

**Status Report**  
**New York City Department of Housing Preservation & Development (HPD)**  
**Office of the New York State Comptroller (OSC)**  
**Heat and Hot Water Complaints – 2019-N-3**  
**Date: March 22, 2021**

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***Recommendation 1:** Take corrective action to ensure HPDInfo processes all complaints appropriately, including, but not limited to a) accurately identifying all unique complaints so that they are routed for inspection, b) accurately identifying and linking duplicate complaints, and c) establishing criteria that will define and distinguish initial and duplicate complaints and create rules in HPDInfo accordingly.*

**HPD Response to Recommendation 1:** During FY 2018 and 2019, 0.2% of all Heat and Hot Water HHW complaints may not have been directly addressed as a result of the technical issue described in the report. For that 0.2%, HPD took immediate steps towards compliance with this recommendation during the period of the audit. Specifically, HPD took swift action to (1) properly close all older complaints so that newer complaints would not become inappropriately linked to them, (2) closely monitor any new instances where this issue could occur, and (3) work to correct the issue.

HPD notes, however, that (as the report mentions) “other types of inspections of the buildings [that have HHW complaints concealed due to the ‘glitch’] give inspectors an opportunity to assess whether HHW are being provided.” This point should be repeated and emphasized: *HPD’s practices generally ensured that the “glitch” did not result in risks to health and safety.* Specifically, the report cites an example of a “building in Brooklyn [that] did not have any heat and hot water inspections from July 10, 2017 to April 25, 2019 despite tenants submitting 175 complaints during this period.” In fact, HPD attempted or conducted inspections on 99 different days during that time period. Inspectors cited violations as appropriate for the issues in those complaints and, as part of their regular procedure, would have issued violations if a lack of HHW had been observed or reported to the inspectors at the time of the inspections. Because no lack of HHW conditions were observed or reported, no HHW violations were issued.

Corrective Action:

**HPD completed a comprehensive review and addressing of all open HHW complaints on September 16, 2019. During that review, any complaints found to be open were appropriately reviewed and closed. In addition, HPD has implemented a new automated 10-Day Duplicate Rule in HPDInfo, which affects all HHW and building-wide problems. The new feature will mark the complaint as duplicate only if the original complaint is less than 10 days old. This feature may result in more complaints being routed for inspection.**

Implementation Date:

**March 2021**

***Recommendation 2:** Establish a formal timeframe for inspecting HHW complaints.*

**HPD Response to Recommendation 2:** HPD Disagrees.

HPD remains committed to inspecting HHW complaints, and all emergency complaints, as quickly as possible. As noted in the report itself, HPD improved its speed of response to 2.1 days on average in FY 2019, and (as described above) has made deep investments to improve further on this average. However, as explained to the auditors, a host of factors during each heat season (including the number and types of emergency complaints received relative to staffing resources, new legislation that affects HPD’s practices, and the length of particularly cold periods) preclude HPD’s ability to commit to a standard timeframe for HHW complaints.

Corrective Action:  
**No further action.**

Implementation Date:  
N/A

**Recommendation 3:** *Periodically review open HHW complaints to ensure that they are being addressed timely.*

**HPD Response to Recommendation 3:** HPD agrees with the recommendation. HPD’s monitoring of HHW complaints has thus far focused primarily on tracking and closing original complaints to ensure that they are inspected timely. Going forward, HPD will expand its data monitoring to ensure that both original and duplicate HHW complaints are closed.

Corrective Action

**In October 2020, HPD implemented a weekly report that lists all open complaints in detail as of the run date. HPD now researches HHW complaints open for more than thirty (30) days to ensure that no issues are keeping it from moving through the inspection process in a timely manner. This report is distributed to Code Enforcement every Monday morning for review and research if needed.**

Implementation Date  
**October 2020**

**Recommendation 4:** *Continue pursuing the use of technology to enforce HHW laws.*

**HPD Response to Recommendation 4:** HPD agrees with this recommendation and, as discussed in the report, was already underway with its implementation before the audit began. Specifically: a) as described earlier, Real Time Field Force (RTFF) is currently being piloted in Manhattan and is expected to be rolled out to all borough offices by 10/1/2020; and b) as the report mentions, HPD is responsible for implementing a new program to evaluate the use of internet-capable temperature-reporting sensors in buildings with a record of previous heat violations, per Local Law 18 of 2020.

