

Registered Social Landlords Fact Sheet

Gas Servicing

Introduction

Under the 1988 Gas Safety (Installations and Use) Regulations Landlords must ensure that any gas appliance and any flue that serves that appliance is maintained in a safe condition.

Responsibilities

If any of your properties have any gas appliances you must ensure that you have a gas safety check carried out annually, or within 12 months of the start of a new tenancy. It is recommended that Associations check gas installations and appliances immediately before the start of any new tenancy even if a safety certificate is still valid. You will be committing a criminal offence if the gas safety check does not take place on or before the expiry of 12 months since the last gas safety check.

The gas safety check, installations and maintenance must only be undertaken by a CORGI registered gas fitter.

You must give a copy of the CORGI gas fitters safety check report to your tenant within 28 days of the check being carried out or to new tenants before occupation. In addition you must keep a record of each safety check for at least two years.

If an appliance fails the safety check the CORGI gas fitter should note the defect on his report and disconnect the appliance.

Managing Agents

You may employ a managing agent to look after your property for example a supported housing project. In this case you need to be sure that the management agreement makes it clear who will be responsible for arranging the gas safety check.

If the responsibility is given to the managing agent and the safety check is not done then the agent will be prosecuted. However the Association may still remain responsible if they cannot show that you had systems in place for monitoring the performance of your agent.

Access Problems

You should take all reasonable steps to ensure the gas safety check is carried out. Keep a careful record of no access visits and copies of appointment letters. If a tenant refuses access or does not respond to requests for access you will need to consider seeking a court order. This could be an order for access or possession depending on the circumstances. You should not force entry or enter without the tenants consent.

Penalties

Breach of the gas regulations is a criminal offence. Associations or managing agents can be convicted for non compliance. The standard penalty is a £6,000 fine for each item and/or 6 months imprisonment. On the back of a Health and Safety Executive prosecution you should expect a claim for civil damages.

In the most serious cases charges of manslaughter could be brought.

If you need help with this or any other Housing Law issue please email john.murray@emsleys.co.uk or elizabeth.berry@emsleys.co.uk. Both Elizabeth and John can be contacted by phone on **0113 2014900**.



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Documents

A complainant may be willing to keep nuisance diary sheets and for these to be shown to the court but will not give a statement or attend court. These diary sheets would be an example of hearsay evidence and could be exhibited to the Housing Officers statement.

Conviction Certificates

Conviction certificates can be obtained from Magistrates Courts on payment of a fee. The convictions are not in strict legal terms conclusive evidence that the defendant committed the act complained of. But in practical terms, they are useful because the defendant is unlikely to be able to persuade the court that he didn't do it.

Police logs

Housing Associations should by now have well developed Protocols for information exchange with Police Authorities for areas they operate in. The Housing Act 2004 strengthens powers to request information.

CCTV , Video and Photographs

Video evidence can also be powerful. Again, it is necessary to record when it was taken, and who by. Local Authorities taking video evidence are subject to the requirements of the Regulation of Investigatory Powers Act 2000, and must take expert legal advice before starting to gather such evidence.

Photographic evidence can be valuable, particularly as it can be stored digitally and transmitted and printed easily when later required. It is important to record the date the photos were taken, and who took them, in case they are later required as evidence.

Supporting your Witnesses

Diary sheets

Diary sheets should be widely distributed for completion. Explain why they are necessary. Spend some time with people showing them how you would like them to be filled in, and agree when you will collect them up for review.

Ask witnesses to use technology where they have it available. If reports can be filed by e mail, then information can be cut and pasted to compile reports and statements later on.

Explain the process

It is important to remember that your witnesses are likely to find the legal process mystifying, slow and intimidating. At the same time they may be dealing with the effects of the Anti Social Behaviour on daily basis, which may be tiring, stressful and further intimidating.

Your case is likely to depend upon their co-operation and goodwill, and it is essential that they feel some kind of "ownership" of the process. It is often useful to hold regular meetings or at least write to your witnesses to ensure that they are kept up to date, and have as much knowledge as possible of the court process, including it's limitations where necessary. It can be hugely beneficial to hold a meeting between witnesses and the solicitor to talk through the Court process.

A fact sheet for tenants can be a useful tool to avoid them getting frustrated with the process which they may perceive operates slowly and is more supportive of the alleged perpetrator than them.

Witness support

Witness support by a lead officer is essential. The willingness of a witness to attend court may depend on the support that can be offered to them. The following issues may assist:

- Direct line of contact at short notice
- Early contact with solicitors
- Support between issuing proceedings and the hearing
- Support at the hearing
- Transport to court / fares or loss of earnings
- Use of interim orders
- Personal protection (CCTV, panic buttons, spyholes re-housing etc

In summary

- Identify a lead officer
- Investigate thoroughly
- Comply with policy and procedure
- Keep full records
- Identify all sources of evidence
- Be realistic about what is possible
- Agree an action plan
- Communicate with witnesses and be supportive

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