2 The policy reflects legislative and regulatory duties placed on the Council to keep housing conditions within the district under review and take appropriate action where identified, to ensure suitable standards are maintained. The Policy also supports the priorities listed in the Private Sector Housing Strategy.
- 4.3 The policy introduces a reasonable charge for enforcement notices and orders as prescribed by section 49 of the Housing Act 2004. The charges are based on the current hourly rate of officers plus any associated costs. Details of the calculation can be found in Appendix C of the policy. It would be typical for a charge to be levied at

between £250 and £350. The aim of introducing this charge is to add an additional deterrent to landlords who do not co-operate with the Council.

- 4.4 The policy also introduces civil penalties which can be used as an alternative to prosecution for certain prescribed offences under the Housing Act 2004. These fines can be found in Appendix A of the policy.
- 4.5 The policy also introduces financial penalties applicable to specific legislation e.g. The Smoke and Carbon Monoxide Alarm (England) Regulations 2015. The details of these charges can be found in Appendix A.
- 4.6 Any income received from civil/ financial penalties can be retained by the local housing authority provided that it is used to further the local housing authority's statutory functions in relation to their enforcement activities covering the private rented sector.

## **5. CONCLUSIONS**

- 5.1 This Private Sector Housing Enforcement policy supports the Private Sector Housing Strategy in achieving high standards within the private rented sector.
- 5.2 It is proposed that the Private Sector Housing Enforcement Policy be adopted (by way of a Portfolio Holder decision), following consultation.

## **6. FINANCIAL IMPLICATIONS**

- 6.1 There may be a financial impact to the Council if the most appropriate course of action is to carry out works in default, emergency remedial action or a demolition order. These are last resort approaches taken only after all other avenues of resolution are exhausted. The costs incurred are recoverable and are registered with the Local Land Charges Registry as a financial charge on any property where such works are carried out. Upon any future sale the Council would recover its costs.
- 6.2 Since 2018, the team were required to serve only two improvement notices which were both complied with, and incurred no cost to the Council. It is not envisaged that this policy will result in an increase of costs to the Council but the policy will provide adequate protection for the Council in case such action is required.

## **7. CRIME & DISORDER IMPLICATIONS**

- 7.1 There are no crime & disorder implications arising from this policy

## **8. ENVIRONMENTAL IMPLICATIONS**

- 8.1 There are no environmental implications arising from this policy

## **9. EQUALITY & DIVERSITY IMPLICATIONS**

- 9.1 The Council recognises that promoting equality and equal access to quality and safe accommodation is a key component to the Private Sector Housing Strategy and the Enforcement Policy. There is a likelihood that tenants reporting issues to the Council will experience health and welfare issues because of poor housing conditions and ineffective management of properties.
- 9.2 Through implementation of the policy the Council will support tenants resolve safety deficiencies within their properties and advocate on their behalf with relevant support agencies and landlords.

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**Background Papers:**

None.

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# DRAFT Private Sector Housing Enforcement Policy



<b>Name of policy</b>	Private Sector Housing Enforcement Policy
<b>Purpose of policy</b>	<p>This Policy details how New Forest District Council (the Council) will regulate standards in Private Sector Housing and tackle empty homes in the New Forest. It also provides a background to the legislation and guidance on which it is based.</p> <p>It is important for local authorities to have an enforcement policy to ensure consistency of approach among Council Officers and for members of the public to know what to expect from the service. An enforcement policy also provides clarity if the Council takes legal proceedings or enforcement action is appealed against.</p> <p>Our aim is to raise standards in Private Sector Housing throughout the district, working with owners, landlords, letting agents and tenants to achieve this. However, it is recognised that if the law is broken, then enforcement action may be necessary to protect the public and the environment.</p> <p>In applying this policy, we must remain impartial to both landlord and tenant to be fair to both sides and give help and advice to achieve our aim, but we must also be firm in taking enforcement action if appropriate.</p>
<b>Policy applies to</b>	This policy applies to all persons responsible for property within the private rented sector to include tenants, landlords, owners, leaseholders, freeholders, managing agents, letting agents, estate agents, property licence holders and any other person with a legal or financial interest in rented premises.
<b>Lead officer</b>	Private Sector Housing Manager
<b>First Issued</b>	March 2023
<b>Latest update</b>	V1.0 New Policy
<b>Review period</b>	At least every three years from date of issue. Otherwise, as required by legislative, contractual, or organisational changes.
<b>Update overview</b>	V1.0 New Policy

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# 1. Introduction

This policy sets out New Forest District Council's approach to enforcing standards in the private sector housing sector. This will be informed by the principles of proportionality in applying the law and securing compliance; consistency of approach; targeting of enforcement action towards those activities that pose the most serious risk or create the most danger to residents; transparency about how we operate and what those regulated may expect; and accountability for our actions. These principles will apply both to enforcement in particular cases and to our management of enforcement activities.

The Council will provide awareness, advice and assistance whenever possible to the public, businesses and organisations to help them meet their legal obligations in relation to the relevant legislation before embarking on the enforcement process

Effective enforcement is important as a means of maintaining public confidence in the quality and safety of private sector housing within the district and supporting our residents right to live in a safe and healthy environment.

Enforcement powers are part of the statutory obligation placed on the Council to keep housing conditions within the district under review and take appropriate action where identified to ensure suitable standards are maintained.

Legislation, national guidance and local policies provide framework on which Private Sector Housing enforcement is undertaken.

## Objectives

Private Sector Housing enforcement is principally aimed at tackling poor and unsuitable housing conditions.

The nature and intensity of any investigation will differ on each case dependant on the type of dwelling and issue(s) reported/ identified.

In normal circumstances enforcement action will be carried out with the objectives to ensure that:

- Tenants of private rented accommodation live in homes free of hazards that affect their health and safety
- Houses in Multiple Occupation (HMOs) that are required to be licensed are licensed, and licence conditions are met
- Empty Homes are tackled to bring them back into use and to ensure that the amenity of the area is not affect, the property is safe and secure and not causing a statutory nuisance.
- Private rented accommodation meets the minimum energy efficiency standards.
- Private rented sector tenants or residential occupiers are not subject to unlawful eviction or harassment under the Protection from Eviction Act 1977.
- Letting Agents meet the legal requirements that apply to their business.

## 2. What to expect from us

### Landlords

- We will advise you of the legislation and help you understand how you can comply with it
- We will advise you of any action you need to take to comply with the legislation and will ask you to respond with your proposal of how you intend to comply with any requirements of any Notice
- If we are satisfied with your proposal, we will work with you to comply within agreed timescales
- If we are not satisfied with your proposal or how the work is progressing, we will initiate formal action in a proportionate manner as appropriate to the circumstances
- In making any decision to prosecute we will have regard to how serious the offence is, the benefit of enforcement action and whether some other action would be appropriate
- A charge will be made for the service of the Notice

### Tenants

- We will expect you to advise your landlord of any issues within your property, preferably in writing, before contacting us.
- We will advise you as to what action we can take and advise you of the expected timescales
- We will expect you to cooperate with the landlord to get the works carried out and to advise/update us of any action taken by the landlord

### Owners

- We will expect owners to maintain the properties they live in and own
- Enforcement action will be considered if there is an imminent risk to a person's life

### Owners of Empty Homes

- We will work proactively with owners of empty homes to encourage and assist in bringing their empty homes back into use
- Where an empty property is having detrimental impact on the neighbouring area enforcement action will be considered as appropriate
- If owners fail to take responsibility for their properties, are not willing to engage or negotiations have failed, and where there is little prospect of a property being brought back into use voluntarily, enforcement action (Compulsory Purchase Order, Empty Dwelling Management Order, and Enforced Sale) will be considered

## 3. Enforcement policy and principles

### Role of the Private Rented Sector

The supply of good quality, affordable, privately rented accommodation is essential to meeting local housing need. To adequately meet that need, we must strive to provide professionally managed and well-maintained homes. We will work with landlords to improve and sustain good quality accommodation and will only intervene when there is a risk to the health and safety of occupants, neighbours, or visitors to a property.

### Inspections and other visits

In most cases, officers will undertake an inspection of the property to establish whether any offences or breaches have been committed and/or to ascertain whether any other parts of the relevant legislation need be applied.

Inspections and other visits will take place in response to a request for service or where poor conditions have been brought to our attention. Following an inspection, the landlord or his or her agent will be contacted to discuss the findings and wherever possible to encourage and reinforce good practices.

### Authority to investigate or enforce

The Housing Act 2004 and associated secondary legislation sets out the duties and powers that the Council has in relation to regulating housing standards in its capacity as the Local Housing Authority. Powers are also contained in the Housing Act 1985, as amended, and other legislation, such as the Environmental Protection Act 1990, the Town and Country Planning Act 1990, the Public Health Acts 1936 and 1961, the Housing and Planning Act 2016, Deregulation Act 2015, Anti-Social Behaviour Crime and Policing Act 2014, Tenant Fees Act 2019. This is not a complete list of the powers available.

### Authorisation of officers

Only Officers who are competent by training, qualification and/or experience will be authorised to undertake enforcement action. The Council's Scheme of Delegation sets out the delegated powers given to Officers in this regard.

### Power of Entry

The Council's authorised officers have several powers of entry. The Housing Act 2004, section 239(3) or (7), is primarily used for this purpose. However, officers do also have powers of entry under the legislation listed below and these may be used instead of the Housing Act 2004 where appropriate to the investigation.

