

Workshop 3e:

The heat is on. Gaining access for safety checks and servicing on all heating systems

Speaker: **Stewart Petrie**, Safe and Healthy Homes
 Chaired by: **Julian Ransom**
 Room: **Harewood Room**



National Housing Maintenance Forum

served by

WWW.NHMF.CO.UK



Introduction to Safe and Healthy Homes Limited.

Relatively new Company.

Many years of experience in Public, Private and Third Sectors.

Highly qualified and very experienced personnel.

We offer a full range of housing-related services to Local Authorities, Housing Associations, and Private Landlords.

Stewart Petrie NHMF Conference Holiday Inn Stratford upon Avon 22nd January 2014



Stewart Petrie.

Chartered Environmental Health Practitioner

Specialises in Housing and Public Health

Advisor to WHO, National, Regional and Local Government.

8+ years working in Gas Safety

Stewart Petrie NHMF Conference Holiday Inn Stratford upon Avon 22nd January 2014



Stewart Petrie.

Interim Head of Environmental Health, States of Jersey

Stewart Petrie NHMF Conference Holiday Inn Stratford upon Avon 22nd January 2014



Access for gas Safety checks.

Cooperation is obviously the best solution – we can help here!

The injunction route

Usually very slow, often expensive, always frustrating!
 No guarantee of success in the Civil Courts.

Generally an unsatisfactory and frustrating route.

Stewart Petrie NHMF Conference Holiday Inn Stratford upon Avon 22nd January 2014



What are we really looking for?

Access to carry out Gas Safety Checks and/or servicing

Legal duty
 Moral responsibility?
 Protection of assets

With pressure on staffing levels within estate management teams it is also useful to have this annual presence in all the houses in the portfolio.

We need a tried and tested solution that can become part of our “no access procedure”.

We need it to be inexpensive – that means minimal involvement of the legal profession and if possible minimal involvement from our in house legal team.

We need it to work.

Stewart Petrie NHMF Conference Holiday Inn Stratford upon Avon 22nd January 2014



Possible solutions

- Injunction.
Slow, expensive, unreliable
- Housing Act 2004
It will work and does work but time consuming and expensive
Needs Local Authority cooperation.
- Health and Safety at Work etc Act 1974
It can work but needs HSE cooperation – don't hold your breath
- Environmental Protection Act 1990
an elegant solution and our specialist subject!
- The Gas Act – a promising possibility

Stewart Petrie NHMF Conference Holiday Inn Stratford upon Avon 22nd January 2014



Antisocial behaviour legislation

- Results in cap-off not service
- Probably not human rights act compliant
- Not good in terms of PR
- May be issues around vulnerable people.

Stewart Petrie NHMF Conference Holiday Inn Stratford upon Avon 22nd January 2014



8+ years experience using the Environmental Protection Act

Berneslai Homes ALMO 19,500 homes Awarded 3* by Audit Commission in 2009.

Warrants successfully obtained on a monthly basis (or more frequently) for both Gas Safety Checks and Solid Fuel Heating Safety Checks. This will also work for Oil fired systems.

Successful pilots for both LHT and LMH in Liverpool
(under the auspices of Liverpool City Council)

Stewart Petrie NHMF Conference Holiday Inn Stratford upon Avon 22nd January 2014



EPA How it all works

SCHEDULE 3. Statutory Nuisances: Supplementary Provisions

- 2(1) Subject to sub-paragraph (2) below, **any person authorised by a local authority** may, on production (if so required) of his authority, enter any premises at any reasonable time—
- (a) for the purpose of ascertaining whether or not a statutory nuisance exists; or
- (b) **for the purpose of taking any action, or executing any work, authorised or required by Part III.**
- (2) Admission by virtue of sub-paragraph (1) above to any premises used wholly or mainly for residential purposes shall not except in an emergency be demanded as of right unless **twenty-four hours notice of the intended entry** has been given to the occupier.
- (3) If it is shown to the satisfaction of a justice of the peace on sworn information in writing—
- (a) that admission to any premises has been refused, or that refusal is apprehended, or that the premises are unoccupied or the occupier is temporarily absent, or that the case is one of emergency, or that an application for admission would defeat the object of the entry; and
- (b) that there is reasonable ground for entry into the premises for the purpose for which entry is required,
- the justice may by warrant under his hand authorise the local authority by any authorised person to enter the premises, **if need be by force.**

Stewart Petrie NHMF Conference Holiday Inn Stratford upon Avon 22nd January 2014



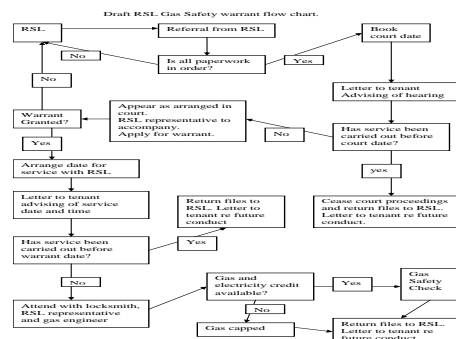
How it all works (2)

