

Name of meeting: Ad Hoc Scrutiny (Council Housing Health and Safety Compliance)

Date: 26th October 2021

Title of report: The role of the Regulator of Social Housing

Purpose of report:

The following report updates Ad Hoc Scrutiny (Council Housing Health and Safety Compliance) on the role of the Social Housing Regulator in respect to ensuring registered providers are meeting their statutory obligations set out under the Regulatory framework, it outlines the Regulators Role, Framework, Standards and the approach to Intervention and Enforcement

Recommendations for Ad-Hoc Scrutiny:

- a) Consider the contents of the report and provide feedback on the current arrangements

Key Decision - Is it likely to result in spending or saving £250k or more, or to have a significant effect on two or more electoral wards?	Not Applicable
Key Decision - Is it in the <u>Council's Forward Plan (key decisions and private reports)</u>?	No Private Report/Private Appendix – No
The Decision - Is it eligible for call in by Scrutiny?	Not Applicable
Date signed off by <u>Strategic Director</u> & name Is it also signed off by the Service Director for Finance? Is it also signed off by the Service Director for Legal Governance and Commissioning?	Naz Parkar, Service Director Homes and Neighbourhoods
Cabinet member portfolio	Cllr Cathy Scott

Electoral wards affected: ALL

Ward councillors consulted: No

Public:

Has GDPR been considered? Yes

1. Summary

1.0.1 The Grenfell Tragedy has resulted in major regulatory reform and sweeping changes such as an extension of the combustible materials ban, mandatory sprinkler requirements in lower rise buildings and building safety regulator with powers to enact harsher penalties for breaches and malpractice.

1.0.2 The Regulator for Social Housing (RSH) plays a major role in ensuring providers are meeting their statutory obligations as set out in the Regulatory framework, we fully expect the RSH and the recently announced Building Safety Regulator (BSR) to establish a concordat, sighting each other on concerns where there may be multiple failures requiring further investigation against other standards or statutory requirement.

1.0.3 In February 2021 Kirklees Council wrote the Regulator to notify of the discovery of flammable insulation in the external wall insulation of 3 high rise blocks and outline our proposals to rectify the issues through a programme of major improvements and the completion of Fire Risk Assessment (FRA) repairs while maintaining interim measures to ensure the ongoing safety of residents in each block

1.0.4 We have since maintained regular dialogue formally and verbally to update the Regulator on the progress of the various fire safety work programmes, notify of delays and provide assurance on maintained interim measures

2. Information required to take a decision

2.1 The Regulator`s Role

2.1.1 The objectives of the Regulator of Social Housing are set out in the Housing and Regeneration Act 2008. In summary;

- Protect social housing assets and support the provision of social housing that is well-managed and of appropriate quality
- Ensure providers are financially viable and properly governed
- Maintain confidence of lenders to invest into the sector
- Encourage and support supply of social housing
- Ensure tenants are protected and have opportunities to be involved in the Management of their housing
- To ensure that actual or potential tenants of social housing have an appropriate degree of choice and protection
- To encourage registered providers of social housing to contribute to the environmental, social and economic well-being of the areas in which the housing is situated
- Ensure value for money in service delivery

2.2 The Regulatory Framework

2.2.1 Economic Standards:

- The Governance and Financial Viability Standard

- The Value for Money Standard
- The Rent Standard (this is the only one of the Economic Standards that the RSH applies to Local Authority Providers)

The Regulator has issued 2 codes of practice; Governance and Value for Money

2.2.2 Consumer Standards:

- The Tenant Involvement and Empowerment Standard
- The Home Standard
- The Tenancy Standard
- The Neighbourhood and Community Standard

The role of the Regulator in this case is reactive in response to referrals or other information received, it will intervene where a failure to meet the standard has caused or could cause serious detriment to tenants

2.2.3 In assessing compliance with the above standards the RSH uses the Decent Homes Standard (**DHS**) as part of its assessment of the suitability of the accommodation being provided. In Kirklees we are at 100 % compliance with the current standard. As part of the post White Paper review of compliance the RSH has consulted on revising the DHS, along with updating its Economic and Consumer standards. This review is ongoing, and we do not expect any firm proposals arising from it until later in 2022. No announcements have been made however we are anticipating a revision to the Home Standard with a shift from component replacement to a focus on tackling fuel poverty, disrepair and achieving the highest possible health and hygiene standards in line with the Housing Health and Safety Rating System (HHSRS) in all cases.