- Environmental Protection Act 1990 – Schedule 3, para. 2
- Prevention of Damage by Pests Act 1949 – Section 22
- Public Health Act 1936 – Section 287
- Building Act 1984 – Section 95
- Local Government and Housing Act 1989 – Section 97

The power of entry is to enter the land or premises at any reasonable hour for the purpose of carrying out an inspection and/or investigation either required by the legislation or to ascertain if any part of the relevant legislation should apply.

## 3. Enforcement policy and principles

For most of the above powers of entry, a minimum of 24 hours' notice of the intended entry must be given to the owner/landlord or responsible party for the property. The exceptions to this being sections relating to licenced HMOs, houses required to be licensed under Part 3 and HMO management regulations respectively, which are:

- Under Local Government and Housing Act 1989, 7 days' notice must be provided.
- Section 239(7) of Housing Act 2004 does not require any notice to be given, if the purpose of the inspection is in relation to sections 72, 95 or 234.

If officers are refused entry, the Council has the right to apply to the Magistrates Court for a warrant to enter the land/property. This course of action will only be taken in cases where it is considered both necessary and proportionate to the matter under investigation.

Any person who wilfully obstructs an authorised officer acting in exercise of a right of entry commits an offence and may be liable on summary conviction to a fine, the level of which is specified by the respective legislation:

- Level 4 – Housing Act 2004, Building Act 1984
- Level 3 – Environmental Protection Act 1990, Local Government & Housing Act 1989
- Level 1 – Public Health Act 1936, Prevention of Damage by Pests Act 1949

### Information Gathering

There are two main legislative tools used for gathering information as part of private rented sector enforcement investigations:

- Section 16 Local Government (Miscellaneous Provisions) Act 1976 - (Requisition for Information Notice)
- Section 235 Housing Act 2004 - (Requisition for Documents Notice)

Failure to respond to either of the above notices within the specified time frame is a criminal offence and may lead to prosecution. These notices do not register as a Land Charge and are not included on the Council's Enforcement Register.

In addition to the above there is also the following tool available to the Council.

- Regulation 37 of The Energy Efficiency (Private Rented Property) (England and Wales) Regulations 2015 – (Compliance Notice)

Failure to respond to the above is a breach of the regulations and so may incur a financial penalty.

We may also, as part of gathering information during an investigation, refer to information held within other parts of the Council such as Council Tax records and Electoral Register, as well as some external databases such Land Registry records or Ministry of Housing and Communities & Local Government's (MHCLG) Rogue Landlord Database.

### Possible Outcomes

Some issues reported to the Private Sector Housing Team are of a minor nature and formal action cannot be justified, so it is important to be aware that the Council may not address all disrepair items and will only act when it is expedient to do so. Action will only be taken where

### 3. Enforcement policy and principles

the hazards identified are of sufficient severity. The outcome of each case will be based on the individual circumstances of each investigation.

The possible outcomes are:

- **No action taken** – either the reported issue is not within the control of the legislation, or the reported issue is considered to pose a minimal hazard and/or impact and that it is not expedient to pursue.
- **Informal action** – Landlords will be engaged informally initially, followed up by correspondence sent to the relevant party identifying the hazard(s) or issues of concern and inviting them to undertake work to address these, within an appropriate time. Many people do take the positive steps required to rectify the situation and formal action is only necessary in a small number of cases.
- **Formal action** – If we are unable to resolve the matter through informal action or the hazard(s), breach or circumstances is/are so serious, the Council has the power and, in some circumstances a duty, to take formal enforcement action. The nature of the hazard(s), breach or circumstances will determine the type of formal action chosen by the Council.

Enforcement action will be consistent with the Council's overall Housing Strategy, Private Sector Housing Strategy and the Empty Homes Strategy. The Private Sector Housing Team will adopt a co-ordinated approach with other Council services and other relevant agencies, in particular with preventing and dealing with homelessness.

## 4. Formal enforcement action

### Enforcement Notice & Orders

A number of different enforcement notices & orders are available to the Council under various legislation, as detailed below.

### Housing Act 2004

The Housing Act 2004 introduced the Housing Health & Safety Rating System (HHSRS)

The HHSRS is a calculation of the effect of 29 possible hazards on the health of occupiers.

The scores for each hazard present are then banded from A to J. Bands A to C (ratings of 1,000 points and over) are the most severe and are known as Category 1 hazards when considering action. Bands D to J, the less severe (rating less than 1,000 points) are known as Category 2 hazards. HHSRS provides a combined score for each hazard identified and does not provide a single score for the dwelling. It is applied to all residential premises, whether owner-occupied or rented.

This Policy takes account of guidance provided by the Government and sets out how the Council will use its powers and reach its decisions in relation to the HHSRS (Part 1 of the Housing Act 2004).

The Council has a duty to take appropriate action in response to a Category 1 hazard. (When a Category 1 hazard is identified, the Council must decide which of the available enforcement options it is most appropriate to use. These are explained in more detail below.)

The Council will exercise its discretion and consider individual cases and circumstances when deciding whether to act in response to Category 2 hazards.

Enforcement notices & orders under Part 1 of the Housing Act 2004 are briefly outline below:

### Hazard Awareness Notice

This is available for both category 1 and 2 hazards and will state the nature of the hazard(s) and residential premises it relates to but does not impose any further requirements.

The notice is in effect from the date the notice was served and there is no legal right of appeal.

### Improvement Notices

This is available for both category 1 and 2 hazards and will state the nature of the hazard(s) and residential premises it relates to.

It also imposes requirements to undertake works as specified to mitigate or minimise the hazard(s). The notice will stipulate the times by which works are required to commence and be completed.

The notice is in effect from the date the notice was served. There is a right of appeal which must be made to the First Tier Tribunal (FTT) within 21 days from the date the notice was served.

### Suspended Improvement Notice

The Council has the power to suspend an Improvement Notice once served and will consider this course of action where it is reasonable in the circumstances, to do so.

## 4. Formal enforcement action

Suspended Improvement Notices will be reviewed on an ongoing basis, at least every 6 months.

### **Prohibition Orders**

This is available for both Category 1 and Category 2 hazards for all or part of a dwelling and are likely to be used if repair and/or improvement appear inappropriate on grounds of practicality or excessive cost. It will state the nature of the hazard(s), residential premises it relates to and state the purpose for which a part or whole of the premises are prohibited to be used.

The notice is in effect from the date the notice was served. There is a right of appeal which must be made to the First Tier Tribunal (FTT) within 28 days from the date the notice was served.

### **Suspended Prohibition Order**

The Council has the power to suspend a Prohibition Order once served and will consider this course of action where it is reasonable in the circumstances to do so.

Suspended Prohibition Orders will be reviewed on an ongoing basis, at least every 6 months.

### **Emergency Remedial Action**

This is only available for category 1 hazards and allows the Council to immediately undertake works at the premises to mitigate or minimise the hazard.

A notice will be served within 7 days of the action being taken and will state the nature of the hazard(s), residential premises it relates to and date on which the work was or is to be started.

The Council is permitted under the Act to recover any expenses in taking the emergency remedial action

The notice is in effect from the date served. There is a right of appeal which must be made to the FTT within 28 days from the date the notice was served.

### **Emergency Prohibition Order**

This is only available for category 1 hazards and will state the nature of the hazard(s), residential premises it relates to and clearly stipulate the purposes (which may be for all purposes) for which a part or whole of the premises are prohibited to be used.

The order is in effect from the date served. There is a right of appeal which must be made to the FTT within 28 days from the date the order was served.

### **Demolition Order**

This is only available for category 1 hazards and will state the nature of the hazard(s), residential premises it relates to and impose a requirement that the premises be vacated and demolished.

The order will specify the times on which the order becomes operative and demolition must be completed by the Council following the order becoming operative or the date on which the property is vacated.

## 4. Formal enforcement action

There is a right of appeal which must be made to the FTT within 28 days from the date the order was served.

### **Power to Charge for Enforcement Action**

The Housing Act 2004 (section 49) provides local housing authorities with the power to make a reasonable charge as a means of recovering certain administrative and other expenses incurred in serving an Improvement Notice, Hazard Awareness Notice, making a Prohibition, Emergency Prohibition or Demolition Order or taking Emergency Remedial Action.

Where a charge is made, the Council can recover a reasonable amount for expenses incurred in connection with time spent gaining entry, visiting and inspecting the premises to determine appropriate action and the administration costs for the production of a Notice, Order or Remedial Action.

Charges will be made on a cost recovery basis, using the current hourly rates of the officers involved, plus any associated costs including travelling costs, travel time, copying charges and any relevant 'on costs' for that officer.

Details of this calculation and the minimum charge can be found in Appendix C. Where the time reasonably incurred in carrying out the above actions means that this minimum charge is exceeded, then the Council may charge for the service of that particular notice at the higher calculated rate. This minimum charge will normally be reviewed annually to allow for inflation and other relevant cost increases.

Costs incurred carrying out Work in Default or Remedial Action will be charged separately.

### **Tenure**

The HHSRS and the associated enforcement options apply to all tenures of housing.

It is generally considered that owner-occupiers are primarily responsible for the repair and maintenance of their own home. They are usually in a position to make informed decisions concerning their own safety and welfare and the necessary maintenance and improvement of their home.

Tenants and particularly those occupying private rented accommodation are less able to do so and the condition, repair and safety of such accommodation is the primary responsibility of some other person; namely the property owner, landlord or letting agent.

For this reason, the Council proposes that it is appropriate for its powers to be used according to tenure, as follows:

- **Owner Occupiers**

In the first instance owner-occupiers concerned about the condition of their home will normally be provided with relevant telephone advice or information via the Council's website.

