

Gas Servicing – Is it *that* important?...

Our clients are aware of the importance of ensuring that gas appliances are fitted by the right people and tested every year to make sure they are safe. Some people, however, may question whether this is right and whether the regime is too strict. We believe not and this is why....

Reason 1

Under the Gas Safety (Installation and Use) Regulations 1998, all landlords have a duty to ensure that every gas appliance and installation supplied with their properties is safe.

In the case of residential properties, there is an obligation on landlords to ensure that an annual Gas Safety Check is carried out by a registered installer.

Reason 2

The regulations are enforced by the Health & Safety Executive (HSE) and non-compliance is a criminal offence that can incur severe penalties. These include:

- Unlimited fines
- Custodial sentences
- Manslaughter charges if a tenant dies of carbon monoxide poisoning or if there is an explosion

Reason 3

The Corporate Manslaughter & Corporate Homicide Act came into force on the 6th April 2008. According to the Act, an organisation can be charged with corporate manslaughter if the way in which the organisation is managed results in the death of someone to whom it owes a relevant duty of care, and the breach of that duty is considered to be gross.

Reason 4

Any property insurance held by the landlord may be invalidated and could lead to claims for civil damages. Damages in these types of cases have proved to be very substantial.

AND...The real reasons.....

An example of cases brought by the HSE

May 2008

A 6-year old girl died from carbon monoxide poisoning from a faulty boiler. The Director of the Investment Company was fined £20,000 and ordered to pay £35,000 costs. The Director pleaded guilty of two charges under 37(1) of the Health & Safety at Work Act 1974 for failure to maintain a gas fitting in a safe condition.

The charges were based on the following sections of Regulation 36 of The Gas Safety (Installation & Use) Regulations 1998.

36(2)

“Every Landlord shall ensure that there is maintained in safe condition:

(a) Any relevant gas fitting and

(b) Any flue which served any relevant gas fitting.

AND

36(3)

*“Without prejudice to the generality of paragraph 2 above, a landlord shall:
(a) ensure that each appliance and flue to which that duty extends is checked for safety within 12 months of being installed and at intervals of not more than 12 months since it was last checked for safety (whether such check was made pursuant to these Regulations or not).”*

October 2008

A Landlord of a block of flats in Hackney was fined £4,000 and ordered to pay costs of £1,500 after pleading guilty to two breaches of the Gas Safety Installation and Use) Regulations 1998.

February 2009

A Landlord in Burton-on-Trent was fined £40,000 and ordered to pay £44,500 costs after the death of one of his Tenants from carbon monoxide poisoning. The court ruled that the fine had to be paid by the 31st January 2010 or the landlord would face a prison sentence of up to 18 months.

What you need to check.....

P&P - It is very important to have a good policy and procedure in place and to ensure that ALL relevant staff are adequately trained and fully understand the policy and procedure.

What you have done – Any extra steps you have taken outside of the policy and procedure would be looked upon favourably by the Courts. The only defence a Landlord or agent has is “due diligence”. The Landlord has to show that in respect of an accident or a Tenant complaint, all reasonable steps were taken.

REMEMBER THIS....

Every year around 30 people die and hundreds are hospitalised from carbon monoxide poisoning due to faulty gas appliances and flues. Don't let it happen to your Tenants – get your appliances checked!

AND...

If you need advice on any aspect of your Gas servicing Policy and Procedure or on access issues please contact us.

Please note that from 1st April, there will be a new Gas Safe Register and CORGI registration will no longer carry any statutory force.

Gas Safety Course

This course aims to give experienced housing professionals the knowledge and skills necessary for presenting their own access injunctions in the courts. Starting with the legal framework and best practice in preparing evidence and court papers, the course also looks at court etiquette. In the final session, delegates get the opportunity to present their case to the ‘Judge’.

If you would like further details about this course, please email info@whiteheadsols.co.uk or call contact Joan Hobday on 01257 266008.

