



Internal Audit Report

Resources

Gas Servicing Contract

Issued to:

Steven Whyte, Director of Resources
Stephen Booth, Chief Officer – Corporate Landlord
Ronald Ferguson, Gas and Cyclical Maintenance Manager
External Audit

EXECUTIVE SUMMARY

The Council, as a landlord, has a legal duty under the Gas Safety (Installation and Use) Regulations 1998 and the Gas Safety (Installation and Use) (Amendment) Regulations 2018 to ensure that gas fittings and flues in its residential leased properties are maintained in a safe condition, meaning the gas fittings are required to be serviced and checked at least annually.

As of January 2020, the Council had 16,630 properties with gas appliances. A contractor is used to carry out the annual gas safety check in these properties within 12 months of the previous check.

The objective of this audit was to provide assurance that contractual and operational issues were being complied with.

A single contractor is used to carry out annual gas safety checks across the City. Procurement approval was last obtained from the Strategic Commissioning Committee in June 2018, for an estimated cost of £7.5 million over two years, to directly award an extension to the existing contract, in contravention of EU and Scottish procurement regulations which require periodic competitive tendering at this level of expenditure. Planned procurement activity had commenced in 2017 but was abandoned due to short timescales impacting on the ability to obtain and implement a new contract cost-effectively, because the contract had not been tendered sufficiently in advance. Assurances were provided that this would represent Best Value due to discounts offered on previous rates, and that appropriate procurement exercises would take place in advance of the extension expiring. The Service also acknowledged the risks inherent in a direct award, as it would be open to challenge from suppliers who had no opportunity to bid for the work. This risk was considered low at the time due to short-term mobilisation costs outweighing any perceived benefit for a two-year contract.

However, there is no record of a tender opportunity having been published to allow for a new contract to be awarded prior to expiry of the Committee's approval in April 2020. Failure to subject contracts to appropriate competition can be an indicator of potential fraud, and means that costs will not have been reviewed and market tested to ensure Best Value is being achieved. Procurement needs to be planned and progressed timeously for contracts which are significant in terms of cost and service delivery. The Service will review the issues with the Commercial and Procurement Shared Service.

In general, operational activity is being planned and recorded appropriately. However, efficiencies, and actions to address minor issues with accuracy of records, have been recommended to the Service, which has agreed to review and implement alternative and further measures where identified as appropriate.

Charges are raised where there are repeated failed attempts to gain access to property for the purpose of gas safety checks. The basis for those charges (set in 2010) needs to be reviewed to ensure it remains appropriate, and is being applied in accordance with agreed policy. Some delays were also noted in invoices being issued. The Service has agreed to review the current processes and costs.

1. INTRODUCTION

- 1.1 The Council, as a landlord, has a legal duty under the Gas Safety (Installation and Use) Regulations 1998 and the Gas Safety (Installation and Use) (Amendment) Regulations 2018 to ensure that gas fittings and flues in its residential leased properties are maintained in a safe condition, meaning the gas fittings are required to be serviced and checked at least annually.
- 1.2 As of January 2020, the Council had 16,630 properties with gas appliances. A contractor is used to carry out the annual gas safety check in these properties within 12 months of the previous check. Procurement approval was last obtained from the Strategic Commissioning Committee in June 2018 for an estimated cost of £7.5 million over two years.
- 1.3 The objective of this audit was to provide assurance that contractual and operational issues were being complied with.
- 1.4 The factual accuracy of this report and action to be taken with regard to the recommendations made have been agreed with Stephen Booth, Chief Officer – Corporate Landlord and Ronald Ferguson, Gas & Cyclical Maintenance Manager.

2. FINDINGS AND RECOMMENDATIONS

2.1 Legislation

- 2.1.1 The Gas Safety (Installation and Use) Regulations 1998 and the Gas Safety (Installation and Use) (Amendment) Regulations 2018 specifically deal with the installation, maintenance and use of gas appliances, fittings and flues, in domestic and certain commercial premises. They place duties on landlords to ensure that gas appliances, fittings and flues provided for tenants' use are safe. These duties to protect tenants' safety are in addition to the more general duties that landlords have under the Health and Safety at Work etc Act 1974 and the Management of Health and Safety at Work Regulations 1999.
- 2.1.2 The Council's duties as a landlord under the Regulations are to ensure gas fittings and flues are maintained in a safe condition, meaning the gas fittings are required to be serviced within a period of 12 months from the previous service; an annual safety check must be carried out on each gas appliance / flue, and within 12 months of installation; maintenance and safety checks must be carried out by a Gas Safe registered engineer; a record of each safety check must be kept for at least 2 years and a copy of the most recent safety check record must be issued to existing tenants within 28 days of the check being completed, or to any new tenant before they move in.
- 2.1.3 Revisions to the regulations were introduced in 2018 to provide the option for gas safety checks to be completed between 10-12 months of the last check, whilst retaining a 12-month anniversary date deadline for renewal – similar to arrangements for MOT's on motor vehicles. This was intended to reduce the administrative and cost burden for landlords, who had been scheduling renewals at 10 rather than 12 month intervals in order to ensure compliance – meaning they regularly took place more often than once every 12 months.
- 2.1.4 The Service is continuing to schedule renewals at 10 rather than 12 months, to ensure compliance, and deadlines are set 12 months from the last certificate date, rather than the anniversary date allowed in the 2018 regulations. This appears to have been effective in ensuring compliance (see 2.4.5 below), and does not result in additional costs due to the fixed price contract (see 2.3 below) currently in place. However, the contract cost will be based on an assumed level of activity, which includes more frequent visits than required under the regulations.