Formal visits and inspections of owner-occupied properties will only normally be undertaken if there is a concern that the condition of the property gives rise to a high risk for the safety of the occupants, they are considered to be vulnerable or the property possesses a high risk to persons other than the occupant's i.e. neighbouring properties or passers-by.

If there is a need to move beyond the provision of advice, it is anticipated that a Hazard Awareness Notice is likely to be the most appropriate course of action. However, the use of

## 4. Formal enforcement action

Improvement Notices, Prohibition Notices and their emergency equivalents will be considered in cases involving:

- Vulnerable elderly people who are judged incapable of making informed decisions about their own welfare
- Vulnerable individuals who require the intervention of the Council to ensure their welfare is best protected
- Hazards that might reasonably affect persons other than the occupants
- Serious risk of life-threatening harm such as electrocution or fire

- **Leaseholder/ Freeholder**

Circumstances can arise where a long leaseholder is experiencing ongoing poor housing conditions, where a higher landlord, such as a freeholder or management company, are not willing to take the necessary steps to remedy the housing defects for which they are legally responsible.

Formal visits, inspection and any appropriate enforcement action will only be considered where:

- the leaseholder has made reasonable efforts to remedy the matter with the higher landlord,
- that action has proved ineffective
- the higher landlord is responsible for remedying the said defect(s) likely to give rise to a Category 1 or 2 hazard.

- **Registered Providers of Social Housing (RPs)**

Registered Providers of Social Housing (RPs) exist to provide suitable and properly maintained accommodation for their tenants. RPs normally employ staff to both manage and maintain their properties and will usually have written arrangements for reporting problems, setting out the response times they aim to achieve, and for registering any complaints about service failure.

On this basis, the Council will not normally take formal action against RPs unless:

- It is satisfied that the problem in question has been properly reported to the RP and
- The RP has then failed to take appropriate action

If the Council determines that it is appropriate to take action, it will then normally notify the RP that a service request has been received and/or a hazard identified and seek the RP's comments and proposals. Only in cases where it judges that an unsatisfactory response has been received will the Council take further action and will then determine which of the available enforcement options is the most appropriate, considering the facts of the case.

- **Private Landlords**

Most landlords provide decent quality, well managed properties to rent. Should a private tenant have concerns about the condition or safety of their rented home the Council will normally firstly advise them to contact their landlord or letting agent directly. This ensures that landlords can resolve any defects in the first instance.

## 4. Formal enforcement action

If the Council needs to visit a property, the landlord or his or her agent will be contacted following the inspection to discuss the findings and seek the landlord/ agents' proposals for remedying the problem.

The Council will not normally need to take any further action to discharge its duties as long as:

- Satisfactory proposals and timescales for the work to be carried out are received and agreed within 14 days of contact, and
- The work is carried out to a satisfactory conclusion within agreed timescales.

If the Council does not receive a satisfactory response or the works are not completed within the agreed timescales, then it will proceed with formal action by taking the most appropriate enforcement action in accordance with this policy.

- **New Forest District Council Housing Stock**

Council owned and managed properties are provided to tenants in keeping with the Decent Homes Standard and quality and safety guidance issued through the Social Housing regulatory regime and other compliance legislation. The Housing Maintenance service has written arrangements for reporting problems, clear response times and systems for registering any complaints about service failure. Their performance is also scrutinised by the through a corporate governance process and ultimately the Housing Ombudsman and Regulator for Social Housing. The Private Sector Housing team works with colleagues from the Council's Housing Maintenance team and, at their request, can provide advice on housing standards required in their stock. Formal enforcement action cannot be taken by New Forest District Council against itself.

### **Retaliatory Evictions**

Retaliatory eviction refers to a situation where a tenant makes a legitimate complaint to their landlord about the condition of their property and, in response, instead of making the repair, their landlord serves them with an eviction notice seeking possession.

The Deregulation Act 2015 introduced some protection for tenants against unfair eviction. In summary if the Council serves an Improvement Notice or takes Emergency Remedial Action in relation to a property, the landlord will be unable to rely on using the section 21 'no-fault' notice seeking possession procedure for 6 months from the date the action was taken by the Council.

The Private Sector Housing Team will work with landlords to understand their obligations and the implications of this legislation and will work alongside the Council's Housing Options team and other advice agencies to provide support, advice and guidance to the tenant in these circumstances.

### **Failure to Comply with Notices**

If a Notice is complied with, no further action will be taken. However, if the Notice is not complied with, the Council will consider the following options:

- Prosecution
- Carrying out the works in default
- Carrying out the works in default and prosecution

## 4. Formal enforcement action

- Whether a simple caution is appropriate
- Financial Penalty

Failure to comply with an Improvement Notice or a Prohibition Order is an offence punishable by an unlimited fine.

The Council will take action to recover its costs in connection with works in default. The Council will also take action to recover the costs incurred in carrying out works associated with Emergency Remedial Action.

### Revocation and Variation of Notices

The Council must revoke an Improvement Notice once the Notice has been complied with. If part of the work required within the Notice is carried out, then the Notice can be varied.

### Review of Enforcement Action

If there is a change in the occupation of a premises (leading to either an increase or decrease in the apparent risk to occupiers) the current state of any outstanding enforcement action should be reviewed by the investigating officer, in consultation with the private sector housing manager, to ensure that it is still appropriate and proportionate to the risk posed from the identified hazard(s).

### Prosecution

Where the Council is satisfied that an offence has been committed, whether by failure to comply with the requirements of a notice served or a direct breach of the relevant legislation has occurred, the case may be considered for prosecution. Prosecutions will be sought where it is expedient to do so and there is a public benefit to taking the case to court.

Prosecutions cannot be undertaken on cases where a Civil Penalty Notice has already been issued for the same offence.

### Works in Default

Works in default will be considered if all other methods to try to remedy the necessary works have been unsuccessful. In determining if work in default is appropriate, Officers will report to the Private Sector Housing Manager who will consider approval based on the following information;

- The effects of not carrying out the work on the health and safety of the occupant of the property concerned
- The wishes of the tenant where the Notice has been served in respect of a rented property
- The reason for the work not being carried out in the first place
- Any other factors that are specific to individual properties
- The Council will normally seek to recover all of the costs associated with undertaking work in default (including time spent by its Officers, administrative costs, contractor's costs, the cost of any specialist reports, supervisory costs etc.)

In the case of Officer time, the Council will calculate costs as follows:

- The actual time spent by Council Officers on the chargeable activities and recorded using file notes and database

## 4. Formal enforcement action

- Time spent will be converted into a monetary figure using the appropriate hourly rate set for the Officer(s) concerned.

The expenses incurred are to be recovered from the person(s) on whom the Notice or Order is/are served (“the relevant person”). Where the relevant person receives the rent on behalf of another, the expenses are also to be recovered from that other person. The expenses will carry interest from the date of service until payment of all sums due under the demand at a rate of 1% over the Bank of England Base Rate. The recoverable expenses, together with interest accrued on them, are a charge on the premises.

In addition, as a means of recovering the costs, the Council may also serve Recovery Notices to recover, receive and give a discharge for any rent or sums in rent.

### Simple Cautions

Officers may use Simple Cautions where someone has committed a less serious offence. Simple Cautions warn people that their behaviour has been unacceptable and makes them aware of the legal consequences should they commit further offences.

Simple cautions can only be issued where:

- There is evidence an offender is guilty
- The offender is eighteen years of age or over
- The offender admits they have committed the crime
- The offender agrees to be given a caution – if the offender does not agree to receive a caution then they are likely to be prosecuted instead

Simple cautions are normally not appropriate where there is history of offending within the last 2 years or where the same type of offence has been committed before. In these circumstances prosecution is more appropriate.

# 5. Other housing related enforcement action

## Civil Penalties/ Penalty Charges

The Housing & Planning Act 2016 introduces a range of measures to tackle rogue landlord practice including the power for Councils to issue Civil Penalties of up to £30,000 as an alternative to prosecution for certain prescribed offences under the Housing Act 2004 and other legislation.

Income received from financial penalties can be retained by the local housing authority if it is used to further the local housing authority's statutory functions in relation to their enforcement activities covering the private rented sector.

A civil penalty may be imposed as an alternative to prosecution for the following offences under the Housing Act 2004:

- Failure to comply with an Improvement Notice (section 30)
- Offences in relation to licensing of Houses in Multiple Occupation (section 72)
- Offences in relation to licensing of houses under Part 3 of the Act (section 95)
- Offences of contravention of an overcrowding notice (section 139)
- Failure to comply with management regulations in respect of Houses in Multiple Occupation (section 234)

The Council will impose Civil Penalties where permitted, in accordance with its Statement of Principles, which can be found at Appendix A and having regard to relevant government guidance.

Only one penalty can be imposed in respect of the same offence and a civil penalty can only be imposed as an alternative to prosecution. However, a civil penalty can be issued as an alternative to prosecution for each separate breach of the House in Multiple Occupation management regulations. Section 234(3) of the Housing Act 2004 provides that a person commits an offence if he fails to comply with a regulation. Therefore, each failure to comply with the regulations constitutes a separate offence for which a civil penalty can be imposed.

The same criminal standard of proof is required for a civil penalty as for prosecution. This means that before taking formal action, the Council must satisfy itself that if the case were to be prosecuted in a magistrates' court, there would be a realistic prospect of conviction. To achieve a conviction in the magistrates' court, the Private Sector Housing Team must be able to demonstrate beyond reasonable doubt that the offence has been committed.

