

North Lanarkshire Council

Report

Communities and Housing Committee

approval noting

Ref RS/BL/LS

Date 11/09/19

Enforced Entry: Electrical safety in Council Houses

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Executive Summary

This report requests that Committee duly considers and approves the enforcement of Section 5.12 (formerly section 5.11) of the Scottish Secure Tenancy Agreement to force access to properties occupied by non-engaging households to enable electrical test inspections to be undertaken.

In terms of electrical safety, the council are required to do everything reasonably practicable to protect our tenants from harm. An inspection programme is in place however each year a number of households do not engage in the process resulting in the council's contractor failing to gain access to the property to carry out this inspection.

The inability to carry out the safety inspection is concerning due to the increased risk of injury to persons through faulty electrics. The existing process is in line with good practice however cannot mitigate this risk. The proposed new process is similar in design to the successful gas forced entry process and as such it is anticipated it will improve the council's electrical safety performance.

Recommendations

It is recommended that the Communities and Housing Committee:

- 1) Approve the use of the forcible access as a final stage within the revised process for electrical safety inspection within the council's domestic housing stock.

The Plan for North Lanarkshire

Priority Improve the health and wellbeing of our communities

Ambition statement (14) Ensure the highest standards of public protection

1. Background

- 1.1 The Housing (Scotland) Act 2001 places a duty on social landlords to keep their properties wind and watertight, and in good condition. Schedule 4 of the Act, supports this duty by allowing the landlord or any authorised person to give reasonable notice to access the property to carry out inspections and any identified remedial works to ensure the landlord's duty is met (Appendix 1). The right for the council as a landlord is detailed within our tenants' missive agreements. (Appendix 2).
- 1.2 The Tolerable Standard as defined within the Housing (Scotland) Act 1987 and through the amendments contained within the Housing (Scotland) Act 2006 includes electrical installations. The 1987 Act makes it a duty for the council to bring all houses up to meet the tolerable standard.
- 1.3 In order to meet the Tolerable Standard, electrical installations are to be 'adequate and safe'. It is recognised that compliance can be demonstrated through the application of the BS 7671 IET Wiring Regulations: 'a competent person inspects and tests the electrical installation against the regulations and completes a periodic inspection report' or equivalent.
- 1.4 The wiring regulations (BS 7671:2008+A3:2015) advises of the requirements for electrical installations. An electrical safety check (also known as an 'EST') are required to check the condition of the wiring to 'hard wired' installations against the standard as over time this can deteriorate or become damaged. The programme is intended to be cyclical and delivered over a 5 year period, in line with recommended and acceptable practice within the industry for domestic rented properties. It is widely recognised and accepted that compliance with the BS7671 is likely to achieve compliance with the Electricity at Work Regulation where the council has a duty to protect employees from danger. Carrying out the EST will assist the council to comply with their statutory duties to protect employees, front line staff such as technical officers, housing advisors and contractors carrying out work on behalf of the council.
- 1.5 Currently 22.7% of the council's domestic housing stock do not have an EST within the 5 year timescale. The main cause of this is due to the tenant failing to provide the necessary access. These properties are reinserted within the programme and the process is repeated resulting in historical sustained tenancies where the check has not been carried out for a significant period of time.
- 1.6 Electrical safety system inspections provide the council with an opportunity to ensure that our installations and equipment remain in good order and have not been misused nor damaged. The EST is carried out for:
 - The safety of persons and livestock against the effects of electrical shock and burns
 - Protection against damage to property by fire and heat arising from an installation defect
 - Confirmation that the installation is not damaged or deteriorated so as to impair safety
 - The identification of installation defects and departures from the requirements of BS 7671 that may give rise to danger.