Recommendation

The Service should review arrangements to ensure visits are not scheduled more often than required.

Service Response / Action

Agreed. The Service will:

1. Review the current procedure for scheduling gas safety checks
2. Confirm what current contract/tender requires and evaluate costs associated with this
3. Evaluate the new MOT style gas safety checks Model

Implementation Date

1. October 2020
2. October 2020
3. November 2020

Responsible Officer

Gas & Cyclical
Maintenance Manager
(Ronald Ferguson)

Grading

Significant within audited
area

2.2 Policy and Procedure

- 2.2.1 Comprehensive written procedures which are easily accessible by all members of staff can reduce the risk of errors and inconsistency. They are beneficial for the training of current and new employees and provide management with assurance of correct and consistent practices being followed, especially in the event of an experienced employee being absent or leaving. Written procedures are in place, and there is a Gas Safety Policy currently being reviewed and updated by the Health & Safety Team. A recommendation is made here to track progress.

Recommendation

The Service should ensure that the Gas Safety Policy is fully reviewed and updated.

Service Response / Action

Agreed. The Service will confirm the current status of Gas Safety Policy review currently being processed by the Corporate Health and Safety Team.

Implementation Date

October 2020

Responsible Officer

Gas & Cyclical
Maintenance Manager

Grading

Important within audited
area

- 2.2.2 In April 2010 the Service proposed to the Housing & Environment Committee that an administrative fee should be charged to tenants where there had been repeated failed access attempts for the annual gas service safety check. The proposal was for a £120 charge, after three failed visits. The Committee modified this proposal following a motion from councillors, and agreed to implement a £120 charge after two failed visits, which were to be at least 6 weeks apart. The agreed policy has not been applied, and further changes have been made, without Committee approval.
- 2.2.3 The Service's current written procedures instead reflect the original proposal – which is to charge a fee after three failed visits. There is no written guidance on the required time between visits. Scheduling them at 6-week intervals could also place compliance with Regulatory requirements at risk, given that visits are scheduled at around 10 months, two six-week delays could extend the time to effect a safety check to more than 12 months.
- 2.2.4 In 2019, in order to make best use of resources, the Service decided to cap gas meters at the point of a third failed access attempt, rather than writing to tenants and undertaking a separate visit to cap them after this attempt, and has applied this in practice. Capping is required to ensure that potentially faulty appliances cannot remain connected and present a risk. This is not reflected in written procedures, or a Committee approved policy.
- 2.2.5 The fee has also not been reviewed (e.g. for inflation) since 2010, and there are no records to support its calculation. The current gas servicing contract does not have a cost per visit. Whilst written procedures are an operational matter, charging policy is generally reserved to Committee. Advice should be sought from Governance, appropriate approvals sought, and procedures updated to reflect.

Recommendation

The Service should review the charging policy position and requirements with Governance, and ensure appropriate reporting and procedures are in place.

Service Response / Action

Agreed. The Service will:

1. Check and confirm what Housing and Environment Committee approved regarding the arranged access process in April 2010

2. Confirm what current written procedures are in place for the arranged access process
3. Review current procedure to cap gas meter at third visit when attending for a gas safety check
4. Review make up of current costings associated with the £120 charge for tenants in relation to the arranged access process
5. Evaluate if a cost per visit, per property, can be calculated for gas safety check visits

<u>Implementation Date</u>	<u>Responsible Officer</u>	<u>Grading</u>
October 2020	Gas & Cyclical Maintenance Manager	Significant within audited area

- 2.2.6 Two of four cases reviewed by Internal Audit where there had been no access, had been capped for over three months, and there were no records of further contact with the tenant. Whilst capped, gas appliances (e.g. central heating and cooking appliances) cannot be used. The Service does not have a process in place that monitors how long a meter has been capped for, and whether attempts thereafter have been made to contact the tenant to ensure that they are still resident in the property.

