

Birmingham City Council

Homes Overview and Scrutiny Committee

25th January 2024



Subject: Regulatory Compliance
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1 Purpose

- 1.1 The purpose of this report is to brief the Committee on how the City Housing Directorate have progressed actions that have been driven through regulatory intervention from both the Regulator of Social Housing and Housing Ombudsman. This will specifically cover the last Quarter (October, November, December 2023). Due to the scheduling of Committee meetings, this report will also cover performance in September 2023.
- 1.2 The report also sets out the Directorate's progress, following the implementation of the Social Housing Regulation Act, particularly the need to prepare for a proactive inspection regime, likely to commence in April 2024.

2 Recommendations

- 2.1 It is recommended that the Committee continue to take a proactive role in providing oversight, scrutiny and productive challenge to the Directorate whilst moving towards a position of regulatory compliance.

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 Act in April 2024.

4 Progress

- 4.1 The Council initially began providing performance information to the Regulator in April 2023. Appendix 1 (slides 4-8) sets out the progress made in relation to landlord compliance matters between September and December 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 8) sets out some of the key messages in relation to landlord compliance; including the implementation of True Compliance and direct awards made to support the acceleration of Fire Risk Assessments (FRAs) and asbestos surveys in low-rise blocks.
- 4.3 Appendix 1 (slide 9) 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. 8,877 surveys have been completed since April 2023 which can be added to the 5837 surveys already held and under 5 years old.
- 4.4 Appendix 1 (slide 10-11) 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. Slide 13 sets out some initial key messages on progress against the Housing Ombudsman Paragraph 49 report.
- 4.5 As highlighted, SLA responses have improved, they 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 11) provides an update on the overarching backlog and how this is being managed.

- 4.6 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.
- 4.7 CLT Assurance Board receive regular updates on the compliance position, as does the Cabinet Member, who is provided with a weekly update as part of the Cabinet Member Briefing agenda.

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.
- 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 are set out in Appendix 2; there are several risk areas that were already understood by the Directorate and acceleration has been made through intervention from both the Housing Ombudsman and the Regulator of Social Housing
- 5.6 Campbell Tickell identified other high-risk areas in their December 2022 review, particularly in relation to visibility in local communities, resident satisfaction, and management of ASB. These areas are closely aligned to the way the service is structured; the Housing Revenue Account (HRA) Business Plan & 2024/20-2025 Rent Setting Report is due to be agreed at Cabinet on the 16th January 2024 which sets out the funding arrangements for necessary structural changes in both the Assets and Housing Management teams. Once this has been signed off, we will be able to progress this, consultation is already ongoing with Trade Unions to support what this might look like moving forwards.

- 5.7 In the meantime, task and finish groups have been set up against each one of the proposed Consumer Standards which meet bi-weekly, working through the detailed actions required to drive forward both quality and compliance in line with the Social Regulation Act and the 'asks' of a more proactive regulatory regime.
- 5.8 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 on the 16th January 2024, 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, the Council are working on 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 copy of the Directorate's Consumer Standards Action Plan; this has been shared with the Regulator and has been 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 Consumer Standards.

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- October 2023 self-assessment feedback
- 9.3 Appendix 3- Consumer Standards Action Plan