

Birmingham City Council

Homes Overview and Scrutiny Committee

21 September 2023



Subject: Regulatory Compliance
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1 Purpose

- 1.1 The purpose of this report is to brief the Committee on the expectations of both the Housing Ombudsman and Regulator of Social Housing in relation to City Housing's performance as a landlord.
- 1.2 The report also sets out the new legislative requirements of the Social Housing Regulation Bill and the governments review of the Consumer Standards, with the specific focus on how this will impact City Housing in its function as a social landlord.

2 Recommendations

- 2.1 It is recommended that the Committee has more a substantive role in providing oversight, scrutiny and productive challenge to the Directorate whilst moving towards compliance.
- 2.2 It is recommended that the Committee engages in quarterly meetings specifically on the subject of landlord compliance, to satisfy itself and the citizens we serve that the Directorate are travelling in the right direction when it comes to achieving compliance.
- 2.3 It is recommended that the Committee are supported in a one-off training session, via an external provider to understand the expectations around landlord compliance and the Committee's role in scrutinising the activity that is undertaken.
- 2.4 It is recommended that the Committee study the documents provided and make any relevant comment, particularly in relation to the draft Voluntary Undertaking and RSH Action Plan. These documents set out our commitment as a Council to address the areas set out in the Regulatory Notice and will be published publicly.

3 Background

- 3.1 In May 2023, Birmingham City Council were issued with a Regulatory Notice by the Regulator of Social Housing. The Notice relates to a breach of both the Home Standard and Tenant Involvement & Empowerment Standard, which are two of the Consumer Standards, devised to regulate the social housing sector.
- 3.2 The Regulator of Social Housing began their engagement with the Council, following the Housing Ombudsman's special report, published in January 2023.
- 3.3 The Housing Ombudsman responded to several complaints resulting in severe maladministration between 2017-2020. In response, a deep dive audit was undertaken by the Housing Ombudsman between March 2022-September 2022, with a full Paragraph 49 report, published in January 2023.
- 3.4 The Council undertook an intensive period of engagement with the Housing Ombudsman, following the special report. This ended on the 17th April 2023, where the Housing Ombudsman 'signed off' an agreed action plan against the recommendation, giving the Council a 6 month grace period to embed the actions agreed.
- 3.5 As part of the formal monitoring process by the Housing Ombudsman, they made a referral to the Regulator of Social Housing highlighting the findings of their report and sharing their concerns.
- 3.6 This triggered a period between December 2022-March 2023 where the Regulator sent several requests for specific information, beginning with information on damp and mould following the tragic death of Awaab Ishak.
- 3.7 The Regulator of Social Housing were concerned about the information received by the Council and issued a breach Notice reflecting the areas of concern. The Council are one of many Local Authorities to be issued with a breach Notice in the last 12 months, in preparation for the implementation of the Social Housing Regulation Bill in April 2024.

4 Progress

- 4.1 The Council initially began providing performance information to the Regulator in April 2023. Appendix 1 (slide 2) sets out the progress made in relation to landlord compliance matters between April and August 2023. Programmes have accelerated across all areas, at varying speeds and there are plans in place to increase capacity where required.
- 4.2 Appendix 1 (slide 3) sets out some of the key messages in relation to landlord compliance; including documenting our work with Savills, seeking assurance that the processes and systems we are now embedding put the Council in the strongest position to succeed.
- 4.3 Where required, the Council will be making direct awards to additional contractors/suppliers; this is the case with low-rise Fire Risk Assessments where

additional capacity is required to deliver the programme by June 2024 as promised to the Regulator of Social Housing and to our citizens.