Some changes may require primary legislation to enact. However as soon as proposals are made by the regulator, we will conduct a gap analysis between the old and new standards. This will inform our service planning, reinvestment and neighbourhood service delivery to ensure compliance with the revised standards.

Post Grenfell the Tenant Involvement and Empowerment standard has taken on an enhanced significance. In response we have designed the tenant voice into our new governance arrangements with half of the Housing Advisory Board membership and all of the Tenants Advisory and Grants Panel being tenants or leaseholders. In addition, we have consulted with tenants on our Service Excellence initiative, conducted a complaints handling review and developed a customer focused improvement plan in response to our Survey of tenants and Resident (STAR) results, to ensure that tenants are at the centre of all we do.

2.3 The Approach to Regulation

2.3.1 Co-Regulation

The co-regulatory approach relies upon a Registered Providers Board (in our case the ultimate responsibility rests with the Cabinet) to deliver the regulatory

standards or explain any areas of noncompliance. Co-regulation also requires providers to support tenants in the shaping and scrutinising of service delivery and in holding boards and councillors to account. There is particular emphasis on ensuring providers are meeting the Governance and Financial Viability Standard and will maintain regulatory judgements on poor performance and failures to meet each economic standard (only the rent standard is currently applicable to Local Authority Providers)

Following the return of KNH to the Authority in April 21 a new Governance framework has been established (see appendix 1). This framework established the Housing Advisory Board (HAB) that is Chaired by the Portfolio Holder for Housing and Democracy and has up to six tenant members, four co optees and the Strategic Director for Growth and Regeneration. This Board provides scrutiny and oversight of the Homes and Neighbourhoods operational performance and can advise Cabinet (as the RP Board) of any policy or other matter that would require their attention. HAB is ably supported by the Building Safety Assurance Board and the Tenants Advisory and Grants Panel. These bodies provide a triangulated assurance framework to ensure the health and safety, tenants engagement key performance and policy matters are well scrutinised and are fed into Cabinet decision making.

The Regulator adopts a risk-based approach and uses the sector risk profile to identify the key risks that the sector is exposed to and those providers at greatest risk of noncompliance or failure. The sector risk profile is updated and published annually (normally in October) to help providers assess and manage risk effectively.

2.4 Intervention and Enforcement

2.4.1 The Regulator expects providers to identify issues and to take effective action to resolve them. The Regulator further expects providers to maintain open and transparent engagement with them. Should circumstances arise that could potentially or actually result in the providers inability to meet any of the standards the Regulator expects providers to bring this to their attention at the earliest opportunity. Such circumstances arose for the Authority following intrusive fire safety investigation works at our high-rise properties. The Authority has self-referred to the regulator and has been in regular engagement since the beginning of the year.

The Authority has kept the Regulator fully informed about the situation within three, of our four, high rise properties and the mitigations that have already been put in place. In addition, we have shared our plans for remediation works with them and kept them fully informed of our progress. In our most recent communication, we have informed the regulator of some extensions of anticipate timescales for the completions of works that has been due to delays in appointing a suitable contractor.

To date the Regulator has been satisfied with the approach we have taken and has not taken any regulatory action. We will continue to cooperate fully with the Regulator until all of the remediation works to our high-rise blocks are brought to a satisfactory conclusion. Engagement with our tenants has been key

throughout this process firstly informing them of the mitigating actions we have put in place and then with further consultation on the works that are to be carried out.