Corrective Action:

**Due to COVID-19, HPD was unable to implement RTFF in October 2020 as planned. Currently, HPD intends to complete the implementation by Fall 2021. HPD did implement the Heat Sensors Program in July 2020. A report of the implementation and an analysis of the selected buildings is required to be provided to the New York City Council on August 1, 2021.**

Implementation Date:  
**See above.**

**Recommendation 5:** *As appropriate, provide tenants with advanced notice of inspections.*

**HPD Response to Recommendation 5:** HPD conducted 1.4 million inspections in FY 2018/19; new complaints arrive 24 hours a day / 365 days per year, and inspection routes are carefully designed to be both as geographically-efficient and urgency-responsive as possible (to deliver top speed while maximizing personnel resources). The scheduling systems that the auditors proposed in conversation with HPD (where tenants schedule inspections at dates and times specific to their convenience) would prevent inspections from being performed as quickly as possible. As HPD assesses technology needs, as technology improves, and as HPD identifies specific areas or complaint types where scheduling might be beneficial, HPD will take steps to make its scheduling more flexible and transparent.

With regard to the auditors' assertion (on page 16 of the report) that "increasing access to the original complainant unit is important": According to HPD's procedure (which was shared with the auditors), when an inspector is unable to access the primary complainant apartment, the inspector next attempts to inspect other apartments in the building that made duplicate complaints. If there are no such duplicates, the inspector attempts an inspection in a neighboring apartment or an apartment above or below the complainant apartment, which is likely to have similar HHW conditions as the complainant apartment. In addition, on average, more than 50% of HHW complaints are filed anonymously (nearly 60% in Fiscal Year 2018), so inspecting the original complainant apartment is often not possible. The auditors highlighted a statement made by a group of tenants that (on page 16 of the report) "HHW conditions are not universal in all apartments in a building"; though variations of a few degrees are not uncommon, HPD has generally found that confirmation of sufficient heat in one unit indicates that standard building systems distributing heat are activated and functional throughout other units.

Corrective Action:

**No further action.**

Implementation Date:

**N/A**

***Recommendation 6:*** Establish a policy requiring inspectors to note the time of their attempt to conduct inspections on the No Access cards.

**HPD Response to Recommendation 6:** HPD agrees with this recommendation to provide more information to tenants. Note that HPD inspectors are already required to sign a card in the building vestibule indicating that an inspection was attempted, whether the inspector gained access or not. Based on this recommendation, HPD will require that the time of inspection attempt appears on the card.

Corrective Action:

**Effective September 4, 2020, Housing Inspectors are required to enter the inspection time on the Certificate of Inspection Visits card located in the vestibule of multiple dwellings. The Certificate of Inspection Visits card was redesigned for this purpose.**

Implementation Date:

**9/4/2020**

***Recommendation 7:*** Establish guidelines for attorneys to use when negotiating settlement amounts in Housing Court.

**HPD Response to Recommendation 7:** HPD was compliant with this recommendation prior to the start of the audit. HPD provided the auditors with several examples of the types of circumstances that the attorneys take into consideration when settling cases and determining civil penalties, and the standard practices of the Unit when these circumstances are presented. For these reasons and reasons described earlier in this response, HPD believes that the civil penalties it seeks are appropriate. Moreover, in combination with the types of penalties that HPD has the legal authority to impose on property owners (such as inspection fees for HHW and emergency repair charges should owners fail to restore heat), HPD believes that its overall enforcement through litigation is also appropriate.

Corrective Action:  
**No further action.**

Implementation Date:  
N/A

***Recommendation 8: Increase collection efforts for outstanding default judgment amounts.***

**HPD Response to Recommendation 8:** HPD is already consistently taking steps to increase collection efforts as a matter of practice. Over the past two years, HPD has bolstered its collection efforts by referring accounts for collection to the Law Department. As a next step regarding default judgments where the owner has not appeared in court, HPD is reviewing its processes to ensure that default judgments more accurately reflect the time period when HHW are not provided (e.g., the period against which civil penalties can be assessed) based on the date that HPD confirms that heat was restored, which provides a more accurate standard for assessing penalty collection. Note that in each of FYs 2018 and 2019, HPD collected approximately \$3.6 million in penalties.

Corrective Action:

**HPD modified its heat violations summary report for attorneys to consult when seeking default judgments on HHW cases in December 2020. Going forward, attorneys will seek a number of days of penalties reflecting the number of days that HHW was sought (not the number of days between violation issuance and the court date), if HPD has information regarding the restoration of those services.**

Implementation Date:  
**December 2020**