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| **Access Policy** | | |  | |
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| **Reference:** | HS/POL/AM/1.0 |  | **Author:** | Sue Needham |
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| **Scope:** | Housing Services |  | **Approved by:** | SMT/ET and Board |
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| **Legislation:** | The Defective Premises Act 1972  The Landlord and Tenant Act 1985  The Housing Act 1988  Disability Discrimination Act 1995  Section 121 of the Leasehold Reform, Housing and Urban  Development Act 1993  Health & Safety at Work Act 1974  Protection from Eviction Act 1977  Human Rights Act 1988 |  | **Date of approval:** | 29/01/18 |
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| **Regulatory/**  **Governance:** | Gas Safety (Installation and Use) Regulations 1998  Gas Safety Guidance for Landlords (2005) Audit Commission  The Health and Safety Executives Code of Practice on Domestic  Gas Safety 2004,  The Heath and Safety Executive A Guide to Landlords Duties: Gas  Safety (Installation and Use) Regulations 1998  Control of Asbestos Regulations 2012 Regulatory Reform (Fire Safety) Order 2005 |  | **Date of next review:** | 2020 |
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| **Related Policies:**  **Definitions:** | Gas safety policy  Repairs policy  Tenancy policy  Tenancy fraud policy  Asbestos management policy  Water hygiene policy  Electrical safety policy  For the purpose of this policy, “customer” is defined as a tenant in a property owned by Housing Solutions. This policy does not cover homeowners or leaseholders.  Stock managed for third parties will state in the management agreement the process for obtaining access and whether this policy will apply or not. |  |  |  |
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# Policy Statement

* 1. To provide robust and clear guidance on gaining access to Housing Solutions’ homes to undertake essential checks and maintenance activities relating in particular to Health and safety compliance. This will ensure that our customers are safe and reduces the risk of the Homes and Communities Agency finding serious detriment and potentially downgrading the regulatory status of Housing Solutions.

# 2. Scope

2.1. This policy details how Housing Solutions will manage and enforce any access that is being continually denied by a customer to undertake any repairs, servicing, maintenance and planned work that is a legislative, contractual and/or regulatory requirement as a social landlord.

2.2 It should be read in conjunction with the Access procedure [*to be drafted]* which provides detailed guidance on the implementation of this policy

# 3. Legislation & Regulations

# 3.1 Housing Solutions is required to comply with its obligations under the Gas Safety(Installation and Use) Regulations Act 1998, to undertake a gas safety check of all domestic gas appliances on an annual basis and achieve 100% compliance.

# 3.2 Housing Solutions is required to comply with its obligations under the Health & Safety at Work Act 1974 and the Control of Asbestos Regulations 2012.

# 3.3 Housing Solutions is required to comply with its obligations under the Regulatory Reform (Fire Safety) Order 2005.

# 3.4 Should a customer refuse to allow access, the customer may be in breach of contract depending upon the specific clause in the tenancy agreement. However, the Landlord and Tenant Act 1985 makes clear that landlords should not enter the property without the express permission of the tenant. The Landlord and Tenant Act 1985 further states that in the event a tenant has given permission, but has told HS that they will not be present, it is recommended that officers of HS are accompanied by a third party for the purpose of witness.

# 3.5 Where there is a significant risk to life or property and the customer cannot be contacted, the presence of the local police force will be requested to oversee gaining access

# 3.6 When implementing this policy Housing Solutions will always take into consideration the Protection from Eviction Act 1977 and the Human Rights Act 1988 before any enforcement action is undertaken.

# 4. Policy Content

# 4.1 All service areas within the organisation are committed to working together to ensure that customers provide access when required. Specifically:

# 4.1.1 Customer care team- to ensure clear and concise appointments are provided to our customers in line with our agreed appointment time frames.

# 4.1.2 Asset Management- to provide ample notice via written communication to customers for the need to contact Housing Solutions in order to make an appointment for access. Work will be ongoing to ensure that all communication efforts have been exhausted, before legal action is taken.

# 4.1.3 Housing Management - to proactively assist Asset Management with access to customers’ homes, taking ownership and joint responsibility to ensure that the objectives of this policy are met.

# - To provide information on tenancies and assist with access including action for breaches of tenancy agreements.

# - To ensure that customers understand the importance of allowing access into their homes where necessary.

# 4.2 Managing vulnerabilities

# 4.2.1Housing Solutions is committed to always assessing any potential vulnerability a customer may present with before considering taking any necessary steps to ensure works deemed essential are undertaken.

