

Report to: Audit & Governance Committee 25<sup>th</sup> September 2024

Director or Business Manager Lead: Suzanne Shead, Director of Housing Health and Wellbeing

Lead Officer: Caroline Wagstaff –Business Manager Housing Maintenance & Asset Management

<b>Report Summary</b>	
<b>Report Title</b>	<b>Gas Safety Compliance – Overview and Lessons Learnt</b>
<b>Purpose of Report</b>	<p>This report seeks to provide an overview of the circumstances of making a self-referral to the Regulator of Social Housing (RSH) for a breach of the Home Standard for failures in the Council’s HRA Gas Servicing Programme.</p> <p>It also sets out the actions taken to bring the Council out of regulation, confirms performance has returned to its previous levels and actions taken to prevent a further occurrence.</p>
<b>Recommendations</b>	<p>To:</p> <ul style="list-style-type: none"> <li>a. Note that performance has returned to acceptable levels.</li> <li>b. Note the actions completed as a result of the service failure.</li> <li>c. Note the remaining recommendations in the Action Plan in Appendix 3 to be actioned</li> </ul>
<b>Reason for Recommendation</b>	To ensure the Council has sufficient assurance in respect of this service and the ongoing priority of maintaining and further improving this service.

## **1.0 Background**

1.1 In July 2022, the Council’s gas servicing programme for council owned homes was significantly underperforming against a target of 100% of properties with a valid gas certificate. Given the number of homes without a valid certificate at one point at its peak over 1,000 properties, the Council self-referred to the Regulator of Social Housing (RSH) in August 2022 and was found in breach of the home standard. A regulatory Notice was served on the Council on 26 October 2022.

1.2 The Regulator had concluded in the Notice that the Council had:

- (a) breached part 1.2 of the Home Standard

(b) As a consequence of this breach, there was the potential for serious detriment to the Council's tenants.

- 1.3 A summary of the history behind the service failure is noted in item 3.0 below and further details can be found in Appendix 3.
- 1.4 The Council had procured Pennington's Consulting to undertake an external audit in September 2023 and a further audit in January 2024 with the latter giving **reasonable assurance**. Both reports can be found in Appendix 1 & 2 respectively.
- 1.5 The Council engaged in monthly meetings with the Regulator of Social Housing to set out progress of restoring performance and progress against an action plan to improve gas servicing arrangements moving forward.
- 1.6 Throughout this period, the performance of the gas servicing programme was reported weekly to SLT and the Portfolio Holder and regularly to engaged tenants. A letter was sent to all tenants affected and reassure them of arrangements in place to recover the position as well as encouraging tenants to keep their appointments.
- 1.7 On 18 March 2024 the Council received confirmation that the Regulator was satisfied that the Council had returned performance to previous levels and the Regulatory Notice was withdrawn.
- 1.8 In June 2023, the Council worked with tenants to understand the customer experience of gas services and provided a number of suggestions that may improve this, whilst also helping tenants to understand why gas servicing is essential and therefore improve earlier and timely access.
- 1.9 Results from the 2022-23 STAR survey conducted in February 2023 show that 86.4% of tenants agree that NSDC take residents health and safety concerns seriously and satisfaction with gas servicing arrangements remains excellent at 91.9%. This reflects our transactional survey results that show satisfaction at 97.9% in May 2024. This reflects that the issue although significant in numbers, was for a relatively short period of time and had no known impact on tenants.

## **2.0 Legislative and Regulatory Framework**

- 2.1 Gas Servicing is covered by Section 36 of the Gas Safety (Installation and Use) Regulations 1998 and places a duty on landlords to undertake annual checks on gas appliances and flues (and that a record is kept and issued or, in certain cases, displayed to tenants) and carry out ongoing maintenance. As a landlord, the Council has a duty to ensure compliance with these Regulations by ensuring that annual gas services are carried out competently and in a timely manner.
- 2.2 The Safety and Quality Standard, a Customer Standard within the Regulatory framework of the RSH states in Section 1.1 and 1.3 that registered providers shall:
  - (a) have an accurate, up to date and evidenced understanding of the condition of their homes that reliably informs their provision of good quality, well maintained and safe homes for tenants
  - (b) take all reasonable steps to ensure the health and safety of tenants in their homes and associated communal areas.

2.3 In addition to breaching standards in place via the RSH, non-compliance with the above legislation also leaves the council open to potential enforcement action, criminal proceedings and civil litigation.