<u>Recommendation</u>		
The Service should consider monitoring and taking appropriate action in response to meters capped for extended periods.		
<u>Service Response / Action</u>		
Agreed. The Service will evaluate the value of having a process in place for monitoring which meters are capped, how long capped for and contacting tenants to see if they are still in the property.		
<u>Implementation Date</u>	<u>Responsible Officer</u>	<u>Grading</u>
October 2020	Gas & Cyclical Maintenance Manager	Significant within audited area

2.3 Contract

- 2.3.1 A single contractor is used to carry out annual gas safety checks across the City. Procurement approval was last obtained from the Strategic Commissioning Committee in June 2018 for an estimated cost of £7.5 million over two years, to directly award an extension to the existing contract, in contravention of EU and Scottish procurement regulations which require periodic competitive tendering at this level of expenditure. Planned procurement activity had commenced in 2017/18 (following previous Committee approval in September 2017) but was abandoned due to short timescales impacting on the ability to obtain and implement a new contract cost-effectively, because the contract had not been tendered sufficiently in advance. Assurances were provided that this would represent Best Value due to discounts offered on previous rates, and that appropriate procurement exercises would take place in advance of the extension expiring. The Service also acknowledged the risks inherent in a direct award, as it would be open to challenge from suppliers who had no opportunity to bid for the work. This risk was considered low at the time due to short-term mobilisation costs outweighing any perceived benefit for a two-year contract.
- 2.3.2 However, there is no record of a tender opportunity having been published to allow for a new contract to be awarded prior to expiry of the Committee's approval in April 2020. The Service will therefore have to return to Committee for approval to further extend the existing contract, for the same reasons the extension was approved in 2018. As this extends the already extended contract, the risks of challenge will have increased. Failure to subject contracts to appropriate competition can be an indicator of potential fraud, and

means that costs will not have been reviewed and market tested to ensure Best Value is being achieved. Procurement needs to be planned and progressed timeously for contracts which are significant in terms of cost and service delivery.

<u>Recommendation</u>		
The Service should ensure procurement plans are in place, are progressed to conclusion, and assurance is provided to Committee.		
<u>Service Response / Action</u>		
Agreed. The Service will review in conjunction with the Commercial and Procurement Shared Service.		
<u>Implementation Date</u>	<u>Responsible Officer</u>	<u>Grading</u>
October 2020	Gas & Cyclical Maintenance Manager	Major at a Corporate Level

- 2.3.3 The fixed contract price covers delivery of all of the Council's requirements – which will vary from year to year. Performance and cost data, to demonstrate the value for money and level of service being achieved, was not available from the Service.

<u>Recommendation</u>		
The Service should ensure performance and cost data is obtained and subject to regular review.		
<u>Service Response / Action</u>		
Agreed. The Service will look at KPI's for the current contract.		
<u>Implementation Date</u>	<u>Responsible Officer</u>	<u>Grading</u>
December 2020	Gas & Cyclical Maintenance Manager	Significant within audited area

2.4 Gas Servicing

- 2.4.1 The gas maintenance contractor arranges visits with tenants two months in advance to ensure compliance with the Gas Safety Regulations. They upload the Gas Safety Certificates onto the Compliance Document Management System, to which the Council's Gas Cyclical Maintenance Team have view access. Any certificates which are non-compliant are highlighted on the system, and dealt with by the Service on an individual basis, with further investigation and appropriate action taken as necessary. The Service keeps various in-house spreadsheets based on the information provided from the contractor.
- 2.4.2 Where the tenant declines an appointment, or otherwise fails to provide access on three occasions, the contractor notifies the Service. As the landlord, they have authority to gain entry utilising clauses within the Scottish Secure Tenancy Agreement and Health & Safety legislation.
- 2.4.3 To test the completeness of services and records in 2019/20, 16 properties were selected at random from the gas maintenance contractor's Landlord Gas Safety Regulation (LGSR) Certificate spreadsheet. In addition, properties were selected from Service spreadsheets including 6 new gas appliance installations, 4 void properties, 4 properties where there was failed access, and 4 properties showing non-compliant certificates.
- 2.4.4 Each of these cases was reviewed to ensure: that inspections and services were carried out and evidenced; that the tenant was made aware of the outcome of the gas safety inspection where appropriate; the gas maintenance contractor's database was updated

correctly with the completed service or installation date; that all services had been completed and carried out prior to expiry of the previous Certificate and that all Service and contractor spreadsheets where appropriate were correctly updated. Where there had been failed access, assurance was sought that details and notes had been added to the contractor's system and where appropriate that the customer was pursued for any recharge by the Service.

