



North Warwickshire
Borough Council

The Electrical Safety Standards in the Private Rented Sector (England) Regulations 2020

Enforcement Policy for Electrical Safety in the Private Rented Sector

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Date: June 2024

Version: 1.1

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1. Introduction

All tenants have a right to expect safe accommodation and for their rented property to promote good health and wellbeing. The Council are committed to improving standards in the private rented sector within North Warwickshire. We aim to achieve this by supporting the majority of landlords that provide good quality accommodation and by taking appropriate action against those landlords who breach legal requirements.

The Electrical Safety Standards in the Private Rented Sector (England) Regulations 2020 (“Regulations”) introduced new legal requirements for rented properties to cover new tenancies from 1 June 2020 and existing tenancies from 1 April 2021.

The electrical installation includes the fuse box, wiring and cables, socket outlets for connecting a range of appliances such as fridges or mobile phones and switches and light fittings within the home. It does not include portable electrical appliances. An electrical safety test will include these elements to ensure the installation is safe for residents and visitors. Landlords should also carry out visual inspections of the installations as part of their regular inspections of the property to ensure no damage has occurred and the installation is not being misused, including the overloading of sockets.

This policy outlines out how North Warwickshire Borough Council will impose civil penalties under the Regulations in accordance with Government Guidance and the Council’s Civil Penalties Enforcement Policy & Guidance. These documents outline what Officers shall have regard to when enforcing housing related legislation to ensure a fair and consistent approach is applied.

2. Requirements of the Regulations

The Electrical Safety Standards in the Private Rented Sector (England) Regulations 2020 provide duties for landlords of certain rented domestic properties in relation to managing risks associated with the electrical installation. Without prejudice to the wording of the regulations these include:

- Ensure national standards for electrical safety are met. These are set out in the 18th edition of the ‘Wiring Regulations’, which are published as British Standard 7671.
- Ensure all electrical installations in their rented properties are inspected and tested by a qualified and competent person at least every 5 years.
- Obtain a report from the person conducting the inspection and test which gives the results and sets a date for the next inspection and test.
- Supply a copy of this report to the existing tenant within 28 days of the inspection and test.

- Supply a copy of this report to a new tenant before they occupy the premises.
- Supply a copy of this report to any prospective tenant within 28 days of receiving a request for the report.
- Supply the local housing authority with a copy of this report within 7 days of receiving a written request for a copy.
- Retain a copy of the report to give to the inspector and tester who will undertake the next inspection and test.
- Where the report shows that further investigative or remedial work is necessary, complete this work within 28 days or any shorter period if specified as necessary in the report.

The inspection report will show that the installation is one of the following:

- Safe and no further action is required;
- Danger is present and there is a risk of injury (Code 1 (C1)). In this situation the cause of the danger would be rectified by the competent person before leaving the property;
- The installation poses a potential danger (Code 2 (C2));
- Further investigation is required without delay (FI);
- Improvement to the installation is recommended (Code 3 (C3)). Advisory and therefore works do not have to be completed.

Where the inspection report shows a C1, C2 or FI outcome, the landlord must ensure that suitable remedial works or investigations are undertaken. A C3 outcome is advisory and therefore works do not have to be completed.

3. What tenancies does it apply to?

The regulations apply to new specified tenancies from the 1st July 2020 and for existing specified tenancies from the 1st April 2021. A specified tenancy allows one or more persons the right to occupy all or part of the premises as their only or main residence and provides for payment of rent (whether or not a market rent); and is not:

- A tenancy where the occupier shares any accommodation with the landlord or a member of the landlord's family;
- A tenancy that is a long lease; or grants a right of occupation for a term of 7 years or more. A tenancy does not grant a right of occupation for a term of 7 years or more if the agreement can be terminated at the option of a party before the end of 7 years from the commencement of the term.

- A tenancy for student halls of residents, hostels, refuges, care homes, hospitals or hospices and other accommodation relating to the health care provision.

At the time of writing this policy it will be in force for all specified tenancies. The Council will therefore seek to ensure compliance with these Regulations and will request a copy of an electrical installation condition or electrical safety report for every service request dealt with regarding property standards.