### **3. Contributing Factors for Failure**

3.1 Following a thorough investigation, it was clear there were many factors, both internal and external that have contributed to the service failure outlined above.

3.2 In summary the key factors were a combination of poor contact management, workload and time management and systems failure. For further details please see Appendix 3 'Service Failure History'.

### **3.0 Preventative Measures implemented.**

3.1 Below sets out officers' actions taken in response to the initial breach with actions taken from the external audit outlined in 3.2 below.

- Implementation of an asset management and compliance software system (APEX) to manage all compliance and asset investment programmes.
- Strengthening of compliance monitoring at all levels of the Council including regular auditing and escalation arrangements for reporting performance exceptions
- Introduction of 10-month "MOT style" service cycle and regular reminders to tenants around importance of access for gas servicing.
- Changes to the annual programme to flatten the peak of servicing due in June-August to maximise resources and remove pinch points. This is expected to be fully completed by March 2025.
- Gas Servicing is on annual internal audit plan.
- Additional support from community-based colleagues to secure successful access for appointments (high levels of non-access).

3.2 Following the last external audit a range of recommendations were made, and these are listed in the table below. The progress is indicated within the table. Two of the minor recommendations are still outstanding.

<b>Items for Action with Audit Reference Numbers</b>	<b>Progress</b>
<b>1.1</b> All inaccurate records be investigated, and any confirmed errors corrected in Apex and communicated to your servicing contractor. Extending the inhouse record audit to cover 100% of your records.	Completed 17 <sup>th</sup> Nov 2023
<b>1.2</b> Gas Servicing and Safety Policy to be review.	Completed 24 <sup>th</sup> Nov 2023
<b>2.2 Archiving the Excel trackers</b> Set a target date for archiving the Excel trackers and running Heating Appliance Servicing programmes through Apex.	Completed 27 <sup>th</sup> Oct 2023
<b>2.3 Sample Programme Audit</b> To test the accuracy data validation processes, by undertake a 5 per cent sample audit of the properties (domestic & blocks) not on your gas servicing programme to test what documentary evidence we have for excluding them.	Completed end Jan 2024

<p><b>2.4 Properties handed back by the servicing contractor.</b>  Agree a set number of days to expiry for when the contractor must hand back a property following no access, so that we have certainty on the timescales we are working to for gaining access to the property before the LGSR expires – this is typically 30 days.</p>	Completed end Dec 2023
<p><b>2.5 Internal escalation/investigation for no access properties</b>  Procedure to document our internal escalation/investigation process for no access properties.</p>	Completed end Jan 2023
<p><b>2.6 Capping properties</b>  Procedure for capping properties</p>	Completed end March 2024
<p><b>2.7 Tenant Satisfaction Measures</b>  Review our reporting approach to confirm able to comply with the requirements of the TSMs.</p>	Completed 27 <sup>th</sup> October 2023
<p><b>2.8 Reporting structure &amp; frequencies</b>  Review reporting structure to ensure the audience and frequencies are appropriate.</p>	Completed end March 2024.
<p><b>2.9 Best practice policy updates</b>  Review policy to and add:   Data &amp; records, competent persons, performance reporting, significant non-compliance and escalation, resident engagement, dangerous substances and explosive, Atmosphere Regulations (DSEAR) 2002.</p>	Completed August 2024
<p><b>2.10 Process map redrafting</b>  Review our gas safety process map to adopt a swim-lane diagram format which will allow roles and responsibilities to be allocated to specific job roles, timescales to be assigned for achieving key process milestones and the identification of interdependencies between roles and departments.</p>	Completed August 2024
<p><b>2.11 Procedure redrafting</b>  Following the redrafting of our gas safety process map, we ensure all commitments in policy are covered detailing our approach as outlined in the process maps.</p>	Completed August 2024
<p><b>2.12 Policy, Process, and Procedure Implementation</b>  Train all relevant staff on revised policy and procedures and ensure staff are aware of the obligations, roles and responsibilities.</p>	Completed August 2024
<p><b>2.13 Compliance Team Resource</b>  Training for Gas Safety &amp; Water hygiene Compliance Officer at Level 4 VRQ in Gas Safety Management in Social Housing or the Level 4 VRQ Diploma in Asset and Building Management Compliance.</p>	On going from Sept 2024
<p><b>2.14 Contractor Competencies</b>  Set up process to ensure contractor competencies are checked at least annually, and documentary evidence saved by NSDC to confirm what competencies each contractor holds, the dates of expiry (if applicable), the date on which they were last checked and by whom.</p>	Completed 29 <sup>th</sup> February 2024
<p><b>2.15 Resident Engagement</b>  Develop a compliance specific resident engagement and communication plan.</p>	Completed 31 <sup>st</sup> March 2024
<p><b>2.16 100% Internal Desktop Record Audit</b>  Implement an internal one 100% desktop audits of all LGSRs/certificates provided by our contractor.</p>	Completed November 2023
<p><b>3.1 Capita flagging process.</b></p>	Completed March 2024