In deciding whether to prosecute an offender or whether to issue a financial penalty, the following factors may be considered:

- The seriousness of the offence - *Prosecution may be the most appropriate option where an offence is particularly serious or where the offender has committed similar offences in the past.*
- Where a significant financial penalty is determined to be a greater sanction than prosecution - *A civil penalty of up to £30,000 can be imposed where a serious offence has been committed and a local housing authority may decide that a significant financial penalty (or penalties, if there have been several breaches), rather than prosecution, is the most appropriate and effective sanction in a particular case*

## 5. Other housing related enforcement action

- Where New Forest District Council considers that a banning order may be an appropriate sanction for a landlord, in addition to prosecution - *A banning order may only be applied for where a landlord has been convicted for committing certain prescribed offences and therefore if this is considered an appropriate sanction, may lead to a presumption in favour of prosecution in such cases.*

The reason for a particular course of action being pursued will be documented and provided to the Strategic Director for Housing, Communities and Governance and the Council's solicitor for approval. This will ensure that the proposed action meets the tests set out in the Code for Crown Prosecutors and that the preferred sanction is the most 'appropriate and effective' course of action.

### **The Electrical Safety Standards in the Private Rented Sector (England) Regulations 2020**

The Electrical Safety Standards in the Private Rented Sector (England) Regulations 2020 require landlords to:

- Ensure national standards for electrical safety are met. These are set out in the 18th edition of the 'Wiring Regulations', which are published as British Standard 7671.
- Ensure all electrical installations in their rented properties are inspected and tested by a qualified and competent person at least every 5 years.
- Obtain a report from the person conducting the inspection and test which gives the results and sets a date for the next inspection and test.
- Supply a copy of this report to the existing tenant within 28 days of the inspection and test.
- Supply a copy of this report to a new tenant before they occupy the premises.
- Supply a copy of this report to any prospective tenant within 28 days of receiving a request for the report.
- Supply the local housing authority with a copy of this report within 7 days of receiving a written request for a copy.
- Retain a copy of the report to give to the inspector and tester who will undertake the next inspection and test.
- Where the report shows that further investigative or remedial work is necessary, complete this work within 28 days or any shorter period if specified as necessary in the report.
- Supply written confirmation of the completion of the further investigative or remedial works from the electrician to the tenant and the local housing authority within 28 days of completion of the works.

A remedial notice must be served where the local housing authority is satisfied on the balance of probabilities that a landlord has not complied with one or more of their duties under the Regulations. This provides the landlord with the opportunity to respond to the alleged failures.

If a local housing authority has reasonable grounds to believe a landlord is in breach of one or more of the duties in the Regulations and the report indicates urgent remedial action is

## 5. Other housing related enforcement action

required, the local housing authority may, with the consent of the tenant or tenants, arrange for a qualified person to take the urgent remedial action and recover their costs.

Otherwise, they must serve a remedial action notice requiring the landlord to take the necessary action within 28 days. Should a landlord not comply with the notice the local housing authority may, with the tenant's consent, arrange for any remedial action to be taken themselves.

Landlords have rights to make written representation and appeal against remedial action. The local housing authority can recover the costs of taking the action from the landlord and may also impose a financial penalty of up to £30,000 on landlords who are in breach of their duties.

The Council will impose Financial Penalties where permitted, in accordance with its Statement of Principles, which can be found at Appendix B and having regard to relevant government guidance.

### **Energy Efficiency (Private Rented Property) (England and Wales) Regulations 2015 – Minimum Energy Efficiency Standards (MEES)**

The Energy Efficiency (Private Rented Property) (England and Wales) Regulations 2015 – Minimum Energy Efficiency Standards (MEES) are designed to tackle the least energy efficient properties, setting a minimum standard of Energy Performance Certificate (EPC) band 'E' for private rented accommodation.

A landlord with a property with an EPC rating below an E (F&G) are required to improve their properties with energy efficiency improvements to bring the property up to at least an E rating before the property is rented out, unless the landlord qualifies for an exemption and the exemption is registered on the Public Exemptions Register.

Non-compliance with these Regulations *may* result in the imposition of a financial penalty by the Council in accordance with a specific Statement of Principles which can be found at Appendix B.

### **The Smoke and Carbon Monoxide Alarms (England) Regulations 2015**

The Smoke and Carbon Monoxide Alarm (England) Regulations 2015 require landlords to ensure that under certain circumstance tenanted properties are provided with smoke and carbon monoxide alarms.

Where a local housing authority has reasonable grounds to believe that a landlord is in breach of one or more of the duties under these regulations, the authority *must* serve a remedial notice on the landlord. A remedial notice will specify the premises it relates to and set out the duties the Council consider the landlord have failed to meet and the remedial action required to be taken by the landlord within 28 days of the notice.

There is a right to make representation in writing to the Council following the service of the notice which must be made within 28 days from the date of service.

Failure to comply with the remedial notice imposes a further duty on the Council to arrange remedial action.

## 5. Other housing related enforcement action

Non-compliance with these Regulations *may* result in the imposition of a financial penalty in accordance with a specific Statement of Principles which can be found at Appendix B.

### **The Redress Scheme for Letting Agency Work and Property Management Work (Requirement to Belong to a Scheme etc.) (England) Order 2014**

The Redress Scheme for Letting Agency Work and Property Management Work (Requirement to Belong to a Scheme etc.) (England) Order 2014 requires that a person who engages in lettings agency or property management work must be a member of a redress scheme for dealing with complaints.

Non-compliance with these Regulations may result in the imposition of a financial penalty in accordance with the specific Statement of Principles, which can be found at Appendix B.

### **Rent Repayment Orders**

In addition to the powers provided by the Housing Act 2004 to apply Rent Repayment Orders (RROs) in regard to offences related to HMOs as outlined at section 73 and 74 of Housing Act 2004, the Housing and Planning Act 2016 extended the power to apply RROs in respect of the following offences committed after 6th April 2017;

- Failure to comply with an Improvement Notice under Section 30 of the Housing Act 2004
- Failure to comply with a Prohibition Order under Section 32 of the Housing Act 2004
- Breach of a banning order made under Section 21 of the Housing and Planning Act 2016
- Using violence to secure entry to a property under Section 6 of the Criminal Law Act 1977
- Illegal eviction or harassment of the occupiers of a property under Section 1 of the Protection from Eviction Act 1977

The maximum amount of rent that can be recovered is capped at 12 months. A criminal standard of proof is required. The Council must apply to the First Tier Property Tribunal for an RRO. New Forest District Council will consider application for RROs in all cases where a successful prosecution has been achieved.

### **Houses in Multiple Occupation**

The Housing Act 2004 introduced a national mandatory licensing system for Houses in Multiple Occupation (HMO) occupied by 5 or more people who share basic facilities.

Due to the way they are occupied, HMOs often pose particular hazards in relation to fire, overcrowding and property management and maintenance. The aim of proactive licensing is to ensure that every licensable HMO is safe for the occupants and is properly managed.

The responsibility for applying for a licence rests with the person having control or the person managing the property, licences normally cover a period of three to five years and the licence is subject to an administration fee to cover the cost of the licensing issuing process.

Those applying for a licence must satisfy a self-certification 'fit and proper person' 'test' and the property must be suitable for the number of proposed occupants in relation to the

## 5. Other housing related enforcement action

provision of facilities, it shall be subject to appropriate management and also possess adequate fire precautions.

### • **Licensing Offences**

The Housing Act 2004 sets out a number of licensing related offences all of which carry an unlimited fine, including:

- Operating an unlicensed HMO or allowing an HMO to be occupied by more persons than a licence allows
- Breach of licence condition
- Supplying incorrect information in a licence application

In addition to the above, a landlord who operates an unlicensed HMO can be subject to a Rent Repayment Order (RRO) by a First-tier Tribunal (Property Chamber) under sections 96 and 97 of the Housing Act 2004. The Council may also decide to apply a Civil Penalty for certain offences using the Housing and Planning Act 2016.

A RRO requires repayment of rent received by the landlord over a period of up to 12 months. The Council will usually consider applying for such a measure if the landlord has received rent that has been paid by Housing Benefit.

Where an unlicensed HMO is identified, the Council will assess whether there are good reasons why an application has not been received. If there are no good reasons, the Council will look to take formal proceedings with a view to prosecution in the courts or by way of issuing a Civil Penalty.

If a landlord of an unlicensed HMO approaches the Council for licensing and the landlord fully cooperates with the Council, including addressing any management, safety or amenity issue within an agreed timescale, the Council would not normally take enforcement action.

Generally, any breach of licence condition will be dealt with informally initially. However, if the breach is serious and affects the safety of the occupants or the responsible person does not carry out necessary works within an agreed timescale, the Council will pursue legal proceedings.

### **Special Powers in Relation to Houses in Multiple Occupation (HMOs)**

#### • **Interim and Final Management Orders**

An Interim Management Order (IMO) transfers the management of a residential property to the Council for a period of up to twelve months. The circumstances in which an order can be made are discussed below. In particular, the IMO allows the Council possession of the property against the immediate landlord, and subject to existing rights to occupy can;

- Do anything in relation to the property, which could have been done by the landlord, including repairs, collecting rents etc.
- Spend monies received through rents and other charges for carrying out its responsibility of management, including the administration of the property
- To create new tenancies (with the consent of the landlord).

## 5. Other housing related enforcement action

Under an IMO the Council must pay to the relevant landlord (that is the person(s) who immediately before the order was made was entitled to the rent for the property) any surplus of income over expenditure (and any interest on such sum) accrued during the period in which the IMO is in force. It must also keep full accounts of income and expenditure in respect of the house and make such accounts available to the relevant person.

