

# **GAS SAFE REGISTER**

Sanctions Policy

P001\_SAN001 V3.5

June 2019



**Contents**

1 Scope ..... 3

2 The available sanctions..... 3

3 How Gas Safe Register applies sanctions..... 3

    3.1 Removal from the Register ..... 4

    3.2 Suspension from the Register ..... 5

    3.3 Fixed term suspension ..... 6

    3.4 Suspension of individual work categories..... 6

    3.5 Mandatory attendance events..... 7

    3.6 Tightened inspection mode ..... 7

    3.7 Special conditions ..... 8

    3.8 Application of a penalty fee ..... 8

4 The communication of sanctions ..... 9

5 Appeals against sanctions applied ..... 10

6 Failure to comply with sanctions..... 10

7 Lifting of sanctions ..... 10

8 Legal action ..... 11

9 Definitions ..... 11

10 Appendix 1 ..... 12

## **1 Scope**

This Policy outlines the sanctions that Gas Safe Register can apply to the registration of any registered business and/or engineer, where justification exists. The Sanctions Policy is designed to be corrective, not punitive, so that the gas registration scheme robustly and proportionately manages the registrations of businesses and engineers as required.

## **2 The available sanctions**

The robust management of registration through the considered application of sanctions supports public safety and confidence. It also provides a supportive framework for ensuring that registered businesses and engineers deliver gas safety and comply with the Gas Safe Register Rules of Registration and Policies. Therefore, a range of sanctions is available to Gas Safe Register which includes:

- Removal from the Register
- Suspension from either the Register, or where appropriate work categories
- Fixed term suspension of businesses or engineers from the Register
- Mandatory attendance at a theory-based inspection event
- Tightened inspection mode
- Special conditions
- Application of a penalty fee

## **3 How Gas Safe Register applies sanctions**

Appropriate sanctions may be applied at our discretion where there is evidence that the registered business or engineer has breached the Rules of Registration and/or Policy or where an enforcing authority is considering, or has taken, enforcement action such as an HSE notice of contravention, improvement notice, prohibition notice or prosecution related to the Health and Safety at Work etc Act, Gas Safety (Installation and Use) Regulations or relevant Building legislation\*.

*\*Appropriate to the geographical area*

This also includes conduct that results in us being informed via a Multi-Agency Public Protection Arrangements (MAPPA) group (or equivalent organisation in Scotland, Northern Ireland or Guernsey) or appropriately authorised Police or Probation Officer that an engineer has been assessed as representing a present danger to the public.

In relation to conduct notified through this route:

- The notification must be in writing

- It must be from an appropriately authorised person to make the disclosure and it must set out their reasons for their belief that the engineer's conduct may cause danger to the public
- If necessary we will seek further information, for example from the Offender Management and Public Protection Group at the Ministry of Justice. Sanctions will only be applied where we are able to communicate to the engineer the written grounds as to why it is believed they are a danger. The individual making the notification must be able to specify what action the engineer is required to take for the sanction to be lifted

Where justification exists, we retain the ability to:

- Apply a sanction to a business and/or individual engineer(s), as applicable
- Apply multiple sanctions in any combination
- Extend or reduce the duration of any sanction applied
- Increase or decrease the type and number of sanctions applied
- Revoke any sanction applied

Sanctions are not mutually exclusive and can be used in combination or in succession as appropriate. The following sets out our typical application of the available sanctions:

### 3.1 Removal from the Register

**Definition:** *A business and/or engineer is removed from the official list of gas businesses or from the list of those competent and qualified to work on gas. This means that the businesses or engineer can no longer undertake gas work legally.*

Removal will generally apply in the following circumstances:

- Unsafe gas work or non-compliance with the Rules of Registration or Policy; where all other available options have been exhausted
- Prosecution resulting in imposition of a custodial or suspended sentence for any gas-related health and safety offence after 1 January 2017
- Bringing the Register into disrepute (see the Gas Safe Register Registration Policy for examples of what may constitute bringing the Register into disrepute)
- Repeatedly working outside of the scope of work categories of registration
- Where a suspension or any other sanction does not deliver the required improvements in compliance or standards
- Failure to pay the appropriate registration fee or any other monies owed to the Register by the date specified
- Failure to comply with the requirement of any sanction applied
- Aggressive behaviour towards our staff
- Vexatious and/or libellous grievances against us are aired without justification

Once removed from the register a business will forfeit any registration fees already paid and before undertaking any further gas work the business will:

- Be required to reapply for registration
- Pay the full registration and application fees
- Be given a new registration number if the application is successful
- Comply with any conditions placed against the new registration

### Re-applications following Removal

Where a business or engineer has been removed from the register for repeated failure to demonstrate competence or unsafe gas work, reapplications for registration will only be considered where the applicant has successfully undergone retraining and attained a specified vocational gas qualification.