- 1.7 In Scotland there were 346 domestic fires caused by faulty electrical supply and 1,000 accidents in the UK caused by electrical shock. The risk to non-engaging households and neighbouring properties increases each year the council are unable to carry out safety inspections. In the event of an incident happening the council is not only exposed to reputational risk, but most importantly the risk of failing to do all it can to meet its landlord responsibilities. The EST identifies corrective action that requires to be taken and therefore enables the council to immediately react and reduce the risk of electric shock, fire and burns through faulty electrics.
- 1.8 For the purposes of this report, the EST includes but is not limited to: - consumer units, and other hard wiring supply permanent electrical installations such as fire detection electrical equipment (smoke and heat detectors), lighting and heating.

2. Report

- 2.1 In order to improve the council's performance in terms of electrical safety, it is proposed that the current EST process would be amended to reflect the gas safety process which was approved in 2009 and as was amended at committee in 2011 (see appendix). The timescale for the process will be over a 12 month period as this will enable a more comprehensive process to be adopted. The revised process will enable the council's contractor to plan the additional visits required.
- 2.2 The new process will require more involvement from both Housing Property and operational staff in the preparation and checking of packs as well as producing additional letters to tenants. A technical officer will be present at each forced entry as the representative of the landlord and to ensure that forced entries are only carried out where necessary and clerical staff to support the additional administration of the process.
- 2.3 The new procedures will be communicated in writing to all existing and new tenants via the Tenants Newsletter and will be supported by existing social media videos.

Other housing safety concerns

- 2.3 The Tolerable Standard is a quality standard for housing. It was further amended by the Housing (Scotland) Act 1987 (Tolerable Standard) (Extension of Criterion) Order 2019. The revision requires the council to ensure the following is in place:
- 'satisfactory equipment for detecting fire and giving warning in the event of fire or suspected fire'; and
 - 'satisfactory equipment for giving warning if carbon monoxide is present in a concentration that is hazardous to health'.
- 2.4 The council must ensure all their properties comply with the fire safety amendment by February 2021 and the systems must be maintained thereafter.

3. Equality and Diversity

- 3.1 Fairer Scotland Duty
Those from a socio-economic disadvantaged household will not be further deprived via the implementation of this change in practice.

- 3.2 Equality Impact Assessment
In terms of the council's equality duties, there is no assessed positive or negative impact on protected characteristic categories.

4. Implications

4.1 Financial Impact

The two additional posts would be fully funded from the current HRA repairs budget. A review of the current workload and the additional requirements of the proposed new process has highlighted the requirement for a technical officer and a clerical assistant. All will be fully funded from the HRA repairs budget. The annual costs are as below:

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- Technical Officer (NLC7/9)- £35,259
- Clerical Assistant (NLC 4)- £25,827

This would have an annual employee cost of £61,086 to the HRA repairs budget.

There will be a cost implication due to the change in process as a joiner will be on site at forced entry stage. The cost of this will vary as it will be dependent on the door type of the property. Any additional spend will initially be contained within the 2019/20 HRA repairs budget. Additional costs will be monitored in initial phases of the revised process with a view to incorporating into future budget planning.

4.2 HR/Policy/Legislative Impact

The legality of the proposed EST process has been assessed by a member of the council's Licensing & Litigation team. It is their opinion that under section 5.11 of the tenancy agreement and under the Housing (Scotland) Act 2001, the authority can force entry to complete the required electrical safety inspection however it is not an absolute right and a decision to do so, carries an element of risk and should only be attempted when the proper process is in place and followed. The council has a clear duty to protect its tenants from danger in their tenancies and therefore it is important that electrical safety inspection are carried out.

4.3 Environmental Impact

It is not envisaged that this proposed process change and subsequent increase in business mileage will significantly impact on the council's reportable emissions. Although subject to availability, utilisation of the council's pool cars will be promoted to further control of reportable emissions.

4.4 Risk Impact

There is a risk of legal challenge however it is the opinion of the council's Licensing & Litigation team that the former Counsels conclusions with regard to the gas safety are true also to the issue of forcing entry for electrical inspection, insofar as the risks can be mitigated against by the implementation of a robust and open process.

The risk to vulnerable households will be mitigated by ensuring that the proposed new process is implemented and fully adhered to.