The Council must take enforcement action in respect of a licensable property (which means an HMO subject to Part 2, or other residential property subject to Part 31) by making an IMO if:

- The property ought to be licensed, but is not, and the Council considers there is no reasonable prospect of it granting a licence in the near future. An IMO may not, however, be made on these grounds if an effective application is outstanding with the authority for the grant of a licence or a temporary exemption notice or if such a notice is in force
- The Private Sector Housing Team is satisfied that the Health and Safety Condition isn't met and, therefore, it would not have granted an application for a licence
- The Private Sector Housing Team intends to revoke the licence on one or more of the grounds specified in Parts 2 or 3 of the Act, other than the property has ceased to be licensable, and upon revocation there will be no reasonable prospect of the property being licensed in the near future (e.g. to another suitable person)
- The Private Sector Housing Team is satisfied that when the licence is revoked the Health and Safety Condition test will be met

- **Final Management Orders**

In exceptional circumstances the Council can also apply for a Final Management Order (FMO) which can last for up to five years. Such powers will only be used in exceptional circumstances and will be agreed by relevant senior manager as per the Council's scheme of delegation.

A FMO cannot be made unless an IMO or another FMO was already in force. An FMO transfers the management of the house to the Private Sector Housing Team for the duration of the order. In particular, the FMO allows the Council;

- Possession of the property against the immediate landlord, but subject to existing rights of occupation
- To do anything in relation to the property, which could have been done by the landlord, including repairs, collecting rents etc.
- To spend monies received through rents and other charges for carrying out its responsibility of management, including the administration of the property;
- To create new tenancies (without the consent of the landlord).

- **Management order Management Schemes**

The Council must adopt a management scheme for a property subject to an FMO. The scheme must set out how the Council intends to manage the house. In particular, the management scheme must include:

## 5. Other housing related enforcement action

- The amount of rent it will seek to obtain whilst the order is in force
- Details of any works which the Council intends to undertake in relation to the property
- The estimate of the costs of carrying out those works
- Provision as to the payment of any surpluses of income over expenditure to the relevant landlord, from time to time
- In general terms how the authority intends to address the matters that caused the Council to make the order. The Council must also keep full accounts of income and expenditure in respect of the house and make such accounts available to the relevant landlord.

- **Temporary Exemption Notices**

Where a landlord is, or shortly will be taking steps to make an HMO non-licensable, the Council may serve a Temporary Exemption Notice (TEN). A TEN can only be granted for a maximum period of three months. In exceptional circumstances a second TEN can be served for a further three-month period. A TEN will be served where the owner of the HMO states in writing that steps are being taken to make the HMO non-licensable within 3 months.

- **Management Regulations**

Management Regulations made under the Housing Act 2004 imposes duties on landlords and managers of HMOs (whether subject to licensing or not). There are no powers to service notice under the Management Regulations, but the Local Authority can prosecute or issue a financial penalty for breach of the regulations.

### **Empty Homes**

Empty homes can be a blight on our community as well as a wasted housing resource. Our approach will be to work alongside owners of empty homes with a solution-based approach to support and encourage voluntary action. However, we are also committed to using appropriate enforcement action where owners fail to take responsibility for their properties, reasonable negotiations fail or there is little prospect of the property being bought back into use voluntarily.

A number of factors will be considered in deciding the best course of action for an empty home with due regard given to our Empty Homes Strategy.

The Council will provide advice and assistance to the owners of empty properties to help bring the home back into use. It will however also consider using any of the following enforcement options, if necessary:

- **Empty Dwelling Management Orders (EDMO)**

Where a property has been left empty for over two years and is attracting anti-social behaviour, the Council may seek an EDMO, the provisions for which are contained in the Housing Act 2004. An EDMO allows the Council to take over full management of the property for up to seven years, reclaiming any management and refurbishment costs from the rental income.

## 5. Other housing related enforcement action

- **Compulsory Purchase Orders (CPO)**

CPOs can be made under s17 of the Housing Act 1985 or s226 of the Town & Country Planning Act 1990. They allow local authorities to purchase properties in specific circumstances without the owner's consent.

- **Enforced Sale procedure**

The Law of Property Act 1925 allows the recovery of debt secured by a registered charge by forcing the sale of a property. In situations where the Council has served notices requiring the owner to ensure that their property is not unsafe or having a negative impact, but they have failed to act, the Council may be forced to carry out the works in default. If the costs incurred are not paid, the Council will register a charge against the property and should the owner still not pay this debt, the Council can commence legal proceedings to sell the property to recover the costs. An enforced sale under a different procedure can also be used to recover Council Tax arrears.

### **Tenant Fees Act 2019**

Landlords or agents are no longer able to require tenants in the private rented sector in England, or any persons acting on behalf of a tenant or guaranteeing the rent, to make certain payments in connection with a tenancy. In the legislation "in connection with a tenancy" is defined as requirements:

- in consideration of, or in consideration of arranging for, the grant, renewal, continuance, variation, assignment, novation or termination of a tenancy;
- on entry into a tenancy agreement containing relevant provisions;
- pursuant to a provision of a tenancy agreement, or pursuant to an agreement relating to such a tenancy with a letting agent, which requires or purports to require the person to do any of those things in the event of an act or default of the person or if the tenancy is varied, assigned, novated or terminated; and
- as a result of an act or default related to the tenancy unless pursuant to, or for breach of, a tenancy agreement or other agreement; and
- in consideration of providing a reference for a former tenant.

Permitted payments are defined in the Act as:

- the rent
- refundable tenancy deposit capped at no more than five weeks rent, where the annual rental income is below £50,000 and six weeks rent where an annual rental income is above £50,000
- refundable holding deposit (to reserve a property) capped at no more than one weeks rent
- payment in the event of a default of the tenant
- payments on assignment, novation or variation of a tenancy when requested by the tenant, capped at £50 or reasonable costs incurred if higher
- payments associated with early termination of a tenancy, when requested by the tenant
- payments in respect of utilities, communication services and council tax

## 5. Other housing related enforcement action

A breach of the legislation will usually be defined as a civil breach with a financial penalty of up to £5,000. However, if a further breach is committed within five years of the imposition of a financial penalty or conviction for a previous breach, this will be pursued as a criminal offence. Upon conviction, the penalty is an unlimited fine and is a banning order offence under the Housing and Planning Act 2016.

Where an offence is committed, the Council may impose a financial penalty of up to £30,000 as an alternative to prosecution. In such a case, the Council will have discretion over whether to prosecute or impose a financial penalty. Where a financial penalty is imposed this does not amount to a criminal conviction.

A breach of the requirement to repay the holding deposit is a civil offence and will be subject to a financial penalty of up to £5,000.

The final determination of any financial penalty will be considered alongside the general principle that a penalty should be fair and proportionate but, in all instances, act as a deterrent and remove any gain as a result of the breach. Further information on Civil Penalties are found in Section 14 of this policy. The application of such civil penalties and decision matrix is attached at Appendix A.

### **Protection Against Eviction 1977**

Under S1(2) Protection from Eviction Act 1977 it is an offence for any person to unlawfully deprive a residential occupier of the premises (or any part of it) that they occupy. In the main, an eviction Notice, followed by a Possession Summons, then a Possession Order is the usual procedure for landlords to regain possession of a premises. Even when the Possession Order expires, the tenants can remain in occupation until the landlord obtains a Bailiffs Warrant of Execution. Only the County Court Bailiff can carry out the eviction.

The Council can prosecute for breaches of the Protection Against Eviction Act 1977 and such prosecutions can amount to a criminal offence. Housing Standards Officers will work alongside the Housing Options team and support providers such as Citizens Advice and Shelter in order to gather evidence and undertake prosecution where required.

### **Environmental Protection Act 1990 Section 80 Abatement Notice**

This shall be served where a Local Authority is satisfied that a statutory nuisance (as prescribed in section 79) exists or is likely to occur or recur.

A notice may impose requirements to; abatement of the nuisance or prohibition or restricting its occurrence or recurrence, execution of such works as may be necessary for that purpose, or both.

The notice will specify time or times within which the requirements are to be complied with. The notice is in effect from the date on which it was served. There is a right of appeal which must be made to the Magistrates court within 21 days from the date on which the notice was served.

### **Prevention of Damage by Pests Act Section 4**

This may be served where it appears to a Local Authority that steps should be taken for the destruction of rats or mice on land or otherwise for keeping the land free from rats or mice.

## 5. Other housing related enforcement action

A notice may impose requirements to undertake any form of treatment specified and / or carry out repairs or other works as specified. The notice will specify the times by which any treatment and/or works are to be carried out.

The notice is in effect from the date on which it was served. There is no right of appeal to this notice.

### **Building Act 1984 Section 59**

This shall be served where it appears to the Local Authority that there is; insufficient provision for drainage, drainage infrastructure as specified in (1)(b) is defective to the point of admitting subsoil water, drainage infrastructure is in such a condition as to be prejudicial to health or a nuisance, or former drainage infrastructure no longer in use is prejudicial to health or a nuisance.

A notice may impose requirements to either; make satisfactory provision for drainage, undertake works as may be necessary for renewing, repairing or cleansing of the relevant part of the drainage infrastructure, or removal or otherwise rendering innocuous the disused parts. The notice will specify the times by which any works are to be executed.

The notice is in effect from the date the notice was served. There is a right of appeal which must be made to the Magistrates Court within 21 days from the date on which the notice was served.

### **Public Health Act 1936 Section 83 & 84**

A notice shall be served where a local authority are satisfied that:

- Sect. 83 - any premises are in such a filthy or unwholesome condition as to be prejudicial to health and/or verminous
- Sect. 84 – any article in any premises is in so filthy a condition as to render cleansing, purification or destruction necessary, or is verminous or having in contact with is likely to be verminous.