# 4.2.2 A risk assessment approach will be used to ensure that the proposed actions to be taken are in the best interests of not only that specific customer but also other customers, including those who may be at risk if, for example, gas safety checks are not done. See 4.4.3.1 below.

# 4.3 Enforcement action

# 4.3.1 In the event of a customer denying access to undertake compliance checks or necessary repairs work, all measures will be undertaken by the relevant departments to obtain access. This will include sending letters, attempts to contact by telephone and visiting the property. The two latter actions may be undertaken outside normal working hours.

# 4.3.2 If is suspected that the reason for non access is that tenancy fraud is being committed, then housing management will undertake all necessary enquiries to establish the facts. Appropriate possession action will be taken in conjunction with 4.3.3 and 4.3.4 below.

# 4.3.3 If access has still not been obtained, then a Notice Seeking Possession (NOSP) under Ground 12 (breach of tenancy) will be served.

# 4.3.4 If access is not obtained within 7 days of the notice being served then an injunction with forced entry provision will be applied for.

# 4.3.5 If the customer is on a starter tenancy, then the probationary period will be extended where access has been refused, unless it is decided to serve a S21 (Notice Requiring Possession) to bring the tenancy to an end. Other potential breaches in tenancy will be taken into account before this decision is made.

# 4.3.6 Where there is a significant risk to life or property and the customer cannot be contacted, the presence of the local police force will be requested to oversee gaining access.

# 4.4 Gas safety (refer to the Gas Safety policy and procedure)

# 4.4.1 The prime objectives of these policies is to ensure that

# All tenanted properties have a current, in-date Landlords’ Gas Safety Record (LGSR)

* Any tenanted properties that do not have a current LGSR have been properly notified by HS and are properly accounted for at some stage in the relevant procedures.
* It is the responsibility of HS to make all reasonable efforts to ensure that there is no performance shortfall between the number of tenanted properties, the number of valid in-date LGSRs and the number of no access properties.

The risk to a household where a property is not gas compliant is a faulty gas appliance could be producing carbon monoxide or indeed a gas leak, resulting in a gas explosion.

# 4.4.2 In the event of no access being obtained to undertake the gas safety check then the actions detailed at 4.3 will be undertaken.

# 4.4.3 In the event of no access being obtained, despite HS’s best efforts and the property becoming non compliant,, HS may consider capping the gas supply to the property, particularly if this is situated in a block. This is in recognition of the delay in access being obtained through enforcement action detailed at 4.3

# 4.4.3.1 A full risk assessment [see Appendix A] will be undertaken by housing management prior to any such action being taken and signed off by a Director. HS will not cap the gas for any household deemed vulnerable, particularly by virtue of age or disability. For the purposes of this policy the following customer groups are defined as vulnerable:

* Disabled people
* Children aged under 12
* Older People [aged over 65]
* Those presenting with a mental health issue
* Those presenting with an acute or chronic medical condition
* Those with a sensory impairment

# 4.4.3.2 The customer will be notified of any decision to cap the gas supply prior to this being actioned. This will provide one more opportunity for the customer to book the necessary appointment and provide access.

# 4.4.3.3 HS will make every effort to contact the customer where the gas has remained capped for more than 3 days to ensure that supply is restored.

# 4.4.3.4 A GASP or service interval device may be fitted to the gas supply of any household, including that of vulnerable customers, should the risk assessment deem this appropriate when access has proved problematic. i.e. NOSP served, injunction obtained., access provided after gas capped.

# Equality & Diversity

# 5.1 Housing Solutions recognises the needs of a diverse population and always acts within the scope of its own Equality and Diversity Policy, the Human Rights Act 1998, and Equalities Act 2010. Housing Solutions works closely with its partners to ensure it has a clear understanding of its resident community with clear regularly updated service user profiles. The organisation will record, analyse and monitor information on ethnicity, vulnerability and disability.

# Confidentiality

# 6.1 Under the Data Protection Act 1998 and the Human Rights Act 1998, all personal and sensitive organisational information, however received, is treated as confidential. This includes:

# anything of a personal nature that is not a matter of public record about a resident, client, applicant, staff or board member

# sensitive organisational information.

# Staff will ensure that they only involve other agencies and share information with the consent of the resident concerned, unless:

# Housing Solutions is required to by law

# The information is necessary for the protection of children.

# Review

# This policy will be reviewed on a 3 yearly basis or more frequently in response to changes in legislation, regulatory guidance, good practice or changes in other relevant Housing Solutions’ policy.

# Our performance in relation to the delivery of the services and activities set out in this policy will be monitored on an ongoing basis through our established reporting mechanisms to our Senior Management Team, Executive Team, Board and associated committees.