



**Scottish Housing  
Regulator**

# **Gas and tenant safety in Scottish social housing**

**A thematic inquiry**

**December 2017**

## About us

We are the independent regulator of social landlords in Scotland.

Our one **objective is to safeguard and promote the interests of:**

nearly  
**610,000**  
**tenants**  
who receive services of social landlords

over  
**123,000**  
**owners**  
who receive services of social landlords

around  
**40,000**  
**people & their families**  
who may be homeless and seek help from local authorities

over  
**2,000**  
**Gypsy/Travellers**  
who can use official sites provided by social landlords

### We regulate:

 around  
**200**  
Social landlords

 around  
**160** Registered Social Landlords (RSLs)  
 **32** Local Authorities (LAs)

Our **role** is to **monitor, assess and report on** social landlords' performance of housing activities and RSLs' financial well-being and standards of governance. We intervene, where we need to, to protect the interests of tenants and service users. Our **Regulatory Framework** explains how we regulate social landlords. It is available on our website [www.scottishhousingregulator.gov.uk](http://www.scottishhousingregulator.gov.uk)

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## Overview

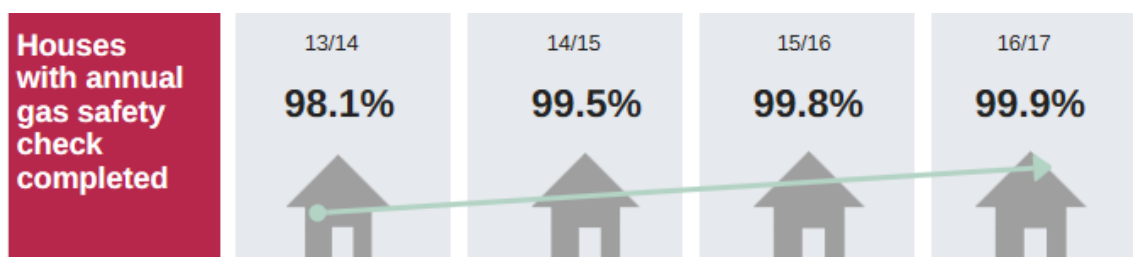
This report is the outcome of our inquiry into how social landlords meet their duties on annual gas safety checks in tenants' homes.

### Gas and tenant safety

- » Gas safety regulations apply to almost 477,000 social rented houses in Scotland.
- » Social landlords must maintain gas fittings and flues in tenants' homes in a safe condition and carry out safety checks for appliances and flues at intervals of not more than twelve months.
- » We monitor landlords' performance in delivering these important safety checks.

### Main messages

**Social landlords in Scotland report generally good performance in delivering annual gas safety checks in tenants' homes.**



### The most effective landlords promote a culture centred on:

tenant safety



full compliance with the requirements on gas safety checks



## We aimed to



assess how social landlords meet their duties on annual gas safety checks in tenants' homes



highlight examples of positive practice



make recommendations for landlords on the effective delivery of gas safety checks

## What we did



reviewed performance information submitted to us by all landlords



assessed the performance of six landlords



identified positive practice from the six case study landlords



Worked with the Health & Safety Executive (HSE)