### Outstanding Defects

Where a business or engineer has been removed from the register and subsequently successfully reregisters; the business or engineer will remain responsible for the rectification of any outstanding identified defects attributable to the previously registered business or engineer. We will require the reregistered business or engineer to make the necessary arrangements with the consumer either to undertake the remedial work, or, where appropriate, to employ a suitably registered business to carry out the remedial gas work.

If an archived business, that is deemed responsible for outstanding gas-related defects re-registers with us, and where the costs of rectification work have been covered by the register, we will seek reimbursement of the costs incurred. The amount repayable will be at our discretion and will not be more than the total of monies used to rectify the defects. The re-registration of the business will be suspended until such costs have been recovered.

## 3.2 Suspension from the Register

**Definition:** *A business and/or engineer is removed from the official list of gas businesses or from the list of those competent and qualified to work on gas for a defined period. This means that the businesses or engineer can no longer undertake gas work legally until the suspension is lifted. Suspensions are normally lifted within 30 business days if specified criteria are met, but can be for a specified fixed term, extended or escalated to removal from the Register when appropriate.*

Suspension will generally apply where a failure to comply with the Rules of Registration has been identified. In general suspension will be applicable under the following circumstances:

- A risk to the public exists through the continued inability of the business or engineer to carry out or manage gas work safely
- Failure to demonstrate or apply gas safety competence
- Failure to comply with any sanction applied
- Working outside of the scope of work categories of registration

- Failure to rectify defects identified via a Defect Notice or Building Regulation Non-Compliance notice
- Failure to allow inspection activity
- Service of a notice of contravention, improvement notice or prohibition notice, or prosecution
- Formal agency (e.g. MAPPAs) notification of an engineer representing a present danger to the Public
- Bringing the register in to disrepute (see Fixed-Term Suspensions below, also Registrations Policy for further information)
- Failure to attend complaint investigations where your business has carried out the work

### 3.3 Fixed term suspension

Fixed-term suspension will normally be applied where a breach of the Rules of Registration is validated and confirmed beyond reasonable doubt and where it is not possible to define a clear pathway for the business to lift the suspension, e.g. for cases where the register has been brought into disrepute. Fixed-term suspension duration will be for a minimum period of 60 calendar days.

Examples of circumstances where a Fixed-Term Suspension may be applied are:

- Bringing the register in to disrepute (see also Registration Policy)
- Commissioning gas work carried out by non-registered people
- Completion of documentation fraudulently, including Building Regulation notifications
- Criminal prosecutions that impact on the reputation of the Register
- Fraudulent use of a registered business's details
- Working out of scope of registration work categories or competence
- Failure to attend complaint investigations where your business has carried out the work
- Using employees who do not have the legal right to work in the UK (Where it is identified that a registered business is using such employees, we may contact the Home Office to seek confirmation of the individuals work status)

### 3.4 Suspension of individual work categories

**Definition:** *A business and/or engineer is removed from the official list of gas businesses or from the list of those competent and qualified to work on gas for a defined area(s) of work. This means that the businesses or engineer can no longer undertake gas work legally in the specified work area(s) until the suspension is lifted. Suspension of a work category(s) may remain in place until we are satisfied that the businesses/engineer can now meet and deliver the required safe working practices.*

Work category suspension will generally apply in the following circumstances:

- Failure to apply or demonstrate gas safety competence in relation to an individual work category(s)
- Evidence of failure to adequately carry out or manage gas work safely in relation to an individual work category(s)
- Being subject to an HSE notice of contravention, improvement notice or prohibition notice
- Bringing the Register into disrepute

### 3.5 Mandatory attendance events

**Definition:** *A business and/or an engineer is required to attend a mandatory attendance event because of their inspection history and/or where the associated quality level of gas work undertaken is deemed to be of an unsafe nature and an immediate or potential risk to the public or property. The business and/or engineer will then be required to undergo theoretical assessment and mentoring based on the areas of concern and will be required to demonstrate the required level of theory-based competence, following which the business/engineer will be placed on a tightened inspection mode until we deem this registration status appropriate to be lifted.*

Where a business/engineer fails to attend / participate in a mandatory attendance event when required, the relevant registration will be placed into immediate suspension pending removal.

