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[Regulator of
Social Housing](#)

Decision

Regulatory Notice: Birmingham City Council (24 May 2023)

Published 24 May 2023

Applies to England



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RSH Regulatory Notice

- Provider: Birmingham City Council
- Registration number: 00CN
- Publication date: 24 May 2023
- Reason for publication: Consumer Standards
- Regulatory route: Reactive Engagement

Other providers included in the judgement

None

Regulatory Findings

The regulator has concluded that:

- a) Birmingham City Council (Birmingham CC) has breached the Home Standard and the Tenant Involvement and Empowerment Standard; and
- b) As a consequence of this breach, there was the potential for serious detriment to Birmingham CC tenants.

The regulator will work with Birmingham CC as it seeks to remedy this breach.

The issue

Following the Housing Ombudsman's Special Report on Birmingham CC's complaint handling, we investigated the council's compliance with the consumer standards. Through our investigation we identified Birmingham CC had not completed fire, electrical and asbestos checks and inspections for every property that needed one and that a significant proportion of Birmingham CC properties do not meet the Decent Homes Standard (DHS). We also learned that Birmingham CC has failed to handle complaints effectively and failed to treat tenants with fairness and respect.

Our investigation

As a registered provider, Birmingham CC is required to comply with the consumer standards, including the Home Standard and the Tenant Involvement and Empowerment Standard. The Home Standard requires registered providers to ensure tenants' homes meet the criteria set out in government's DHS.^[footnote 1] The Home Standard also requires registered providers to meet all applicable statutory requirements that provide for the health and safety of tenants in their homes. The Tenant Involvement and Empowerment Standard requires registered providers to have an approach that ensures complaints are resolved promptly, politely and fairly and to treat tenants with fairness and respect.

In respect of fire safety, Birmingham CC has a statutory duty^[footnote 2] to regularly assess the risk of fire and to take precautions to prevent the risk of fire. The council reported that more than 1,000 Fire Risk Assessments are overdue. These are predominately for low-rise blocks. For electrical safety, Birmingham CC is required to ensure that electrical installations are in working and safe condition both at the start of any tenancy and throughout that tenancy.^[footnote 3] At the time of our investigation the council reported around 500 communal and 15,000 domestic electrical inspections were overdue. In addition to this, more than 1,000 domestic electrical remedial actions were overdue. For asbestos safety,^[footnote 4] the evidence provided to the regulator showed that Birmingham CC had almost 17,000 asbestos surveys overdue.

In relation to the quality of its homes, Birmingham CC reported that 39% of its properties did not comply with the DHS. The council does not hold recent or complete data for its properties so is unable to clearly identify the risks in its non-decent homes.

Regarding complaints handling, the Housing Ombudsman's Special Report identified fundamental flaws in this service, including poor record keeping, poor communication and a failure to learn from complaints. Through our investigation we also identified that more than 1,000 complaints (around 60% of open complaints) were overdue. In relation to Birmingham CC's engagement with tenants, external reviews carried out in 2021 and 2022 found there was a lack of proactive, frequent and effective communication with tenants. The reviews also found that tenants' needs were not understood, and they did not feel valued.

The regulator considered the case as a potential breach of parts 1.1 and 1.2 of the Home Standard and has concluded that Birmingham CC did not have an effective system in place to allow it to meet its responsibilities both in relation to the quality of its homes, and in relation to statutory health and safety compliance across a range of areas.

The regulator also considered the case as a potential breach of parts 1.1.1 and 1.3.1 of the Tenant Involvement and Empowerment Standard and has concluded that Birmingham CC has failed to treat tenants with fairness and respect, and in particular, has failed to provide an effective process for tenants to raise complaints.

In response to the problems identified, Birmingham CC is seeking to understand the extent of the issues and through its plans, is taking steps to address the failings. However, taking into account the seriousness of the issues, the duration for which tenants were exposed to risk, and the number of tenants potentially affected, the regulator has concluded that Birmingham CC has breached the Home Standard and the Tenant Involvement and Empowerment Standard and that there is a risk of serious detriment to tenants during this period.

Our engagement

Birmingham CC has started to put in place a programme to rectify these failures. The regulator will work with Birmingham CC as it continues to address the issues which have led to this situation, including ongoing monitoring of how it delivers its health and safety and decency programmes and improvements in how it engages with tenants. We will continue to keep our use of statutory powers under regular review through our engagement with Birmingham CC.

Section 198A of the Housing and Regeneration Act 2008 (as amended) states that the regulator's regulatory and enforcement powers may be used if a registered provider has failed to meet a consumer standard. In order to use regulatory or enforcement powers, as well as the failure to meet the standard, there should also be reasonable grounds to suspect that the failure has resulted in a serious detriment to the provider's tenants (or potential tenants) or that there is a significant risk that, if no action is taken by the regulator, the failure will result in a serious detriment to the provider's tenants (or potential tenants).

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1. [A Decent Home: Definition and Guidance for implementation \(June 2006 - Update\)](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/7812/138355.pdf)
(https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/7812/138355.pdf)
 2. The Regulatory Reform (Fire Safety) Order 2005
 3. Landlord and Tenant Act 1985
 4. The Control of Asbestos Regulations 2012

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