Spoke with tenants

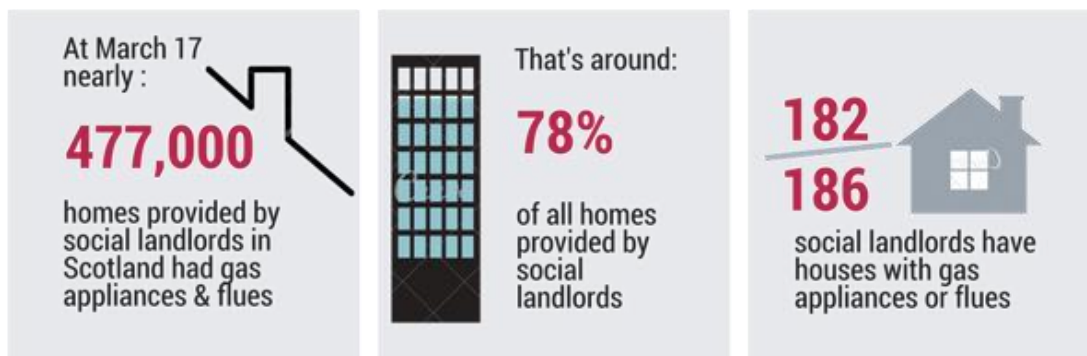
## What landlords should do

- Promote a culture centred on tenant safety and full compliance with gas safety regulations.
- Have an accurate record of all houses with gas and of when gas safety checks and services have been done, and keep it up to date.
- Ensure staff have the necessary skills, knowledge and authority to manage complex programmes of work around gas safety.
- Have well documented and clear procedures on gas safety, train their staff, and ensure those staff understand their role and responsibilities.
- Have a clear position on, and procedures for, forcing entry when they have not gained access to a tenant's home to do a gas safety check, and communicate this to all tenants with gas appliances and flues in their home.
- Always give tenants a copy of the gas safety check record for appliance and flues in their home within 28 days of the check being completed, and record that they have done so.
- Ensure governing bodies and performance/scrutiny committees regularly monitor performance on compliance with gas safety regulations.
- Have effective and appropriate audit of their management of gas safety and servicing programmes.

## What we will do

- Tenant safety remains a central priority for us, and we will continue to monitor, assess and report on the performance on gas safety of all social landlords.
  - Update our technical guidance on the Charter indicators to ensure the requirements of the indicator on gas safety reflect the findings from this thematic.
  - Use the findings from this inquiry to inform our regulatory activity and engagement, particularly in our annual assessment of risk in social landlords.
  - Consider what our findings mean for how we regulate as we develop proposals for our new Regulatory Framework during 2018.
  - Continue to liaise with the HSE on gas safety matters for social landlords.
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## Gas and tenant safety in Scottish social housing



1. Social landlords are required in law to maintain gas fittings and flues in a safe condition for tenants and to carry out safety checks for appliances and flues at intervals of not more than twelve months.
2. The Health and Safety Executive (HSE) collates information on gas-related accidents and incidents in domestic properties. It publishes information on its [website](#). It reports this information at the GB level and for all rented properties; it does not report this information for social housing alone. In 2017 the HSE reported that:
  - 995 incidents in rented houses were reported in 2016/17.
  - Carbon monoxide poisoning was the most common cause of injury or death in reported incidents.
  - Boilers were the appliances most commonly involved in reported incidents.
3. Landlords' annual checks on gas appliances and flues are an important way to help ensure the safety of tenants. For that reason, these checks have been a major priority for social housing regulation in Scotland for the last decade. We monitor landlords' performance in delivering these important safety checks.

## Gas safety legislation and guidance

4. The Gas Safety (Installation and Use) Regulations 1998 require landlords to maintain gas fittings and flues in a safe condition for tenants and to carry out safety checks for appliances and flues every year. The HSE provides a pamphlet "A guide to landlords' duties" to help landlords understand their responsibilities. It also publishes more detailed practical advice on complying with the Regulations in the Approved Code of Practice and guidance.

### Landlords main gas safety duties are to:

- Ensure gas fittings and flues are maintained in a safe condition.
- Ensure an annual safety check is carried out on each gas appliance and flue.
- Make sure that these checks are carried out within one year before the start of a new tenancy.
- Have all installation, maintenance and safety checks carried out by a Gas Safe registered engineer.
- Keep a record of each safety check for at least two years.
- Issue a copy of the latest safety check record to existing tenants within 28 days of the check being completed, or to any new tenant before they move in.



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5. So, landlords need to check every appliance and flue at intervals of not more than twelve months and ensure that tenants have a copy of a current safety check record or can view the record in relevant settings. Landlords must take all reasonable steps to prevent any contravention of the Regulations.
  6. The Regulations on safety checks do not apply when a house is unoccupied. For empty houses landlords must ensure that all appliances/flues are safe and have an up to date gas safety check record to be provided for the new tenants before they move in. However, most landlords we spoke to recognise the importance of ensuring gas appliances in empty homes are checked to protect neighbouring tenants and residents.
  7. Our Recommended Practice on Strategic Asset Management, published in 2012 stresses that a rigorous approach to statutory and regulatory obligations, such as those on gas safety, is an essential feature of good asset management.
  8. In 2014 we published a Regulatory Advice Note on maintaining the integrity of gas flues during maintenance and improvement works. This followed joint work with the HSE on concerns about some contractors' poor working practices, particularly during external cladding and roughcasting works, that failed to maintain the integrity of gas



flues. These failures had the potential to lead to a build-up of carbon monoxide in tenants' homes.