4. Enforcement

If the Council are satisfied that the landlord is in breach of the requirements and the report doesn't indicate urgent remedial action is required, they have a duty to serve a remedial notice under the Regulations. Breaching the remedial notice may result in the Council serving a financial penalty.

Remedial Action

If the Council have reasonable grounds showing that the landlord has breached the regulations the Council **must** serve a remedial notice on the landlord within 21 days of deciding that it has reasonable grounds for service. The notice includes:

- The remedial action that is required to be undertaken within 28 days of service
- Details of how to make representations to the Council
- Explanation of the penalties (including the potential maximum penalty) that may result from non-compliance.

The landlord may make written representations against such a notice within 21 days, if made the notice is suspended until the representations have been considered. The Council must consider any representations and confirm that outcome of those considerations, in writing, within 7 days of the end of the representation period.

A landlord must comply with a remedial notice where either no representations are made, or the notice is confirmed (after consideration of the representations) unless they are able to claim that they have taken all reasonable steps e.g. Providing evidence that the tenant has prevented access.

If the landlord fails to comply with a remedial notice the Council **may** undertake the required remedial work themselves if the tenants agree. Before doing so, the Council must be satisfied on the balance of probability that there has been a breach of the remedial notice. Before work starts the Council must serve a notice of intention to take remedial action on the landlord. The notice includes:

- The nature of the proposed remedial work
- The date when the work will be undertaken
- Information on the right of appeal against the decision to do the work

The Council must arrange for an authorised person to undertake the remedial work within 28 days of the end of the intention to take remedial action notice expiry date (or within 28 days after confirmation of notice, if appealed). The tenants must be given at least 48 hours' notice before the remedial works starts.

A landlord may not be in breach of the Remedial Notice if they can evidence that they have taken all reasonable steps to comply with that duty.

Where the landlord is prevented from entering property for the purposes of the Remedial Notice by the tenant or tenants of that property, the landlord will not be considered to have failed to have taken all reasonable steps to comply with the Remedial Notice. To support this defence evidence of attempted appointments and refused access will be required covering a reasonable period. It will not be sufficient to provide only evidence of a single missed appointment and only pre-arranged visits will not be considered.

Urgent Remedial Action

Where an electrical report indicates that urgent action is required and the Council is satisfied that the landlord is not undertaking the necessary work, they may arrange (with the consent of the tenants) for an electrician to undertake the urgent work. The tenants must be given at least 48 hours' notice of the date to carry out the work. The Council must issue an urgent remedial action notice to the private landlord and every occupier either prior to or up to 7 days from the date when the remedial action commences. The urgent remedial action notice must include:

- The nature of the urgent remedial action required
- The date when the urgent work is or has been started
- Information on the right of appeal against the decision to do the work

5. Recovery of the Costs of Remedial Work

The Council may issue a demand to recover costs from the private landlord relating to remedial works undertaken which becomes payable after 21 days from the day of issue unless an appeal is submitted.

6. Civil Penalties

The Council will impose civil penalties under this legislation in accordance with the Council's Civil Penalties Enforcement Policy & Guidance. Landlords may make written representations to the Council within 28 days by post or by email to privatesectorhousing@northwarks.gov.uk. These representations will be considered by a Review Panel which will include an independent officer, senior or management position in addition to the case officer.

7. Houses in Multiple Occupation (HMO) Licensing

The Regulations introduced a new mandatory condition for HMO licenses stating that a licence holder must ensure that every electrical installation in the house is in proper working order and safe for continued use; and to supply the authority, on demand, with a declaration by him/her as to the safety of such installations.

As part of the licensing application process the Council requests an Electrical Installation Condition report.

8. Review of the Policy

The Council will keep the policy under review the effectiveness of the policy and may make amendments accordingly.

If you would like further advice please call 01827 715341 or email privatesectorhousing@northwarks.gov.uk

Alternatively, you can write to us at:

Private Sector Housing
North Warwickshire Borough Council
South Street
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