

# ARUN DISTRICT COUNCIL

## REPORT TO AND DECISION OF THE RESIDENTIAL & WELLBEING SERVICES COMMITTEE ON 30 SEPTEMBER 2021

**SUBJECT:** Compliance Policies Approval

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**DATE:** 18 August 2021

**TEL NO:** 07733 125706

**AREA:** Services Directorate

### **EXECUTIVE SUMMARY:**

The Council need to ensure residents can live safely in their homes. All landlords need to make sure they meet legal and regulatory requirements for Compliance functions. The big six compliance areas which landlords need to manage are:-

- Fire Safety
- Gas Safety
- Electrical Safety
- Lift Safety
- Asbestos management
- Legionella

The Council have worked with Penningtons, a leading consultancy who specialise in Compliance Management, to review the existing policies to ensure a clear and consistent approach is adopted. A new policy for each of the big six compliance areas has been drafted. These draft policies are attached as appendices to this report.

### **RECOMMENDATIONS:**

The committee is recommended to approve the following policies for publication:

- Fire Safety;
- Gas Safety;
- Electrical Safety;
- Lift Safety;
- Asbestos management;
- Legionella.

And to give delegated authority to the Group Head of Residential Services to make minor changes to the policies.

## **Background**

The Council need to ensure residents can live safely in their homes. All landlords need to make sure they meet legal and regulatory requirements for Compliance functions. The big six compliance areas which landlords need to manage are:-

- Fire Safety;
- Gas Safety;
- Electrical Safety;
- Lift Safety;
- Asbestos management;
- Legionella.

The Council is currently under regulatory notice with the Regulator for Social Housing for failures to adequately manage compliance risk. Progress has been made since the notice was issued. Penningtons, a leading consultancy who specialise in Compliance Management carried out a Compliance Health check earlier this year. It highlighted where the Council was managing compliance well, and recommendations for further improvement.

One of the recommendations was to review existing policies to ensure a clear and consistent approach. The Council have worked with Penningtons and a new policy for each of the big six compliance areas has been drafted.

Penningtons were able to provide external assurance that the Council's draft policies covered legal and regulatory requirements as well ensuring good practice elements are reflected in the policies. Whilst there are some choices to be made in how far an organisation goes in managing compliance, the policy intentions contained in the draft policies are in line with what most good social landlords are doing and what the Regulator would expect to see.

Each Policy is structured in a consistent way:

- Introduction and Policy Objectives
- Scope
- Regulatory Standards, Legislation and Guidance
- Additional Legislation
- Obligations
- Statement of Intent
- Inspection Programmes
- Follow-up Work
- Data and Record Keeping
- Resident Involvement and Engagement
- Key Roles and Responsibilities
- Competent Persons
- Training
- Performance Reporting
- Quality Assurance
- Non-Compliance/ Escalation Process
- Approval

## **Fire Safety Policy**

The Council is responsible for carrying out fire risk assessments, and taking action to identify, manage and mitigate risks associated with fire within the communal areas of buildings the Council own and manage

The policy sets out how the Council will carry out periodic fire risk assessments using competent risk assessors, take action to deal with recommendations coming from these risk assessments and carry out regular servicing and maintenance of equipment.

## **Gas Safety**

The Council is responsible for maintaining and repairing heating systems to homes, most notably properties which contain gas installations and appliances. We are also responsible for maintaining other types of heating systems to ensure that all heating appliances provided for residents by the Council are safe.

This policy sets out how the Council will

- carry out a programme of annual gas safety checks to all domestic properties the Council own and manage every 12 months,
- carry out an annual safety check to properties with ground source heat pumps, air source heat pumps, oil-fired systems, solid fuel, liquid petroleum gas (LPG), biomass and solar thermal and
- carry out a programme of annual gas safety checks and services to all communal blocks.

## **Electrical Safety**

The Council have a duty to ensure that electrical installations in rented properties are:

- Safe when a tenancy begins.
- Maintained in a safe condition throughout the tenancy so the property is fit for habitation.

To comply with these duties, electrical installations are required to be periodically inspected and tested. There is no legal requirement setting out how frequently this must be done. However, guidance recommends this is carried out every five years and this is what most landlords will do. The current approach at the Council is a five-year programme and this is what is reflected in the policy.

## **Lift Safety**

The Council needs to maintain lifts and lifting equipment. Passenger lifts in workplaces (for example, offices and communal blocks), which are used by people during their course of work, fall within the scope of Lifting Operations and Lifting Equipment Regulations 1998 (LOLER). This means a thorough examination is carried out every 6 months.