9. We require RSLs to notify us of significant events. We are interested in events which put the interests or safety of tenants and other service users at risk. These include:
  - Any incident involving the HSE or a serious threat to tenant safety.
  - Where a regulatory or statutory authority has notified its concerns.
  - Serious accidental injury or death of a tenant.

## The Scottish Social Housing Charter

### ***Charter Outcome 5: Repairs, maintenance and improvements***

*Social landlords manage their businesses so that tenants' homes are well maintained, with repairs and improvements carried out when required, and tenants are given reasonable choices about when work is done.*

10. Through this inquiry and our work to validate Annual Return on the Charter information submitted by landlords to us, we found that a small number of landlords had overstated their performance on achieving gas safety checks. These landlords reported full achievement of the annual check requirement where in reality the time between some checks was over one year. The landlords did a second safety check where the first was outwith the one year and used the time between these two checks to report achievement of the annual check requirement. This practice means that a landlord's reported figure masks the fact that it did not achieve a number of required checks within one year of the previous check. This results in an inaccurate performance report and potentially compromises tenant safety by masking potential shortcomings in the landlord's approach to gas safety. We found 348 houses that were affected by this practise. We will amend our technical guidance on the Charter indicators to ensure the requirements of the indicator are clear that this practice is not appropriate.

## National performance

### Number of houses where gas safety check required

13/14	14/15	15/16	16/17
455,710	464,694	474,345	476,904



### Number of houses with annual gas safety checks completed

13/14	14/15	15/16	16/17
447,044	462,306	473,162	476,377



As a percentage that is...

13/14	14/15	15/16	16/17
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**98.1%**   **99.49%**   **99.75%**   **99.89%**

of all houses.