- 4.4 Appendix 1 (slide 5-6) sets out our approach to stock condition surveys, a vital component when looking to achieve Compliance against the Decent Homes Standards. The Council are aiming to deliver 20% physical surveys by June 2024, in line with the industry norm. Circa 2,400 surveys have been completed since December 2022 and a financial commitment to a further 6,000 has just been agreed.
- 4.5 Appendix 1 (slide 7-9) sets out our complaint's performance across a 12-month period, including volumes and completions against SLA timescales. This is a significant area of work as it was complaints performance that alerted the Housing Ombudsman to the Council initially.
- 4.6 As highlighted, SLA responses have improved from 26% across the winter period but are not yet at a standard that we can be comfortable with. This is because the majority of the internal team have been focusing on reducing historic backlogs and recruiting to existing vacancies. Appendix 1 (slide 10) provides an update around resourcing in the complaints function.
- 4.7 Appendix 1 (slide 11-14) provides an update on tenant engagement following the initial observations of TPAS after their November 2021 review. (Slide 12-13) sets out the interventions that have already been achieved, as well as what is anticipated over the next 12 months.
- 4.8 The Council have deployed several layers of governance to ensure compliance is managed effectively going forward. In January 2023, an officer led Compliance Board was mobilised so there is a focused meeting to address landlord compliance within the Directorate.
- 4.9 CLT Assurance Board receive regular updates on the compliance position, as does the Cabinet Member.
- 4.10 As part of our commitment to refresh the way we address compliance, we know that landlord performance needs to be more visible across the Council, and particularly with elected Members. We are proposing that the Committee provides the oversight and scrutiny required in this area, and as a Directorate we commit to reporting our performance on a quarterly basis to invite this conversation.

5 Preparation for the Social Housing Regulation Bill

- 5.1 The Regulator of Social Housing recently released a consultation on a proposed set of new Consumer Standards, the Council have until October 2023 to respond. The consultation sets out additional burdens on landlords, following promises the government made to the sector after the Grenfell tragedy in 2017.
- 5.2 The Social Housing Regulation Bill, supplemented by a new set of Consumer Standards are due to launch in April 2024, where a proactive inspection regime

will commence. It is anticipated that Birmingham City Council will have an inspection, early in the regime due to the size and scale of the portfolio.

- 5.3 Whilst the Regulatory Notice issued to the Council addresses some areas of the Consumer Standards, there are several areas which are not considered in the breach. It is imperative that the Directorate continue to prepare for inspection in tandem so that there are no further consequences when an inspection takes place.
- 5.4 Throughout September and early October 2023, a revised self-assessment will be undertaken against the proposed Consumer Standards to give the Directorate an idea of some of the key gaps, informing service plans between now and the inspection period.
- 5.5 The results of the self-assessment will be shared with the Committee at the next meeting, to enable comment.
- 5.6 Moving forward, we will be working with an external provider (Campbell Tickell) who work very closely with the Regulator of Social Housing and know what they are looking to see. Campbell Tickell will support us with a mock inspection early in Spring 2024.

6 Any Finance Implications

- 6.1 There are several financial commitments that may be required in order to achieve compliance; for example, there has been and will continue to be a requirement to explore direct award opportunities to new and existing contractors to accelerate delivery.
- 6.2 In the main, these have been factored in to the HRA Business Plan that is set for Cabinet in October 2023, but it is pertinent to point out that there may be further financial implications as the relationship between the Council and the Regulator develops.

7 Any Legal Implications

- 7.1 The Regulatory Notice has several implications; direct grant from arms of government (such as Homes England) is prohibited whilst the Notice is being enforced.
- 7.2 The Regulatory Notice does not currently enforce any legal actions on the service, or the Council as a whole. However, the Regulator have a variety of powers including fines, special advisers being brought into the Council and ultimately taking over sole management for the stock portfolio. This will only become a reality if the Council do not deliver on the outcomes expected of them by June 2024.
- 7.3 Whilst not a legal document, Appendix 2 is a draft Voluntary Undertaking which will be a public commitment between by the Council, to the Regulator to deliver on the actions set out, in order to address areas of the Regulatory Notice. The

document has been signed off by legal and governance colleagues as it is a formal commitment, be it there is no legal standing to enforce.

- 7.4 Appendix 3 is a draft action plan; this will be shared with the Regulator and will be mutually agreed. Ultimately, the purpose of this document is to demonstrate to the Regulator and across the Council, the key actions that need to be undertaken to achieve overall compliance against the areas of breach.

8 Any Equalities Implications

- 8.1 There are no specific equalities considerations to note.

9 Appendices

- 9.1 Appendix 1- Regulatory Compliance update
9.2 Appendix 2- Voluntary Undertaking DRAFT
9.3 Appendix 3- Delivery Plan DRAFT