5. Measures of success

- 5.1 Improved access rates for properties subject to electrical safety inspection.
- 5.2 Achieve 100% electrical safety inspections within agreed timescales.

6. Supporting documents

- 6.1 Appendix 1 Extract of Schedule 4, Housing (Scotland) Act 2001
- Appendix 2 Extract of Scottish Secure Tenancy Agreement
- Appendix 3 New process



Head of Business (Housing Property and Projects)

Appendix 1 Extract of Schedule 4, Housing (Scotland) Act 2001

1. The landlord in a Scottish secure tenancy must—
 - (a) ensure that the house is, at the commencement of the tenancy, wind and watertight and in all other respects reasonably fit for human habitation, and
 - (b) **keep the house in such condition throughout the tenancy.**
3. The landlord must—
 - (a) ensure that any work necessary to comply with the duty in paragraph 1(b) is carried out within a reasonable time of the tenant notifying the landlord, or the landlord otherwise becoming aware, that it is required, and
 - (b) make good any damage caused by the carrying out of the work.
4. The landlord, or any person authorised by it in writing, may at any reasonable time, on giving 24 hours' notice in writing to the tenant or occupier, enter the house for the purpose of—
 - (a) viewing its state and condition,
 - (b) carrying out any work necessary to comply with the duty in paragraph 1(b) or 3.

Appendix 2 Extract of Scottish Secure Tenancy Agreement

We have the right to come into your house to inspect it and its fixtures and fittings or carry out repairs to it, or adjoining property, during reasonable times of the day. We will give you at least 24 hours' notice in writing. We have the right of access to your house in order to lay wires, cables and pipes for the purposes of telecommunications, water, gas and electricity, providing we give you reasonable notice in writing. We have the right of access to the common parts at any reasonable time. If you refuse us entry, we will have the right to make forcible entry provided we have given you every reasonable opportunity to let us in voluntarily. If we have to make forcible entry, in this situation, you are liable for the costs of any damage reasonably caused. In an emergency, we have the right to make forcible entry to your house without notice.

Appendix 3 new process

Stage	Milestone	Description
1	March	NLC Housing Property & Projects Services and Legislative Team issue address list via a works batch to the Service Providers who will schedule dates for EST by geographical area.
2	March	Service Provider provide draft programme to S&L Team. S&L Team to send letters to all tenants within the programme, advising of intention to carry out check.
3		Service Provider issues 1 st appointment notification letter (4 weeks prior to programmed date) with option to make contact and reschedule.
4	1st visit	On appointed date, the Service Provider attends to carry out EST. If access to the property has not been gained, a card is left with the date of the next visit (minimum 7 days notice) and with an option to reschedule
5	2nd visit	On appointed date, the Service Provider attends to carry out EST. If access to the property has not been gained, a card is left advising tenant to contact S&L Team to rearrange.
6	Weekly	Service Provider reviews 2 nd no accesses within works batch and provides a list of addresses along with the no access details to S&L team. Service Provider and S&L Team agree timescale for diaries for final appointment letters
7	Final Appointment Letter and 3rd visit	Services & Legislative team prepare final appointment letter, attempting contact with tenant via telephone, to agree appointment date. Letter is issued to tenant confirming or advising of appointment date. On appointed date, the Service Provider attends to carry out EST. If access to the property has not been gained, a card is left advising tenant to contact S&L Team to discuss. S&L Team and Service Provider agree timescale for diaries for forced entries.
8	Preparation for Forced Entry	Services & Legislative team prepare packs for forced entry and deliver to local housing office. (NB: Pack contains copy of letters issued and list of missed appointment dates). Office to complete checks before approving forced entry. Forced Entry Letter is signed by Area Manager. Forced Entry Letters returned to S&L Team and thereafter delivered to tenant (minimum 14 days prior to forced entry date)
9	Forced Entry	S&L Team Technical Officer attends tenancy with Service Provider. Entry forced and Technical Officer accompanies Service Provider within property. EST is completed.