### Number of houses where annual safety check was not done within a year

13/14	14/15	15/16	16/17
8,666	2,388	1,183	527

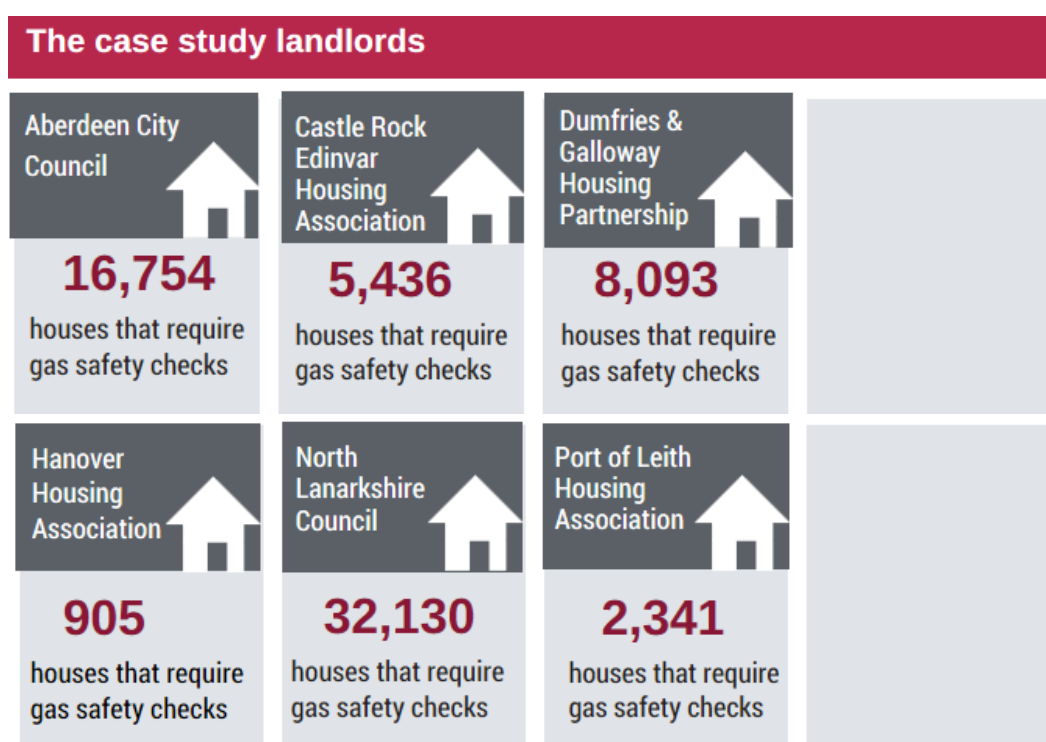


## Range of performance in 2016/17

### Landlords' reported compliance with annual gas safety checks



11. The majority of landlords - 73% - reported in their Annual Return on the Charter (ARC) that they complied with the requirements set out in our guidance; to have a current gas safety record in place as at the end of the reporting year, which had been renewed by its anniversary date. In 2016/17 49 landlords reported that they did not achieve this in a total of 527 homes. In 2013/14, 99 landlords reported that they did not achieve this in a total of 8,666 homes.
12. Since 2014, we have engaged directly with landlords that reported poorer performance to better understand their reported gas safety figures and to drive improvements where needed.
13. We selected six landlords as case studies. The landlords include local authorities and RSLs, are from across Scotland, and have a range of different house types. We also included a landlord that is a major provider of care services.



14. Each of the six landlords provided us with an assessment of how it organised its services to meet gas safety requirements. We visited each landlord to examine in depth its approach to gas safety. This included an audit of a random sample of gas safety checks. We also had helpful problem-solving sessions with relevant staff from each landlord, focusing on practical ways to improve performance. We discussed gas safety from a tenant's perspective with our Regional Tenant Organisation Liaison Group, made up of tenants from social landlords across Scotland.

## Managing gas safety effectively

### The most effective social landlords manage gas safety by:

**The most effective landlords recognise the importance of gas safety and promote a culture of responsibility for gas safety. They:**

- Promote the importance of tenant safety and the priority of delivering gas safety checks and servicing.
- Ensure key staff have the necessary skills, knowledge and authority to manage complex programmes of work around gas safety.
- Give ownership of operational delivery to staff and have effective lines of internal and external communication.
- Have well documented and clear procedures on gas safety; they train their staff, and those staff understand their role and responsibilities.
- Regularly monitor and audit key parts of the process and more complex situations.
- Have effective oversight by its governing body or council committee of its performance on gas safety checks.



#### Positive practice

**North Lanarkshire Council and Dumfries & Galloway Housing Partnership** have strong cultures that promote the importance of gas safety. Both consistently achieve full compliance with requirements for gas safety checks.

15. Landlords should use feedback from tenants to help them develop and improve their approaches to the management of gas safety, particularly those elements that most affect tenants. Only one of the case study landlords had consulted with, or obtained feedback from, tenants on the process for gas safety checks.
16. Many of the case study landlords' websites include detailed gas servicing information for tenants. These are clearly set out and provide tenants with information about the importance of carrying out gas safety checks, details about the gas engineers who will carry out the checks and how to change unsuitable appointments, with comprehensive contact details.
17. Past practice, context and level of resources have all contributed to the case study landlords organising annual gas safety checks in different ways. However, each approach had the following key elements:
  - Identifying and recording houses with gas
  - Scheduling gas safety work and first visits

- Escalating action following no access
- Forcing entry
- Giving tenants a record of gas safety checks
- Managing, auditing and reporting performance

### ***Identifying and recording houses with gas fittings and flues***

18. A landlord having an accurate record of all houses with gas fittings and flues is the starting point for managing an effective programme of gas servicing and gas safety checks.
19. All of the case study landlords had a record or register of houses with gas. They use this to organise their gas servicing programme. Some have standalone databases requiring manual updating and others have databases integrated with their wider asset management, housing management and contractor systems that have automated updating. We found both systems can be effective, although more checking and auditing is required in a manual system.
20. Most of the landlords had conducted baseline surveys of their houses to identify those with gas, although not all surveyed every one of their houses. The landlords told us that more recent work to meet the Scottish Housing Quality Standard (SHQS) and the Energy Efficiency Standard for Social Housing (ESSH) has helped the accuracy of their databases / registers of houses with gas.



#### **Positive practice**

**North Lanarkshire Council** surveyed all of its houses to help it plan to meet the SHQS. Gas qualified officers visited every house to identify and record heating types.

21. The landlords update their registers or records with information from other sources, including:
  - Surveys of empty houses.
  - Regular searches of repairs systems to identify houses that had gas repairs but are not on the register of houses with gas appliances or flues.
  - Cross-referencing information from energy supplier switching initiatives.