A notice may impose requirements to undertake work specified to remedy the condition of the premises and/or articles within the premises. The notice will specify the times by which any works are to be executed.

The notice is in effect from the date the notice was served. There is a right of appeal which must be made to the Magistrates Court within 21 days from the date on which the notice was served.

## 6. Monitor and review

This enforcement policy will be subject to regular review and amendment when necessary to accommodate new legislation, guidance, or local needs. The policy provides authority to the Strategic Director for Housing, Communities and Governance to make minor alterations in consultation with the Portfolio for Housing.

This enforcement policy will be available on the council's website at [www.newforest.gov.uk](http://www.newforest.gov.uk)

# Appendix A

## **Statement of principles for determining Civil (financial) penalties for Housing Act and other offences**

### **Introduction**

This statement sets out the principles that the New Forest District Council (the Council) will apply in exercising powers to impose a Civil (financial) penalty for specified criminal offences under the Housing Act 2004.

### **The Council's power to impose financial penalties.**

Legislation and guidance has been introduced which provides local housing authorities with a power to charge a financial penalty in prescribed circumstances.

The Ministry of Housing, Communities and Local Government (MHCLG) publication is statutory guidance to which local housing authorities must have regard. It recommends certain factors a local authority should take into account when deciding on the level of financial penalty and further recommends that local authorities develop and document their own policy on determining the appropriate level of financial penalty in a particular case.

The Council has a wide discretion in making this determination and this policy provides further guidance as to how a penalty will be calculated. In developing its policy the Council has had regard to principles set out in a number of publications including the Magistrates' Court Sentencing Guidelines. In anticipation of further legislative provisions being introduced enabling the imposition of a financial penalty, the principles detailed in this document will be applied in setting any charge.

### **Scope of the document**

The Housing and Planning Act 2016 ('the 2016 Act') amends the Housing Act 2004 ('the 2004 Act') to allow financial penalties, up to a maximum of £30,000, to be imposed as an alternative to prosecution for certain relevant housing offences. The Housing Act 2004 Act prescribes the procedures that a local housing authority must follow before imposing a financial penalty, details of the appeal process and the procedure for recovery of the penalty.

Schedule 9 of the 2016 Act has introduced amendments to the 2004 Act that allow local housing authorities to impose financial penalties as an alternative to prosecution for the following relevant housing offences under the 2004 Act:

- The extent to which the non-compliance was the result of direct acts or omissions of the landlord / agent.
- Whether the non-compliance was deliberate or resulted from a matter of which the landlord / agent should reasonably be aware.
- Whether any other body has or is likely to apply sanctions associated with the non-compliance.
- The level of cooperation provided by the landlord / agent concerned.
- Any history of previous contraventions of Housing or Housing related legislation.
- The level of financial gain achieved by the non-compliance.
- The level of risk created by the non-compliance.
- The degree of responsibility held by the landlord / agent for the non-compliance.
- The cost incurred by the Council in enforcing the relevant provision.

# Appendix A

- Any additional aggravating or mitigating factors that may warrant an increase or decrease in the financial penalty.

Where a financial penalty is charged the Council must have regard to a statement of principles published and in place at the time when the breach in question occurred. The Council may revise this statement of principles and where it does so, it will publish the revised statement.

## **General principles and factors to be applied to the imposition of a financial penalty.**

The guidance on the imposition of financial penalties advises local authorities to take account of the following seven factors when calculating the amount of any penalty. The Council will take these seven factors into account when determining the amount of any financial penalty to be imposed:

1. Severity of the offence.
2. Culpability and track record of the offender.
3. The harm caused to the tenant.
4. Punishment of the offender.
5. Deter the offender from repeating the offence.
6. Deter others from committing similar offences.
7. Remove any financial benefit the offender may have obtained as a result of committing the offence.

## **Procedure for imposing a financial penalty**

The procedure for imposing a financial penalty is set out in Schedule 13A of the Housing Act 2004. Where a penalty is considered the appropriate sanction, the level of penalty will be set by reference to the 'Financial Penalty Matrix' detailed below in Table 1.

The Financial Penalty Matrix accounts for the seven factors detailed in the guidance at fig 54 above and consolidates it into four headings. The resultant total 'score' in column 'A' of table 1 is then transferred to one of the eleven possible penalty bands detailed in Table 2.

Each band provides a range of possible penalties with the lowest band having a penalty of up to £250 and the highest band imposing a penalty up to the maximum of £30,000.

The maximum penalty for any band will be assumed to apply unless there are accepted mitigating circumstances associated with the case. These may include, but not limited to:

- No previous convictions or no relevant or recent convictions
- Steps voluntarily taken to remedy the problem
- A high level of cooperation with the investigation, beyond that which will always be expected
- Good previous record of maintaining the property
- Self-reporting of the issue, cooperation and acceptance of responsibility
- Good character or exemplary conduct
- Mental health issue or learning disability is linked to the commission of the offence
- Serious medical conditions requiring urgent, intensive or long-term treatment

# Appendix A

In all cases a view will be taken on the level of the penalty calculated from the matrix, compared to the offence committed and if necessary, the penalty will be adjusted, subject to appropriate documented evidence. Prior to the final determination of a penalty the Council will satisfy itself that the penalty is just and proportionate. Decisions to adjust a civil penalty will be taken and documented by the Private Sector Housing Manager.

Where the offender is issued with more than one financial penalty, the Council will have regard to guidance from the definitive guideline on Offences Taken into Consideration and Totality and consider the totality of the penalties.

If the aggregate total of the penalties is not considered just and proportionate, the Council will consider how to reach a just and proportionate financial penalty.

The statutory guidance advises that local authorities should use their existing powers as far as possible, to make an assessment of a landlord's assets and any income (not just rental income) they receive when determining an appropriate penalty.

In setting a financial penalty, either singular or cumulative, the Council may conclude that the offender is able to pay any financial penalty imposed unless the Council has obtained, or the offender has supplied, any financial information to the contrary. An offender will be expected to disclose to the Council such data relevant to his financial position to enable the Council to assess what an offender can reasonably afford to pay.

Where the Council is not satisfied that it has been given sufficient reliable information, the Council will be entitled to draw reasonable inferences as to the offender's means from evidence it has received and from all the circumstances of the case, which may include the inference that the offender can pay any financial penalty.

Where it is determined that a financial penalty is appropriate the Council will serve a 'notice of intent' on the person responsible for the offence within 6 months of the offence being evidenced

The Council will invite representations which must be made within 28 days of receipt of the 'notice of intent'. Having considered any representations received the Council must then decide if it still wishes to impose a civil penalty and, if so, the amount. If a civil penalty continues to be considered appropriate a 'final notice' will be served.

A person who receives a final notice may appeal to the First-tier Tribunal against the decision to impose a penalty; or the amount of the penalty. If a person appeals, the final notice is suspended until the appeal is determined or withdrawn.

# Appendix A

## Civil Penalties Matrix – Housing Act 2004 and other offences (Table 1)

Financial Penalty Matrix						
	Score = 1	Score = 5	Score = 10	Score = 15	Score = 20	Total (A)
<b>Factors</b>						
1. Severity of offence and culpability	No previous enforcement history. Single low level offence.	Minor previous enforcement. Single offence.	Recent second time offender. Offence has moderate severity or small but frequent impact(s).	Multiple offender. Ongoing offence of moderate to large severity or a single instance of a very severe offence.	Serial offender. Multiple enforcement over recent times. Continuing serious offence.	
2. Deterrence of offender and others	High confidence that a financial penalty will deter repeat offending. Informal publicity not required as a deterrence.	Medium confidence that a financial penalty will deter repeat offending. Minor informal publicity required for mild deterrence in the landlord community.	Low confidence that a financial penalty will deter repeat offending (e.g. no contact from offender). Some informal publicity will be required to prevent similar offending in the landlord community.	Little confidence that a financial penalty will deter repeat offending. Likely informal publicity will be required to prevent similar offending in the landlord community.	Very little confidence that a financial penalty will deter repeat offending. Informal publicity will be required to prevent similar offending in the landlord community.	
3. Removal of financial benefit	No significant assets. No or very low financial profit made by offender.	Little asset value. Little profit made by offender.	Small portfolio landlord (between 2- 3 properties). Low asset value. Low profit made by offender.	Medium portfolio landlord (between 4-5 properties) or a small Managing Agent. Medium asset value. Medium profit made by offender.	Large portfolio landlord (over 5 properties) or a medium to large Managing Agent. Large asset value. Large profit made by offender.	

# Appendix A

<p>4. Harm to the tenants (x2 weighting)</p>	<p>Very little or no harm caused. No vulnerable occupants. Tenant provides no information on impact.</p>	<p>Likely some low-level health/harm risk(s) to occupant. No vulnerable occupants. Tenant provides poor quality information on impact</p>	<p>Likely moderate level health/harm risk(s) to occupant. Vulnerable occupants potentially exposed. Tenant provides some information on impact but with no primary or secondary evidence</p>	<p>High level of health/harm risk(s) to occupant. Tenant(s) will be affected frequently or by occasional high impact occurrences. Vulnerable occupants. more than likely exposed. Small HMO (3-4 occupants), multiple occupants exposed. Tenant provides good information on impact with primary evidence (e.g. prescription drugs present, clear signs of poor health witnessed) but no secondary evidence.</p>	<p>Obvious high level health/harm risk(s) and evidence that tenant(s) are badly and/or continually affected. Multiple vulnerable occupants. exposed. Large HMO (5+occupants), multiple occupants exposed. Tenant provides excellent information on impact with primary and secondary evidence provided (e.g. medical, social services reports).</p>	
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# Appendix A

<u>Score Range Total Score in Column A (Table 2)</u>	<u>Penalty</u>
<6	£250
6<11	£500
11<21	£750
21<31	£1,000
31<41	£2,500
41<51	£5,000
51<61	£10,000
61<71	£15,000
71<81	£20,000
81<91	£25,000
91+	£30,000

# Appendix B

## **Statement of principles for determining financial penalties for general housing legislation**

### **Introduction**

This statement sets out the principles that New Forest District Council will apply in exercising powers to impose a financial penalty for failing to meet certain legislative requirements for which they are the enforcing authority.