Mandatory attendance event participation will generally apply in the following circumstances:

- Consistent number of inspection failures at 'At Risk' and/or 'Immediately Dangerous' level, as defined within the current Gas Industry Unsafe Situations Procedure
- Consistent poor inspection history
- High level of gas safety risk

Any resulting inspection during this period must satisfy the Rules of Registration; meeting the required industry standards before the business and/or engineer returns to normal inspection mode and has their risk rating reduced to an acceptable level. Where a business/engineer fails to meet the required standards after they have been at a mandatory attendance event immediate sanctions will be applied.

### 3.6 Tightened inspection mode

**Definition:** *A business and/or engineer is placed into an inspection mode that may require more frequent inspection or target specific engineers, work types or gas work management practices. This mode will remain in place until we are satisfied that the businesses/engineer can meet and consistently deliver the required safe working practices or may escalate to*

*suspension from the register where additional evidence of failure to demonstrate/apply gas safety competence is identified.*

A tightened inspection mode will generally apply in the following circumstances:

- Evidence of not adequately carrying out, or managing, gas work safely
- Following successful outcome of a theory-based mandatory attendance event
- Justified gas safety-related complaints
- Gas work defects
- Working outside of the scope of work categories of registration
- Being subject to an HSE notice of contravention, improvement notice or prohibition notice

Gas Safe Register may require that all gas work carried out during a tightened inspection mode is reported to us within specified timescales.

### 3.7 Special conditions

**Definition:** *A business and/or engineer must adhere to conditions placed upon their registration. This may entail requirements above and beyond the standard obligations that are designed to address the specific circumstances. Special conditions may remain in place until we are satisfied that the conditions can be lifted, and their objective(s) met. Where special conditions are not adhered to this may result in escalation to other appropriate sanctions.*

Special conditions will generally be applied in the following circumstances:

- Where a business successfully reapplies for registration but has any history of failure in its delivery of gas safety or operating in accordance with the Rules of Registration
- In any other circumstance where we justifiably decide that special conditions are required to support gas safety or compliance with the Rules of Registration
- Being subject to an HSE notice of contravention, improvement notice or prohibition notice

### 3.8 Application of a penalty fee

**Definition:** *A business and/or engineer may have additional fees charged to their registration if certain obligations are not met. Failure to pay any penalty fee may result in removal from the Register.*

A penalty fee will generally be applied in the following circumstances:

- Late renewal of registration due to late payment of the renewal fees, or
- Not holding valid certificates of gas safety competence at the time of renewal



When renewing a registration at the anniversary renewal date, the business will be allowed 30 working days (6 weeks) before a penalty fee is applied. Renewals of registration received outside 60 working days (12 weeks) from the anniversary renewal date will not be accepted and a new application for registration will have to be made.

Details of the penalty fee can be found at: <https://engineers.gassaferegister.co.uk/Fees.aspx>

**General Note:** *Registered businesses include sole trader businesses and businesses that employ gas engineers in accordance with the requirements of the relevant gas safety legislation depending on the geographical region (e.g. in GB the Gas Safety (Installation and Use) Regulations 1998 (GSIUR)). Sanctions may be applicable to the business and/or engineer carrying out gas work and to a registered business or engineer issuing and/or controlling gas work.*

## 4 The communication of sanctions

As the application of sanctions can impact on the activities of a registered business or engineer, we will, where applicable, include the following in the communication of sanctions and will use the contact information as listed on the Gas Safe Register database for the business:

- Talk with the business before the application of any sanction to discuss the concerns, resulting required actions and timescales etc. This will be done as soon as possible after finding the issue or receiving the report leading to the impending, or actual application of any sanction
- Where the sanction is against an engineer who is considered a danger after notification by the police, all communication with that engineer must be in writing (see Section 3 – reference MAPPA)
- Where a business/engineer is required to attend a mandatory attendance event they will be given the full reason(s) in writing including details of its inspection history and the requirements moving forward
- Where it is not possible to talk directly with the business a message will be left wherever possible
- Whether or not it is possible to talk to or leave a message for the business, written communication will be sent advising of any impending/applied sanctions and the date by which they are effective
- Where an engineer is registered against multiple registrations, all the businesses they are registered with will be informed about a removal or suspension from the register or any other sanction where considered relevant
- Advise of the actions required by the business for any sanction to be lifted, including any relevant time scales for the action
- Advise when sanctions are lifted

- Where an engineer is identified through work inspection to be working without registration whilst a direct or indirect employee of a registered business, i.e. working on their own behalf, the employer business may be informed and any sanctions applied on the engineer may be via that business

## 5 Appeals against sanctions applied

Where applicable, when a sanction is applied, information will be provided in relation to requesting an appeal of the decision made by us.