#### **Positive practice**

**Dumfries & Galloway Housing Partnership** actively checks houses with no record of any current heating types and compares these with its gas repair and servicing records.

22. We saw some risks to the accuracy of databases / registers of houses with gas:
  - Newly built houses added to the register / database only at the end of a development project, by which time some have been let to new tenants.
  - Purchased houses not added, or not added quickly, to the register / database.
  - Uncompleted house sales not re-instated onto the register / database.
  - Fuel switches not being added to the register / database.

- Empty houses being removed from the register / database and not being added back when let to a new tenant.

We found similar problems when we engaged with a number of landlords who reported poorer performance in their 2015/16 ARC. These landlords also highlighted problems with differing records between different parts of the organisation and lost or corrupt information when IT systems changed.

23. Some of the case study landlords use audit or reconciliation processes to manage these risks. These are also useful ways to mitigate human error in the recording of houses with gas or in maintaining gas safety records.



#### Positive practice

**Castle Rock Edinvar** gives each gas appliance and flue in its houses a unique asset reference. This means that it has a good understanding of the annual checks that are required in each house.

**North Lanarkshire Council's** gas team is a single point of control for all of its work related to gas safety. The Council requires all other teams to ensure that the gas team is fully informed of any changes to houses with gas appliances and flues.

### ***Scheduling gas safety work and first visits***

24. It is important that landlords have good oversight of the process, procedures, and timescales to complete gas checks on time. Landlords that actively and effectively manage the scheduling of visits to carry out checks and work maximise the likelihood of successfully achieving safety checks within one year of the previous check.
25. Most landlords use cycles for gas safety checks that start the process weeks before the check is due. The case study landlords had cycles starting 8-16 weeks before a check is due. This approach provides time to manage any access difficulties before the due date for the check. To address concerns that some landlords have around the potential additional cost of this approach, the HSE consulted in January 2017 to change the law to introduce flexibility in the timing of landlords annual gas safety checks. Its consultation document said “the proposed change will allow landlords’ gas safety checks to be carried out in a window of between 10 and 12 months after the previous check, but to be treated as if they were carried out on the last day of that 12 month validity, thereby preserving the existing expiry date of the safety check record” The HSE plans to introduce this in 2018



#### Positive practice

**Dumfries & Galloway Housing Partnership** carry out projects during summer months to service heating types other than gas. This gives them more capacity for gas servicing and gas repairs in late autumn and early winter, when there is the highest demand for “start-up” response repairs as tenants turn on boilers for the winter.

26. The most effective landlords have well-coordinated approaches to scheduling and monitoring and delivering gas safety checks, often managed by a single individual or dedicated team. These landlords:
- Support those managing the gas safety process with clear procedures.
  - Train them to manage and control complex programmes of work.
  - Empower them to actively control and escalate the process.
  - Liaise closely with the contractor or in-house team delivering the checks and services.
  - Ensure quick updating of information from contractors or in-house teams to allow those managing the process to control this in “real-time” and respond to access difficulties quickly.



#### Positive practice

**Dumfries & Galloway Housing Partnership** gives its contractors access to its maintenance system to allow them to directly update records on gas safety checks. Dumfries & Galloway Housing Partnership then uses this to monitor contractor updates and performance and to raise potential problems at an early stage.

**North Lanarkshire Council’s** contractor updates the Council on access to homes with gas using handheld devices, giving the Council “real-time” monitoring information.

27. We found the most effective landlords communicate well with tenants on the importance of providing access for gas safety checks and when arranging to visit. They:
- Give tenants a way to make and change appointment times to suit them.
  - Quickly and efficiently arrange appointments when they do not get access to the tenant’s home.



#### Positive practice

**Castle Rock Edinvar** offers tenants flexible appointments for gas servicing and checks including for evenings and on Saturdays. It also sends tenants a reminder by text at the time of booking the service and a further reminder the evening before the appointment, and finally when the engineer is en-route.