In addition, we have shared our wider compliance reports and activities with the regulator to provide them with a complete understanding of our position in relation to the six key compliance areas. We are currently responding to the Regulator's request for additional detail in relation to this wider compliance programme.

Should the Regulator assess that there has been a breach of the standards they have a range of enforcement powers available to them. For a Local Authority these could range from (but not limited to) issuing an enforcement notice, undertake an extraordinary audit or deregistration. It is widely anticipated that post Grenfell the Regulator will gain enhanced regulatory powers (though this will require primary legislation) and that these powers will, in particular, have a greater recourse on Local Authority providers.

3.0 Implications for the Council

3.1 Working with People

We continue to engage with residents to keep them informed of changes in regulation and what this means for their home, we are investing heavily in dedicated resource to maintain strong lines of communication with all residents to keep them informed of ongoing programmes of inspection and remediation as we develop a building safety case for each high-risk block and maintain a golden thread of information across all areas of compliance

3.2 Working with Partners

We continue to develop an effective relationship with the Regulator ensuring we are transparent and proactive in sighting issues while provide requisite assurance. We maintain a multi-agency approach for the successful delivery of compliance programmes, relationships internally, and with external partners are key to success. The Council cannot deliver programmes on its own; partners play a vital part in shaping and delivering successful outcomes,

3.3 Place Based Working

Consultation plays a major part in our approach, we have carried out major consultation on proposals to undertake major improvements to high rise blocks and in each case adopted the Place Model to capture and shape our decisions, the same approach will be applied to all other blocks in the building safety and compliance programme

3.4 Climate Change and Air Quality

Remediation programmes and work activity conforms to the current environmental legislation and CDM 2015. Products and materials are procured using sustainable methods and procurement routes

3.5 Improving outcomes for children

The Council's approved housing strategy focusses on early intervention and prevention of homelessness thus leading to improved outcomes for all households who are at risk of, or experiencing, homelessness, including households with children, and young people. The compliance programme considers the Council's responsible approach for tackling the ongoing loss of Council housing through Right to Buy (RTB) and hence establish one for one replacement to meet increasing affordable housing demand.

3.6 Other (eg Legal/Financial or Human Resources) Consultees and their opinions

Regulatory reform will require ongoing investment to maintain and increase our programme of inspection, this will invariably lead to capital investment required to remediate blocks to ensure they continue to meet the building standards set out in regulatory guidance

The current 30-year Housing Revenue Account (HRA) business plan makes a capital provision to invest in high rise blocks and therefore set aside £21m for remediation. As we continue to commission detailed investigations into the building fabric of all blocks we will develop capital programmes and therefore expect the capital requirement to increase, as we complete remediation programmes we will increase the inspection regime and therefore require further revenue funding to maintain programmes

The recent compliance review has resulted in the formation of a dedicated building safety function with additional resource, capacity and competency. The additional resource has been stress tested in the HRA business plan and is affordable, we are therefore in the process of recruitment

4. Next steps and timelines

Continue to deliver the ongoing Building Safety Programme ensuring there are no breaches in regulation while reporting progress against the various compliance and building safety programmes. Continue to maintain robust lines of communication with the Regulator and ensure co-regulation is effectively demonstrated

5. Officer recommendations and reasons

Consider the contents of the report and provide feedback on the current arrangements

6. Cabinet Portfolio Holders Recommendations

Keeping tenants safe is the Council's highest priority, we must ensure we meet the requirements of each regulation and demonstrate absolute compliance at all times. I fully support the approach to meeting our obligations detailed

against the regulations and ongoing, inspection, repair and improvement programmes.

7. Contact officer

Asad Bhatti: Head of Building Safety (Homes and Neighbourhoods)
Tel: 01484 221000 and ask for Asad Bhatti
Email: asad.bhatti@kirklees.gov.uk

8. Background Papers and History of Decisions

Not Applicable

9. Service Director responsible

Naz Parkar, Service Director Homes and Neighbourhoods

Housing Assurance