## 6 Failure to comply with sanctions

Failure to comply or adhere to any suspension sanction or condition of registration applied by us may result in the removal of the business/and or engineer from the register.

Where a failure to comply with sanctions results in evidence of gas work being undertaken without valid registration, the relevant Health and Safety authority will be informed.

## 7 Lifting of sanctions

Where sanctions are applied, we will provide the necessary guidance to the business/and or engineer for the sanctions to be lifted. Such actions may include:

- The demonstration of competence
- The demonstration of adequate management of gas work
- The provision of auditable evidence to support additional training/reassessment undertaken prior to any demonstration of improvement required
- Accepting and undergoing a satisfactory inspection phase
- The completion of remedial work
- Additional signed undertaking to ensure compliance with the Rules of Registration
- Completion of a fixed-term suspension period
- The full payment of any penalty fee or outstanding monies within any specified time scales by any specified method
- Compliance with brand guidelines
- Agreement to attend complaint investigations where your business has carried out the work

**Note:** *Where removal from the register has resulted from a gas-related custodial or suspended sentence being applied to an individual, official evidence of discharge must be supplied with the application. Applications for registration under these circumstances must only be made in writing*

Once it has been demonstrated that the business or engineer meets the standard expected as defined in *Section 2 of the Rules of Registration*, the sanction(s) will be lifted, provided all other registration requirements continue to be met. In the case of a fixed-term suspension the business/engineer will be required to sign a formal undertaking to meet *Section 2 of the Rules of Registration*, upon completion of the suspension period and prior to the suspension being lifted.

## 8 Legal action

Legal action is not considered to be a sanction under this policy. However, legal action as a final resort may result where circumstances such as the following arise:

- Inappropriate behaviour towards our staff such as offensive language, violence or aggression. We do not tolerate any such behaviour and will act appropriately
- Where vexatious and/or libellous grievances against the register are aired within the public domain without justification
- Failure to pay outstanding fees or charges

## 9 Definitions

For definitions please refer to the Rules for Registration.

## 10 Appendix 1

The following Table sets out the reapplication pathway options following removal from the Register.

Reason for Removal	Re-application Pathway*
Unsafe gas work or failure to apply gas safety competence	Provision of evidence confirming the successful completion of a current gas utilisation award at Level 3 e.g.: <b>England and Wales</b> Advanced Level Apprenticeship Gas-fired Wet Central Heating or Advanced Level Apprenticeship Gas-fired Central Heating & Energy Efficiency <b>Scotland</b> Modern Apprenticeship Level 3 Gas Industry or SCQF Level 6 Gas heating & Energy Efficiency <b>Northern Ireland</b> Modern Apprenticeship Level 3 Framework, Gas Utilisation, installation and maintenance
Custodial or suspended sentence (gas, health and safety related)	Provision of official documents confirming 'evidence of discharge' to be presented with reapplication
Bringing the Register into disrepute	Written undertaking to not infringe again Payment of all outstanding fees Correction of any outstanding defective work attributable to the business
Persistently working outside scope of registration	Written undertaking to not infringe again Payment of all outstanding fees Correction of any outstanding defective work attributable to the business
Failure to pay fees	Payment of all outstanding fees Correction of any outstanding defective work attributable to the business
Failure to comply with sanctions, (other than for competence or unsafe gas work)	Written undertaking to not infringe again Payment of all outstanding fees Correction of any outstanding defective work attributable to the business
Aggressive behaviour towards Register staff	Written undertaking to not infringe again Payment of all outstanding fees Correction of any outstanding defective work attributable to the business
Vexatious/libellous grievances against the Register	Written undertaking to not infringe again Payment of all outstanding fees Correction of any outstanding defective work attributable to the business

*\*All reapplications following the application of a removal sanction will be treated as a new application and will be subject to an application and registration fee.*