### ***Escalating action following no access***

28. The most effective landlords use clear and effective actions to escalate engagement with tenants when they do not get early access into their homes to do gas safety checks.
29. All the case study landlords make two or three attempts to access tenants' homes before they start to escalate their procedures. Most then make further attempts to access before they move to secure entry. We saw that landlords use a range of approaches to attempt to contact tenants, including recorded or hand delivered letters, through social media, by phone, by text, and by visiting the tenant's home.
30. All the case study landlords actively consider all available information about their tenants at this stage to identify any vulnerabilities or special needs they may have and which may affect arrangements for successful access. Not all of the landlords always kept a record of all correspondence with tenants on gas safety checks. This is important to have if the landlord has to escalate its procedures to gain access to a tenant's home.

### ***Forcing entry***

31. Tenants we spoke with understand the importance of working with their landlord to ensure annual gas safety checks happen and servicing of appliances is done. They understand that they and their neighbours could be at risk if checks are not done. Tenants told us that they feel more secure when landlords take effective action to ensure gas safety checks are done, including where other tenants have not allowed access or engaged with the landlord.
32. The model Scottish Secure Tenancy (SST) agreement includes the following clause at paragraph 5:12:

“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 ... providing we give you reasonable notice in writing ... 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.”
33. The Gas Safety (Installation and Use) Regulations 1998 do not provide a provision for forcing entry and HSE's guidance reflects its laws and not the wider legal, contractual and civil system aside from pointing landlords to contractual arrangement to help with access in its frequently asked questions (FAQs). The relevant FAQ states “The contract you make with your tenant should allow you access for any maintenance or safety check work that needs to be done. You must not use force to enter the property”. For more information see [regulation 39 of the Gas Safety \(Installation and Use\) Regulations 1998](#)”.
34. In 2009 the Scottish Federation of Housing Associations (SFHA) obtained Counsel's opinion on forcing entry. This Counsel's view was that landlords could rely on the contractual terms in the SST to force entry, with recommendations on how to manage their processes, including:
  - they have well-considered, clear and sound procedures for carrying out gas safety checks with sample letters and timescales;



- regularly and clearly communicate the process to all its tenants in writing;
  - train staff in the procedures and keep this training up-to-date;
  - have procedures available for inspection and consultation by tenants and their advisors;
  - make plain to tenants that the landlord has a right to forcibly enter as a last resort in the event of non-co-operation, that this right will usually be enforced, and that the tenant may be liable for the costs of so doing;
  - a landlord may seek a court order in some circumstances rather than force entry and the tenant would be liable for the costs of so doing;
  - keep accurate records of all attempts made to gain access;
  - give numerous opportunities for the tenant to co-operate before forcing entry and that those opportunities are at reasonable dates and times;
  - opportunities swiftly escalate in terms of urgency and formality and intensity;
  - a final letter is delivered to the tenant by a sheriff officer warning of the consequences of non-co-operation. All letters remind the tenant among other things: of the tenant's obligations; the landlord's contractual rights; the regulations, and the dangers of gas installations not being inspected; and
  - the final letters should advise the tenant of the proposed action that will be taken in the event of non-compliance and the tenant's liability for costs in that event.
35. Five of the six case study landlords rely on provisions of the SST to force entry where a tenant has not responded to previous attempts to gain access to their home; one landlord obtains a court order before forcing entry. The landlords using the SST provision told us that they did so to minimise the risk to tenants that could arise during the time needed to obtain a court order. These landlords do not continue with a forced entry where this is resisted by the tenant, and the landlords then apply to the court for an order to require the tenant to give access.
36. All of the case study landlords ensure hand delivery of forced entry appointment letters, with some using sheriff officers. All ensure that staff witness delivery of the letter.

### ***Giving tenants a record of gas safety checks***

37. Landlords must provide tenants with a copy of the gas safety check record within 28 days of the check being completed. They must provide a copy of the gas safety check record to new tenants before they move in, and display a copy of the gas safety check record in communal areas of shared accommodation, such as hostels.
38. All of the case study landlords were aware of this responsibility, but not all recorded that they had provided tenants with a copy of the gas safety check record. We found examples where tenants had not received copies of the gas safety check, often resulting from a breakdown in communication between the landlord and its contractor. We also found that not all the landlords displayed a copy of the gas safety check record in communal areas where this was appropriate.



#### **Positive practice**

**Dumfries & Galloway Housing Partnership** monitors when it receives a gas safety check record from its contractor and when it mails it to the tenant. It reports its performance in this regard annually to its Audit Committee.

