

North Lanarkshire Council

Report

Housing and Regeneration Committee

approval noting

Ref RS/BL/CB/DH

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Electrical safety in Council houses – enforcement of works

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Executive Summary

The purpose of this report is to seek approval from Committee for the enforcement of electrical works, including electrical wiring upgrades to existing circuits in our housing stock when identified through a formal electrical safety check (also known as EST) or an alternative form of inspection of the property in conjunction with Section 5.12 (formerly Section 5.11) of the Scottish Secure Tenancy Agreement to complete the installation of smoke, heat and carbon monoxide detection systems,

A report was presented to the Communities and Housing Committee in September 2019 and received approval authorising the use of enforcement action to gain access to properties to complete electrical safety checks.

In the event of emergency action(s) being identified at the time of the electrical safety check, the property would be made safe and appropriate follow up works scheduled. Should a tenant fail to engage with the process and provide mutually convenient access we will be unable to complete important works in our housing stock.

This action to enforce works will ensure our housing stock is fully compliant with electrical wiring regulations and the Housing (Scotland) Act 1987 (Tolerable Standard) (Extension to Criterion) Order 2019.

Recommendations

It is recommended that the Housing and Regeneration Committee:

- (i) Note the contents of this report;
 - (ii) Approve the use of enforced access for the purposes of completing identified electrical wiring works to ensure the Council's housing stock is fully compliant with the relevant electrical wiring regulations;
 - (iii) Approve the use of enforced access for the purposes of completing installation of smoke, heat and carbon monoxide detection systems, to ensure the Council's housing stock is fully compliant with the Housing (Scotland) Act 1987 (Tolerable Standard) (Extension to Criterion) Order 2019.
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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' tenancy agreement (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 wiring regulations: 'a competent person inspects and tests the electrical installation against the regulations and completes a periodic inspection report' or equivalent. The wiring regulations advises of the requirements for electrical installations.
- 1.4 Non-engagement of tenant's in identified electrical works risks the property not meeting current wiring regulations and the requirements of the Housing (Scotland) Act 1987. This exposes the Council to potential reputational risk, but most importantly, the risk of failing to do everything possible to meet its landlord responsibilities.
- 1.5 In the event of emergency action(s) being identified at the time of the electrical safety check, the property would be made safe i.e. relevant minimal electrical works would be completed to ensure the property was fit for habitation with operational electrical circuit(s).
- 1.6 As we do not enforce participation in mainstream capital investment works, the existing standard process is that where investment is identified and the property is not unsafe, we currently wait for properties to become vacant or participate in other internal capital works and complete specific electrical upgrade works during this period.

2. Report

Electrical Safety Test

- 2.1 The purpose of enforcement is to resolve a problem rather than punish the relevant tenant(s). The EST identifies corrective action that requires to be taken and whilst a

property can be made safe, if necessary, via emergency work(s), follow up works are likely to be required to complete the wider scope of works.

- 2.2 Through the delivery of the existing mainstream capital investment programme, we have experienced multiple occasions where tenants have failed to participate in project works resulting in a failure to complete much needed works to maintain and future-proof our housing stock assets. In the event of this occurring we would intend to complete specific electrical upgrade works out with any other capital or voids works.
- 2.3 Should a tenant fail to engage with the process relating to electrical works the property may, ultimately, fail to comply with electrical wiring regulations and the Housing (Scotland) Act 1987 (Tolerable Standard) (Extension to Criterion) Order 2019.
- 2.4 The ability to enforce access and the completion of identified electrical works in our housing stock assets following an EST e.g. full or partial rewiring will ensure our properties are fully compliant with all regulatory and legislative frameworks.

Fire Detection

- 2.5 The ability to also enforce access to complete the works to install smoke, heat and carbon monoxide detection equipment in our housing stock will ensure our properties are fully compliant with all regulatory and legislative frameworks.
- 2.6 The introduction of the Housing (Scotland) Act 1987 (Tolerable Standard) (Extension to Criterion) Order 2019 places obligations on landlords and private property owners to ensure their properties meet minimum requirements in relation to smoke, heat and carbon monoxide detection. This legislation comes into force on 1 February 2021.
- 2.7 The changes to the legislative framework and associated guidance regarding detection equipment does not, at present, include any penalties for non-compliance by landlords. This may change during the intervening period of time depending on performance by landlords in relation to their housing stock compliance.

3. Equality and Diversity

- 3.1 Fairer Scotland Duty
Those from a socio-economic disadvantaged household will not be further deprived as a result of the enforcement action(s).
- 3.2 Equality Impact Assessment
In terms of the Council's equality duties, there is no positive or negative impact on protected characteristic categories.

4. Implications

- 4.1 Financial Impact
 - 4.1.1 The costs to the HRA Capital Investment Plan can be confirmed following completion of the initial EST.
- 4.2 HR/Policy/Legislative Impact

4.2.1 There is no absolute right, under the terms and conditions of our Scottish Secure Tenancy Agreement, to enforce access to our properties by way of advance notification to the relevant tenant(s). The procedure carries an element of risk and should only be attempted when a proper process is in place and followed. The Council has a duty to protect its tenants from danger in their tenancies and therefore it is important that the electrical works detailed in this report are carried out.

4.3 Environmental Impact

4.3.1 Completion of electrical wiring works in our domestic housing stock, where identified, will ensure our houses comply with the relevant current regulatory and legislative frameworks.

4.4 Risk Impact

4.4.1 There is a risk of legal challenge to such a process being implemented and the Council experiencing reputational damage. Operating a robust and transparent process may mitigate such risks.

The risk to vulnerable households will be mitigated by ensuring that the proposals contained herein are implemented and fully adhered to.

The Council may experience an increase in numbers of properties, within its own housing stock asset portfolio, which are classified as Below Tolerable Standard (BTS) should we be unable to upgrade detection equipment to meet legislative requirements. We have a legal duty to improve such properties using a range of measures including enforcement via formal legal proceedings if required.

5. Measures of success

- 5.1 Provide safe, improved and sustainable domestic properties for the tenants of North Lanarkshire Council.
- 5.2 Ensure the domestic housing stock continues to meet Scottish Housing Quality Standard (SHQS).

6. Supporting documents

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



Brian Lafferty
Head of Business (Housing Property and Projects)

Appendix 1

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; and
 - (b) Carrying out any work necessary to comply with the duty in paragraph 1(b) or 3.

Appendix 2

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 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.