- 2.4.5 The Service submits Annual Returns to the Scottish Housing Regulator in respect of gas safety compliance. For 2018/19 this stated that the Service was compliant in 100% of properties. All 34 properties checked by Internal Audit had valid Gas Safety Certificates, completed in line with the required timescales.
- 2.4.6 Although the current process is operating adequately, providing assurance that the Council is meeting the statutory requirements, there were a few minor issues identified:
- 2.4.7 Regulation 36 of the 1998 Regulations states that any safety defect identified and any action taken should be recorded. From the current and previous Gas Safety Certificates for the 34 properties reviewed the defects section was left blank in 43 of 68 instances. Whilst still compliant, clearly recording that this was not applicable would provide clearer assurance.
- 2.4.8 There was one instance where the previous certificate date was incorrectly noted on the contractor's LGSR data spreadsheet. Furthermore, an incorrect date was noted on the same spreadsheet for the new certificate. It was established the contractor had recorded and transposed the dates between two different properties. This has now been rectified. If this had not been corrected, future compliance could have been affected.
- 2.4.9 In another case a new installation Gas Safety Certificate was completed by the contractor to the effect that two appliances were tested and passed, but the question "number of appliances tested" noted that there was only one.
- 2.4.10 There were 5 instances where new boiler installation Gas Safety Certificates and or benchmarking paperwork was noted for the tenant's signature as "gained access via key". However, in all instances the properties had tenants resident. Whilst keys may have been left / access provided and the tenant not available to sign on conclusion, that has not been stated, and there is a risk that tenant signatures are not being requested prior to engineers leaving the site. This presents risks of fraud (work not signed for may not have been completed) and of the tenant not having been familiarised with safe use of new equipment.
- 2.4.11 Minor omissions, including dates and times in four cases reviewed, were also evident in Gas Service Arranged Access proforma completion – used where access had to be forced / accommodated by the Service rather than a tenant.
- 2.4.12 To have clear assurance over safety and job completion, paperwork should be fully, accurately and adequately completed, and queried where it is not.

Recommendation

The Service should ensure paperwork is fully, accurately and adequately completed, and challenged where necessary.

Service Response / Action

Agreed. The Service will:

1. Confirm Industry stance on completion of LGSR certificate defects section when no defects are found
2. Review how Contractor records gas safety visits, number of appliances tested on LGSR certificate, and procedures for obtaining tenant signatures at end of works, on

relevant paperwork, and remind the Contractor of the requirement to record this data appropriately.

3. Review how minor omissions on all relevant paperwork internally and externally can be checked.

<u>Implementation Date</u>	<u>Responsible Officer</u>	<u>Grading</u>
October 2020	Gas & Cyclical Maintenance Manager	Significant within audited area

- 2.4.13 The billing team advised on 7 February 2020 that charges for repeated failed access to property since 4 November 2019 had not yet been raised. To the end of January 2020 this included 91 properties, amounting to £10,920
- 2.4.14 From 4 cases reviewed one was sent to billing on 21 October 2019 but had not yet been invoiced. Whilst another had been sent to billing on 1 April 2019, the tenant had not been traced in order to raise an invoice. In a third case the billing team advised an invoice had not been raised following cancellation on the advice of the gas maintenance contractor, but confirmation had not been provided by the Cyclical Maintenance Team before doing so.
- 2.4.15 The Council needs to maximise income, in order to fund services – and in the case of the Housing Revenue Account to maintain rents at an affordable level. Charges therefore need to be raised, and where appropriate recovery action commenced, timeously.

Recommendation

The Service should ensure that processes are in place to ensure that all charges are invoiced promptly.

Service Response / Action

Agreed. The Service will review the current process for recharging tenants for arranged access works using the Invoicing Section at Building Services.

<u>Implementation Date</u>	<u>Responsible Officer</u>	<u>Grading</u>
December 2020	Gas & Cyclical Maintenance Manager	Significant within audited area

AUDITORS: D Hughes
C Harvey
J Galloway

Appendix 1 – Grading of Recommendations

GRADE	DEFINITION
Major at a Corporate Level	The absence of, or failure to comply with, an appropriate internal control which could result in, for example, a material financial loss, or loss of reputation, to the organisation.
Major at a Service Level	<p>The absence of, or failure to comply with, an appropriate internal control which could result in, for example, a material financial loss to the Service/area audited.</p> <p>Financial Regulations have been consistently breached.</p>
Significant within audited area	<p>Addressing this issue will enhance internal controls.</p> <p>An element of control is missing or only partial in nature.</p> <p>The existence of the weakness identified has an impact on a system's adequacy and effectiveness.</p> <p>Financial Regulations have been breached.</p>
Important within audited area	Although the element of internal control is satisfactory, a control weakness was identified, the existence of the weakness, taken independently or with other findings does not impair the overall system of internal control.