Stairlifts are not covered by LOLER and the Council's policy does not require the Council to carry LOLER Thorough Examinations to them. The policy commits the Council to carry out an annual service to stairlifts.

### **Asbestos**

The Council has a legal obligation under Part 2, Section 4 'Duty to manage asbestos in non-domestic properties'. This means having asbestos surveys and data for the common parts of blocks of flats. Surveys are in place for these areas.

There is no similar obligation to manage asbestos in domestic properties, but there is a duty to keep residents safe, and contractors safe when they are working in domestic properties. It is good practice to hold asbestos information about all properties and the Council has committed within the policy to complete 100% of surveys for domestic properties by 31 March 2028.

### **Legionella**

The Council must meet the legal obligations which require it to deal with the risks associated with legionella bacteria within the properties owned or managed. Legionella bacteria can cause a potentially fatal form of pneumonia called Legionnaires' disease

All blocks with shared water systems will be risk assessed. In addition, all sheltered housing and temporary accommodation blocks will have new risk assessment carried out every 2 years. As far as it is reasonably practical, measures to reduce and/or control exposure to legionella bacteria must be introduced, including managing the conditions that support the growth of the bacteria in water systems.

Domestic properties are generally considered low-risk and many landlords do not undertake risk assessments for domestic properties. The Council carry out risk assessments within void properties and is proposing to risk assess 5% of domestic properties per year to ensure risks are understood and manage risks within domestic premises.

## **2. PROPOSAL(S):.**

Committee is asked to

1) Approve the adoption of following policies

- Fire Safety – Appendix 1
- Gas Safety - Appendix 2
- Electrical Safety – Appendix 3
- Lift Safety – Appendix 4
- Asbestos management – Appendix 5
- Legionella – Appendix 6

2) to give delegated authority to the Group Head of Residential Services to make minor changes to the policies

**3. OPTIONS:**

The Council must have policies which cover the main compliance functions. This is the only option available although within each document there are policy choices about for instance how often an assessment needs to take place.

**4. CONSULTATION:**

Has consultation been undertaken with:	YES	NO
Relevant Town/Parish Council		X
Relevant District Ward Councillors		X
Other groups/persons (please specify)		X
<b>5. ARE THERE ANY IMPLICATIONS IN RELATION TO THE FOLLOWING COUNCIL POLICIES: (Explain in more detail at 6 below)</b>	<b>YES</b>	<b>NO</b>
Financial	x	
Legal	x	
Human Rights/Equality Impact Assessment		x
Community Safety including Section 17 of Crime & Disorder Act		x
Sustainability		x
Asset Management/Property/Land		x
Technology		X
Other (please explain)		x

**6. IMPLICATIONS:****Financial**

Some of the policy approaches are not explicitly required by law. However, the Council needs to demonstrate that it is managing compliance risks reasonably and in step with the rest of the housing sector.

For instance, whilst there is no legal duty to carry out an electrical test every five years this is the approach now taken by most landlords. If the Council did not adopt this approach it would place the Council at risk if there was a failure with an electrical system.

The proposed approach to carrying out asbestos surveys and legionella risk assessments within domestic properties is a proportionate approach to the risk identified and allows the Council over time to improve information held about homes.

**Legal.**

In August 2018 the Council was issued with Regulatory Notice by the Social Housing Regulator for failure to meet with Consumer Standards concerning health and safety requirements in relation to fire safety and water supply. The key finding was that though there was a serious risk of harm to tenants, there was no proactive risk assessment process and where risks were identified reactively there was no process for taking

precautions to prevent the serious harm. A compliant risk assessment methodology requires systematic assessment of risks and a programme for managing and addressing potentially serious risk issues at speed. These policies address this gap in the council's duty to reduce the risk of serious harm to tenants and residents and deals with other areas of risk not limited to just fire safety and water supply.

Committee is asked to note that these policy choices create a legitimate expectation that the Council will operate in accordance with the policies. Committee will therefore need an assurance from Officers that the Council is able to comply with these policy choices. Failure to comply with your own policy can be treated by the ombudsman as maladministration, and could also be regulatory failure in the eyes of the Regulator of Social Housing.

#### **7. REASON FOR THE DECISION:**

Committee needs to approve policies

#### **8. BACKGROUND PAPERS:**

- Fire Safety Policy – Appendix 1
- Gas Safety Policy - Appendix 2
- Electrical Safety Policy – Appendix 3
- Lift Safety Policy– Appendix 4
- Asbestos management Policy – Appendix 5
- Legionella Policy– Appendix 6