## **Managing, auditing and reporting performance**

39. Effective oversight of performance on gas safety by a landlord's governing body or committee is important for strong management of performance and helps to set a clear corporate focus on tenant safety. All of the case study landlords present some information on their gas safety performance to their committees and Boards.
40. The most effective case study landlords have designed simple but comprehensive recording systems to ensure the early identification of any issues. They set targets for each stage in the gas safety check process and collect comprehensive performance information to help them monitor and control every stage of the process.
41. Most of the case study landlords use an independent, specialist contractor to test the quality of a sample of gas safety checks and work carried out by their contractors or in-house teams. The number of such tests varies between landlords with a sample of 10% being the highest. Some also do post-inspection checks in addition to testing a sample of checks and work.
42. The most effective landlords regularly audit their performance information on gas safety. The landlords' internal auditors report their findings to governing bodies to help their effective oversight of gas safety performance.



### **Positive practice**

**Dumfries & Galloway Housing Partnership** reports its performance monthly to relevant managers. This includes information on overall number of houses with gas, achievement of access and completed services and checks, and number of forced entries. Its internal auditors use this information to report to the Partnership's Audit Committee.

**North Lanarkshire Council** regularly audits its gas servicing process end-to-end using a comprehensive checklist tool. This covers all the main stages and how well the organisation's procedures helped it take any actions to complete the process on time. This information is regularly audited and reported to the Council's Audit and Scrutiny Panel.

## References

Charter data – all social landlords dataset

<https://www.scottishhousingregulator.gov.uk/find-and-compare-landlords/statistical-information>

Derek O'Carroll, Advocate,

Murray Stable, Legal opinion of Council for SFHA on Forced Entry;

<https://www.sfha.co.uk/>

The Gas Safety (Installation and Use) Regulations 1998

<http://www.legislation.gov.uk/ukxi/1998/2451/contents/made>

Gas Safety (Installation and Use) Regulations 1998 Approved Code of Practice and guidance

<http://www.hse.gov.uk/pubns/books/l56.htm>

Housing(Scotland)Act 2001, Scottish Secure & Short Scottish Secure Tenancy

<http://www.gov.scot/Resource/Doc/1125/0034224.pdf>

Landlords' responsibility for gas safety

<http://www.hse.gov.uk/gas/landlords/index.htm>

Maintaining the integrity of gas flues during maintenance/improvement works

<https://www.scottishhousingregulator.gov.uk/publications/regulatory-advice-note-maintaining-integrity-gas-flues>

Model Revised Scottish Secure Tenancy Agreement, July 2002

<http://www.gov.scot/Resource/Doc/46737/0030450.pdf>

RIDGAS - Gas-related incidents reported in Great Britain

<http://www.hse.gov.uk/Statistics/tables/index.htm#riddor>

Scottish Executive Model SSTA 2001;

<http://www.gov.scot/Publications/2001/10/10283/File-1>

<https://www.scottishhousingregulator.gov.uk/publications/recommended-practice-asset-management>

## Terms we use in this report

<b>Audit</b>	Evaluation and examination of landlords records either by the landlord or external agencies.
<b>Gas appliances</b>	All permanent and portable gas appliances owned by landlords.
<b>Gas register / database</b>	List of properties owned by landlord with gas appliances, flues or pipework.
<b>Gas safety record</b>	The “Landlord gas safety record” (LGSR). Usually referred to as a gas safety record or CP12.
<b>Gas servicing</b>	Programme of works designed to allow social landlords to comply with the gas regulations.
<b>Inquiry</b>	The Housing (Scotland) Act 2010 gives the Scottish Housing Regulator powers to obtain information and carry out inquiries. An inquiry can be used to get assurance about an issue, assess an issue or concern with a landlord, or scrutinise or investigate a landlord’s performance.
<b>Registered Social Landlord (RSL)</b>	A social landlord registered and regulated by the Scottish Housing Regulator, such as a housing association or housing cooperative.
<b>SST or SSST</b>	Scottish secure tenancy and short Scottish secure tenancy. Tenancy types let by social landlords in Scotland. Specifically in this report referring to contractual terms in the model Scottish secure tenancy agreement to effect entry for gas servicing.



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Regulator**

[www.scottishhousingregulator.gov.uk](http://www.scottishhousingregulator.gov.uk)