### **The Council's power to impose financial penalties**

Legislation has been introduced which has provided the Council with a power to impose and charge a financial penalty in prescribed circumstances.

- The Smoke and Carbon Monoxide Alarm (England) Regulations 2015
- The Redress Schemes for Letting Agency Work and Property Management Work (Requirement to Belong to a Scheme etc.) (England) Order 2014
- Energy Efficiency (Private Rented Property) (England and Wales) Regulations 2015

In anticipation of further legislative provisions being introduced which enable the imposition of a financial penalty, the principles detailed in this document will be applied in setting any charge.

### **Scope**

Regulation 13 of The Smoke and Carbon Monoxide Alarm (England) Regulations 2015, requires the council to prepare and publish a 'statement of principles' to which it will have regard in determining the amount of a penalty charge it will apply where a landlord in breach of the duties under those Regulations.

The Council will also apply these principles when determining any other housing related legislation that permits the Council to impose a financial penalty. The Council may revise this statement of principles and in the event will publish the revised statement.

Where a financial penalty is charged the Council must have regard to the most current statement of principles that it has published.

### **General principles applied to the imposition of a financial penalty.**

The primary purpose of the Council's enforcement of its regulatory powers is to protect the interests and safety of the public. The primary aims of any financial penalty will therefore be to:

- Change the behaviour of the landlord / letting agent concerned.
- Deter future non-compliance by landlords / letting agents.
- Eliminate any financial gain or benefit from non-compliance with the Regulations.
- Be proportionate to the nature of the breach of the Regulations and the potential harm outcomes.
- Reimburse the cost incurred by the Council in undertaking any work in default and fulfilling its enforcement duties

In determining the amount of any financial penalty to be charged the Council may in general have regard to the following:

- The level of cooperation provided by the landlord/letting agent concerned.

# Appendix B

- Any history of previous contraventions of Housing or Housing related legislation
- The level of risk created by the non-compliance
- The cost incurred by the Council in enforcing the relevant provision.
- Any other circumstances identified as specifically relevant to the individual matter
- The Council's current Housing Standards Enforcement Policy

## Financial penalties applicable to specific legislation

### **The Smoke and Carbon Monoxide Alarm (England) Regulations 2015.**

Where the Council have reasonable grounds to believe that the requirements have not been met by a landlord there is a duty to serve a 'Remedial Notice' on the landlord. Failure to comply with a Remedial Notice imposes a further duty upon the Council to arrange remedial action and a power to require payment of a penalty charge. The amount of the penalty charge must not exceed £5,000.

The Council will comply with the requirements and guidance regarding the information to be contained within any penalty charge notice, including provisions for a review, and the appeal procedures. A penalty charge will be recoverable on the order of a court, as if payable under a court order.

The New Forest District Council Standard Penalty Charges are as follows and in determining the amount of any financial penalty to be charged the Council may have regard to the matters raised above.

### **The Smoke and Carbon Monoxide Alarm (England) Regulations 2015 (Table 1)**

Penalty charges for non-compliance are currently as follows:

First Offence	£1500	Reduced to £750 if paid within 14 days
Second Offence	£3,000	No reduction for early payment
Any additional offences	£5,000	No reduction for early payment

The Regulations make provision for a landlord to seek a review of a penalty charge notice. The Council will refer to this statement of principles in considering any request for a review, and the review will be conducted by an Officer not directly involved in the service of the original notice

### **The Redress Schemes for Letting Agency Work and Property Management Work (Requirement to Belong to a Scheme etc) (England) Order 2014**

Whilst the majority of lettings agents and property managers provide a good service there are a minority who offer a poor service and engage in unacceptable practices. This Order requires that tenants and landlords with agents in the private rented sector will be able to complain to an independent person about the service they have received. The aim is that the requirement to belong to a redress scheme will help remove bad agents and property managers and drive-up standards.

## Appendix B

Where the council is ‘satisfied on the balance of probabilities’ that a person has failed to belong to a redress scheme as required by article 3 or 5 of the above Order, it may by notice require that person to pay a ‘monetary penalty’. The amount of the monetary penalty must not exceed £5,000.

The Council will comply with the procedure and guidance for the imposition of a monetary penalty stipulated within the Order including provisions for the submission of representations and objections and the appeal procedures. The Council will normally provide the landlord with a reasonable period of time to remedy any breach; normally 21 to 28 days, prior to considering imposing a penalty. A monetary penalty will be recoverable on the order of a court, as if payable under a court order.

Standard monetary penalty for breach of duty under article 3 or 5	£5,000	Reduced by 50% if paid within 14 calendar days of the date of issue of the monetary penalty.
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While this monetary penalty is set as a standard the order makes provision for a Letting Agent to make representations or objections. The Council will refer to this statement of principles in considering representations or objections received. Reviews will be conducted by an Officer not directly involved in the service of the original notice of intent.

### Energy Efficiency (Private Rented Property) (England and Wales) Regulations 2015

The Council may serve a penalty on the landlord where they are satisfied that the landlord is, or has been in the last 18 months in breach of the:

- prohibition on letting sub-standard property (those rated F or G on the EPC scale) or
- requirement to comply with a compliance notice or
- has uploaded false or misleading information to the Exemptions Register.

The Council will normally provide the landlord with a reasonable period of time to remedy any breach; normally 21 to 28 days, prior to considering imposing a penalty. The Council has discretion to decide on the amount of financial penalties, up to maximum limits set by the Regulations and associated guidance. The maximum penalties are as follows:

		<b>Financial penalty up to</b>
<b>A</b>	Where the landlord has let a sub-standard property in breach of the regulations for a period of <b>less than 3 months</b>	£2,000 may be imposed in addition to a publication penalty
<b>B</b>	Where the landlord has let a sub-standard property in breach of the regulations for a period of <b>more than 3 months</b>	£4,000 may be imposed in addition to a publication penalty
<b>C</b>	Where the landlord has registered false or misleading information on the PRS Exemptions Register	£1,000 may be imposed in addition to a publication penalty
<b>D</b>	Where the landlord has failed to comply with compliance notice	£2,000 may be imposed in addition to a publication penalty

## Appendix B

The Council may not impose a financial penalty under both a. and b. above in relation to the same breach of the Regulations, but they may impose a financial penalty under either A or B, together with financial penalties under C and D, in relation to the same breach.

Where penalties are imposed under more than one of these paragraphs, the total amount of the financial penalty may not be more than £5,000. The Council will initially impose the maximum penalty permitted. The Council will refer to this statement of principles in considering any request for a review and the review will be conducted by an officer not directly involved in the service of the original notice.

For all offences resulting in a financial penalty the Council will also consider a 'publication penalty'. A 'publication penalty' allows the Council to publish details of the landlord's breach on a publicly accessible part of the PRS Exemptions Register. The Council will generally keep the information on the Register for at least 12 months.

# Appendix C

## Charging for Enforcement Action

	Business Support		Housing Standards Officer		Private Sector Housing Manager		Service Manager		Total
Hourly Rates (2023/24)	£X		£X		£X		£X		
Activity for which charge maybe made	Hours	£	Hours	£	Hours	£	Hours	£	£
Inspection including travel			2.50						
HHSRS assessment			1.00		0.50		0.25		
Drafting schedules of work			1.50		0.50		0.25		
Sec 8 consideration (Statement of reasons)			1.00		0.50		0.25		
Service of notices/ orders			0.50		0.50		0.25		
Admin support	2.00								
<b>Total</b>									

The minimum charge for the service of a housing enforcement notice is **£XXX** (VAT not applicable)