- (4) An authorised person entering any premises by virtue of sub-paragraph (1) or a warrant under sub-paragraph (3) above **may—**
- (a) **take with him such other persons and such equipment as may be necessary;**
- (b) carry out such inspections, measurements and tests as he considers necessary for the discharge of any of the local authority's functions under Part III;

- (5) On leaving any unoccupied premises which he has entered by virtue of sub-paragraph (1) above or a warrant under sub-paragraph (3) above the authorised person **shall leave them as effectually secured against trespassers as he found them.**

- (6) A warrant issued in pursuance of sub-paragraph (3) above **shall continue in force until the purpose for which the entry is required has been satisfied.**

Stewart Petrie NHMF Conference Holiday Inn Stratford upon Avon 22nd January 2014



Stewart Petrie NHMF Conference Holiday Inn Stratford upon Avon 22nd January 2014



If required we can be in court on day 366....
....or the first court day after day 366!

If well planned we can be in the property on day 365 or before

Once obtained we can execute the warrant within 4 working days.

If a part is needed to complete the job the warrant still applies for the subsequent visits.

Stewart Petrie NHMF Conference Holiday Inn Stratford upon Avon 22nd January 2014



EEEEEEEEEE

Cheaper than injunctions
I am far better value than the lawyers!!

No legal input required after protocol agreed
Over £10,000 pa saved on internal legal fees

Tried and tested – no failures for over 8 years

Predictable
Dates can be prearranged and scheduled with courts and engineers

Approved by tenants groups

Becomes routine

But it does require local Authority cooperation.

Stewart Petrie NHMF Conference Holiday Inn Stratford upon Avon 22nd January 2014



Plan B – section 82 EPA 1990

82 Summary proceedings by persons aggrieved by statutory nuisances.

(1)A magistrates' court may act under this section on a complaint made by any person on the ground that he is aggrieved by the existence of a statutory nuisance.

(2)If the magistrates' court is satisfied that the alleged nuisance exists, or that although abated it is likely to recur on the same premises], the court shall make an order for either or both of the following purposes—

(a)requiring the defendant] to abate the nuisance, within a time specified in the order, and to execute any works necessary for that purpose;

(8)A person who, without reasonable excuse, contravenes any requirement or prohibition imposed by an order under subsection (2) above shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 5 on the standard scale together with a further fine of an amount equal to one-tenth of that level for each day on which the offence continues after the conviction.

(11)If a person is convicted of an offence under subsection (8) above, a magistrates' court may, after giving the local authority in whose area the nuisance has occurred an opportunity of being heard, direct the authority to do anything which the person convicted was required to do by the order to which the conviction relates.

Stewart Petrie NHMF Conference Holiday Inn Stratford upon Avon 22nd January 2014



The Gas Act 1986 This Act gives powers of entry under warrant

(1)ANY OFFICER AUTHORISED BY A GAS TRANSPORTER MAY AT ALL REASONABLE TIMES, ON THE PRODUCTION OF SOME DULY AUTHENTICATED DOCUMENT SHOWING HIS AUTHORITY, ENTER A CONSUMER'S PREMISES FOR THE PURPOSE OF—E+W+S
(A)INSPECTING GAS FITTINGS;

(1)NO OFFICER SHALL BE AUTHORISED BY A GAS TRANSPORTER, GAS SUPPLIER OR GAS SHIPPER TO EXERCISE ANY POWERS OF ENTRY CONFERRED BY THIS SCHEDULE UNLESS—E+W+S
(A)THE TRANSPORTER, SUPPLIER OR SHIPPER HAS TAKEN ALL REASONABLE STEPS TO ENSURE THAT HE IS A FIT AND PROPER PERSON TO EXERCISE THOSE POWERS; OR

(B)IN CASES OF EMERGENCY, THOSE POWERS ARE POWERS CONFERRED BY PARAGRAPH 22 ABOVE.

5)THE RIGHTS OF ENTRY (GAS AND ELECTRICITY BOARDS) ACT 1954 (ENTRY UNDER A JUSTICE'S WARRANT) SHALL APPLY IN RELATION TO ANY POWERS OF ENTRY CONFERRED BY THIS SCHEDULE.

Stewart Petrie NHMF Conference Holiday Inn Stratford upon Avon 22nd January 2014



Cross Border Action

With many housing providers having estates which cross Local Authority Borders it makes sense if they could use the same procedure to ensure access for gas safety matters.

Authorisation by Gas Transporters would allow such action

Stewart Petrie NHMF Conference Holiday Inn Stratford upon Avon 22nd January 2014



Future developments

We are exploring an expansion of the service we offer in Barnsley to other Social Landlords.

We are very keen to carry out a regional pilot.

Stewart Petrie NHMF Conference Holiday Inn Stratford upon Avon 22nd January 2014



Thank you for your attention.
Thank you for your invitation.
Any questions?



Stewart Petrie NHMF Conference Holiday Inn Stratford upon Avon 22nd January 2014



Contact:

Safe and Healthy Homes Limited
01525 374026
Tony Morris

Stewart Petrie NHMF Conference Holiday Inn Stratford upon Avon 22nd January 2014