Document a formal flagging process in Capita which outlines the criteria by which a property should be flagged, who is responsible for doing so and what action must be taken by the Repairs Team/Customer Service Team or the wider business if they come across a flag.	
<b>3.2 Automated report on mutual exchanges</b> Implementing an automated weekly/monthly report which shows any changes of tenancy and is sent to the Compliance Team for review to identify any mutual exchanges and confirm they have received a gas service.	Outstanding – To be completed by May 2025
<b>3.3 RAG Ratings in Reports</b> Change rating to 100% - Green 98-99.9% - Amber 0-97.99% - Red	Completed April 2024
<b>3.4 Narrative in Reports</b> Non-compliance cases are addressed with narrative and include: <ul style="list-style-type: none"> <li>Explanation of current position; corrective action required and anticipated impact of corrective action.</li> </ul>	Completed March 2024
<b>3.5 Data reporting structure</b> Revision of Compliance Reports to ensure that key information is being presented to the reader in the most succinct format.	Completed 19 <sup>th</sup> April 2024
<b>3.6 Compliance Team Resource</b> Draft JD for Improvement Manager and assess salary at JE Panel. Then seek approval from SLT to recruit post to deliver the road map and recommendations.	Outstanding – To be completed by end Dec 2025
<b>3.7 NSDC Website</b> Document gas safety information for residents on the Councils 'Information for tenants' section and ensure these pages are kept up-to-date and reflect any regulatory or legal changes.	Completed April 2024

3.3 In January 2024 the external auditor also recommended carrying out an audit of 100% of all records to correct all inaccuracies between system and certificate dates. This data audit will be conducted by our internal auditors when reviewing Building Safety which is due for completion by 31 March 2025.

#### **4.0 Contract Performance Monitoring**

- 4.1 Our gas contractor Phoenix Gas Ltd is subject to formal fortnightly performance review meetings during its contract period. When there are any concern or a dip in performance, meetings are increased to a weekly basis.
- 4.2 The performance indicator for gas servicing changed in April 2024 to show the gross number of properties without a valid certificate regardless of whether there was a legal action in progress.
- 4.3 As at 6 September 2025, the current performance of the gas servicing programme is 34 properties without a valid gas certificate. Please note that many of these cases are new and not those outstanding from the last report.

#### **5.0 Monitoring and Assurance**

- 5.1 Apex is the housing asset and compliance software which monitors the contract performance and assists the Council with spotting service failures early, enabling swift intervention to bring delivery back to acceptable service levels as soon as possible.

**5.2** Compliance assurance reporting is undertaken as follows:

- a) Quarterly reviews of Strategic Risk 409 – Strategic Compliance Management  
Undertaken with the Safety and Risk Manager, Director of Housing, Health and Wellbeing and Deputy Chief Executive
- b) Quarterly reporting of performance of all HRA compliance aspects to the Risk Management Group, and
- c) Quarterly performance report to SLT, Housing Assurance Board, Policy and Performance Improvement Committee and Cabinet.
- d) Performance is also shared with tenants via the Tenant Annual Report and will be part of the suite of Key Performance Indicators updated to the Councils website from Qtr 1 2025-26

## **6.0 Implications**

### **6.1 Financial Implications FIN24-25/4668**

There are currently no financial implications for this report. However, if any future development proposals, such as the creation of a Housing Compliance Improvement Manager, were put forward for approval at a future date, then the associated costs and financial implications of such options would need to be assessed as part of a separate report.

### **6.2 Equality & Diversity**

Approximately 90% of our tenants have gas heating and therefore any potential dip in performance could have a negative effect. Where legal action is proposed, a full equality impact assessment is completed as part of the pre-legal process.

## **Background Papers and Published Documents**

- Appendix 1 Pennington Audit Report – August 2023
- Appendix 2 Pennington Follow-up Audit Report – January 2024
- Appendix 3 Service Failure History