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Housing and Homelessness Services Portfolio Performance Dashboard																					
Quarter 3: 1st October - 31st December 2022					Portfolio Holder - Cllr Edward Heron																
Key Priorities		Key Activities			Key Actions																
Portfolio Priorities		Key Activity			Specific Actions		Target Date	Status Update													
Meeting local housing needs and promoting sustainable growth		Deliver the key priorities identified within the Housing Strategy 2018					N/A	Overarching priority													
		Promote and implement greener housing initiatives when maintaining council stock and in the development of new council dwellings			Adopt the greener housing strategy during 2022/23		2022/23	Strategy approved and published 11/08/22. New Greener Housing Delivery Manager started in post 21/11/22. A bid for £600,000 worth of central government funding was submitted in November 2022. The Council has committed to match fund the bid to install 70 Air Source heat Pumps, plus window and insulation upgrades. The Greener Housing Project Manager is progressing with a pilot energy efficient hot water solution to be delivered in 23/24, working with our teams to ensure energy matters are considered in long term void projects, and exploring the future approach to Electric Vehicle Charging.													
		Implement a new strategy to tackle empty properties and bring them back in to use			Continue to deliver the actions from the Empty Homes Strategy		2022/23	The Empty Homes Strategy has now been delivered and a number of key actions in the Private Sector Housing Strategy have already been completed. First Update to the Housing and Homelessness Overview and Scrutiny Panel in March 2023. In the last 12 months 17 properties have been brought back in to use. The Team continue to follow up reports and engage with owners.													
Increasing the supply of high-quality affordable homes		Provide 600 new council homes by 2026 across social rent, affordable rent, and shared ownership tenures, including within New Forest villages			Seek to provide 600 new council homes by 2026 and monitor the overall delivery of affordable housing across the district		2026	A total of 269 new council homes have been delivered against our overall target of 600 as at the end of December 2022. See KPIs for the progress this year.													
Improving the housing circumstances of those most in need		Minimise the use of emergency Bed and Breakfast accommodation for homeless households					Ongoing	Staff resources have been focussed on the move on of families in B&B, with a net decrease of 15 households from the previous month as at 31 December 2022. Home visits have been instigated for family and friend evictions which has resulted in a large proportion of extended stays in the accommodation.													
		Design, deliver and enhance a multi-agency approach and housing pathway to achieve long-term accommodation solutions to end rough sleeping in the district			Maintain and develop new and existing multi-agency partnerships developed from the strategic action to design and deliver a multi-agency forum approach to tackle homelessness across the district			BEAM, an employment support social enterprise have been commissioned to encourage Re-employment of those rough sleeping/at risk of rough sleeping. To support vulnerable people overcome some of the issues which impact on tenancy sustainment a Counselling service has been commissioned for those rough sleeping/at risk of rough sleeping in order to help them move on in to long term accommodation. The Council has been successful in bidding for additional funding for ex-offenders to support them to move straight from Prison to private rented accommodation commencing 23/24.													
		Reduce homelessness through the provision of multi-agency support to sustain homes and tenancies and through the increase in access to private sector rented homes					Ongoing	The Landlord Liaison Officer has secured additional Private Sector Lease Properties for Homeless families and continues to spread awareness of the financial schemes available. Homelessness Relief Officers continue to secure an increased number of private rental properties when compared with previous months during last year.													
					Continue to monitor and review the delivery of the Allocation Policy 2018		Ongoing	Progress reports and findings are annually reported to the Housing and Homelessness Overview and Scrutiny Panel.													
Enabling the best use of housing to meet the needs of people, including support for a high quality, strong private rented sector		Ensure that our existing housing stock is maintained to a high and safe standard			Monitor compliance across housing services to enhance safety of tenants/maintenance of housing stock and report annually to Housing & Homelessness Overview & Scrutiny Panel, and twice yearly to EMT.		Ongoing	Capital works programmes continue on an annual basis across the housing stock portfolio. Actions resulting from Fire Risk Assessments and Asbestos surveys continue to be given priority as well as gas and electrical inspections and other statutory compliance matters. Work to install a pilot fire suppression system at Barfields Court, and major works to Compton House, are progressing well and to programme. An annual compliance report is submitted to the Housing and Homelessness Overview and Scrutiny Panel, and EMT are provided with twice-yearly reports.													
		Protect the health and safety of tenants in private rented properties			Continue to develop initiatives and schemes which prevent homelessness from the Private rented sector		Ongoing	The Landlord Liaison Officer will work alongside the Homelessness Team to promote joint working with landlords and raising awareness of the Council's financial schemes which prevent homelessness. The Housing Standards Team continue their approach to engage landlords co-operatively to maintain healthy homes in the sector. In particular damp and mould reports have increased over the winter period, with 23 cases reported, which have been prioritised with landlords.													
					Hold two landlord Forums each year which support a safe and thriving private rented sector and which support the council to tackle homelessness		2022/23	A new Landlord Liaison Officer has commenced employment on 3rd January 2023 to replace an outgoing officer. The new officer is working alongside the new Greener Housing Manager to commence a joint awareness campaign of energy efficiency matters and housing standards. The Provisional date for the next Landlord Forum is in April 2023.													
Key Performance Indicators									General Fund Financial Information - Budgets £'000					Housing Revenue Financial Information - Budgets £'000							
KPIs (Annual Targets)		Unit	Freq.	Last Quarter	2022/23 Target	2022/23	Desired DOT	Actual DOT	Status	Budget Description		Original Budget	Jul/Nov Cabinet	February Cabinet	Latest Budget	Budget Description		Original Budget	Jul/Nov Cabinet	February Cabinet	Latest Budget
Additional council homes		Num (Cumulative)	Q	13	43	34	Up	Up		General Fund Revenue Position		2,025	1402	-52	3,375	HRA - Revenue Position - Income		-30,225	187	129	-29,909
Additional affordable homes delivered by others		Num (Cumulative)	Q	20	60	28	Up	Up		Variation Percentage			69.2%	-2.6%	66.7%	HRA - Revenue Position - Expenditure		30,425	1225	61	31,711
KPIs (Quarterly Targets)		Unit	Freq.	Last Quarter	Target	This Quarter	Desired DOT	Actual DOT	Status	Supporting Narrative		Disabled Facilities Grants Caseworker Additional Income £30k, Stillwater Park Home Sales Additional Income £22k				Supporting Narrative		Dwelling Rent Income reduction £100k, Dwellings rent void losses £20k, Additional Service Charges Income -£11k Tree Maintenance £30k, Dwellings Insurance Premium £20k			
Prevention duty cases successfully prevented		%	Q	53%	50%	61%	Up	Up		General Fund Capital Programme		1,200	-300	0	900	HRA Capital Programme		24,900	-4000	0	20,900
Private sector property inspections resulting in Category 1 hazards		%	Q	15%	<40%	22%	Down	Up		Variation Percentage			-25.0%	0.0%	-25.0%	Variation Percentage			-16.1%	0.0%	-16.1%
Households in external emergency B&B accommodation		Num	Q	71	<70	70	Down	Down		Supporting Narrative						Supporting Narrative					
High Risks																					
High Risk Area				Prob.	Impact	Score/ RAG	Mitigation actions				Prob.	Impact	Score/RAG								
Increase in Homelessness				4	4	16	Prevention focussed service, Landlord Liaison role and Forum, Partnerships, Housing Support Team. New Action plan commenced September 2022 including recruitment of 2 additional posts.				4	2	8								
Loss of annual Government funding including, Homeless, Rough Sleeper Initiative and Discretionary Housing Payments				2	4	8	Maximise the use of council-owned emergency temporary accommodation, and funding to access the private rented sector. Ongoing lobbying of Government. Rough Sleeper funding has been extended for a further 3 years to 2025.				2	3	6								
Loss of Housing Revenue Account (HRA) income through increase in rent arrears and void rent loss				3	3	9	New Arrears Management software procured to enable monitoring and early intervention and new arrears recovery initiatives introduced. Officers are members of a district wide partnership group looking at initiatives to tackle food and fuel poverty.				3	2	6								
Compliance with property safety inspections (Gas, Electric, Fire, Legionella etc), including damp and mould requirements.				2	3	6	All statutory compliance matters treated as priority with additional resources in place to deal with scaling up of fire safety matters and asbestos actions. Review underway in respect of damp and mould cases. Regular reports to EMT and HHOSP.				2	2	4								
Increasing budget requirements to discharge housing functions (increase in homelessness, maintenance price increases and supply chains).				2	2	4	Clear understanding pre-budget of anticipated costs likely to be incurred in light of national pressures.				2	2	4								
Changes in the Housing Market, valuations and legislation affecting housing development programmes				2	3	6	Maintain close liaison links with affordable housing providers and Homes England. Flexible approach to rent designation of properties and Shared Ownership/rent designation. Search for available opportunities ongoing.				2	3	6								

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## HOUSING AND HOMELESSNESS OVERVIEW AND SCRUTINY PANEL WORK PROGRAMME 2023/2024

ITEM	OBJECTIVE	METHOD	LEAD OFFICER
<b>21 June 2023</b>			
Annual performance and provisional budget outturn	To consider the annual performance of services under the review of this Panel and the provisional budget outturn figures	Report to Panel	Rebecca Drummond
Disabled Facilities Grant (DFG) Financial Assistance Policy	To consider the revised DFG financial assistance policy	Report to Panel	Richard Knott / Grainne O'Rourke / Kirsty Farmer
DFG Minor Works Policy for NFDC owned stock	To consider implementing a minor work policy for our own housing stock	Report to Panel	Richard Knott / Grainne O'Rourke / Kirsty Farmer
Housing Strategy / HRA Property development and acquisition update	To receive an update on the progress of the Housing Strategy and HRA property development and acquisition	Update to Panel	Tim Davis
Homelessness Update	To receive an update on homelessness	Update to Panel	Richard Knott
<b>20 September 2023</b>			
Housing Strategy / HRA Property development and acquisition update	To receive an update on the progress of the Housing Strategy and HRA property development and acquisition	Update to Panel	Tim Davis
Homelessness Update	To receive an update on homelessness	Update to Panel	Richard Knott

ITEM	OBJECTIVE	METHOD	LEAD OFFICER
<b>17 January 2024</b>			
Housing Revenue Account Budget and the Housing Public Sector Capital Expenditure Programme for 2024/25	To consider the HRA budget and the housing public sector capital expenditure programme for 2024/25	Report to Panel	Kevin Green
Housing Strategy / HRA Property development and acquisition update	To receive an update on the progress of the Housing Strategy and HRA property development and acquisition	Update to Panel	Tim Davis
Homelessness Update	To receive an update on homelessness	Update to Panel	Richard Knott
<b>20 March 2024</b>			
Housing Strategy / HRA Property development and acquisition update	To receive an update on the progress of the Housing Strategy and HRA property development and acquisition	Update to Panel	Tim Davis
Homelessness Update	To receive an update on homelessness	Update to Panel	Richard Knott