

**Name of meeting:** Cabinet  
**Date:** 14<sup>th</sup> December 2021

**Title of report:** Building Safety, Compliance Report. Anthony Brown, RM Consulting: April 2021

**Purpose of report:**

This report outlines the outcome of an independent review of safety and compliance commissioned by Kirklees Council and conducted by Anthony Brown of Robust Management Consulting during February 2021 to May 2021. The review resulted in an improvement plan with 48 recommendations and a focus on 6 key areas of priority:

1. Compliance Governance and Oversight
2. Management information and delivery of compliance services to Non HRA properties
3. Fire Safety
4. Asbestos Management
5. Water Hygiene
6. Passenger Lift Safety

The report provides an update on progress against all recommendations.

<b>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?</b>	<b>Yes</b>  <b>If yes give the reason why</b>  Spending in excess of £250k and affects all electoral wards
<b>Key Decision - Is it in the <u>Council's Forward Plan</u> (key decisions and private reports)?</b>	<b>Key Decision – Yes</b>  <b>Public Report - Yes</b> <b>Private Appendix – Yes – (Appendix 1)</b>
<b>The Decision - Is it eligible for call in by Scrutiny?</b>	<b>Yes</b>  <b>If no give the reason why not</b>
<b>Date signed off by <u>Strategic Director</u> &amp; name</b>  <b>Is it also signed off by the Service Director for Finance?</b>  <b>Is it also signed off by the Service Director for Legal Governance and Commissioning?</b>	       <b>Julie Muscroft: 06/12/2021</b>
<b>Cabinet member <a href="#">portfolio</a></b>	<b>Give name of Portfolio Holder/s</b>  <b>Cllr Cathy Scott - Housing and Democracy</b>

**Electoral wards affected: All**

**Ward councillors consulted: No**

**Public or private:** Public report with private Appendix 1

Appendix 1 is private in accordance with Schedule 12A Local Government Act 1972, as amended by the Local Government (Access to Information) (Variation) Order 2006 namely it contains information relating to the financial and business affairs of third parties (including the Authority holding that information). It is considered that the disclosure of the information would adversely affect those third parties including the Authority and therefore the public interest in maintaining the exemption, which would protect the rights of an individual or the Authority, outweighs the public interest in disclosing the information and providing greater openness and transparency in relation to public expenditure in the Authority's decision making.

**Has GDPR been considered? Yes**

## **1.0 Background and Summary**

- 1.1 Compliance and Building Safety remains a key organisational priority, since 2017 we have invested significantly in additional competency/resource and systems to better establish reliable compliance performance and a management system to effectively manage risk in the 6 key areas of building safety compliance across Council Housing:
  - Fire safety
  - Asbestos Management
  - Gas safety
  - Electrical safety
  - Water Hygiene
  - Lifts and Lifting equipment
- 1.2 During this period, we introduced independent scrutiny through the appointment of a 3<sup>rd</sup> party auditor (Mazars) and established a performance reporting consistent to the Homes and Communities Agency's Home Standard which was the regulator at that time. This oversight is now the responsibility of the since established Social Housing Regulator.
- 1.3 Audits highlighted a number of common themes and made 37 key recommendations to improve the way we manage our data, demonstrate competency, establish and maintain a programme of statutory inspection/reinspection and gear up delivery of remediation and improvement programmes.
- 1.4 In late 2020 major regulatory reform was announced in the publication of the White Paper on Social Housing, Draft Building Safety Bill and the Fire Safety Bill revision.
- 1.5 This prompted the council to commission a further independent review into Compliance and Building Safety as part of its due diligence of the transfer of engagements of KNH to Kirklees Council.
- 1.6 In January 2021 Kirklees Council appointed Anthony Brown of Robust Management Consulting to undertake a root and branch review across all areas of compliance and building safety with a focus on existing arrangements for:
  - Governance and oversight of compliance and building safety activities
  - The integrity and robustness of property and asset information

- Performance management of compliance and building safety
- Compliance performance across the big 6 and the risk being carried by the organisation

1.7 Officers spent 4 months in a series of interviews with Robust Management Consulting and shared significant amounts of information to assist in the review, which resulted in the attached report and improvement plan (appendix 1)

## 2.0 Findings of the Report

2.1 The report identified a number of areas of improvement placing significant risk on the organisation, namely:

- Poor data integrity and lack of system integration
- Overdue delivery of fire safety remedial actions
- Water Hygiene: lack of visibility of risk across domestic dwellings, completion of communal re-inspection programmes and review dwellings included, completion of remedial actions
- Asbestos management: poor data management, completion of inspection and re-inspections programmes

2.2 Overall the report made recommendations to establish 3 lines of defence to avoid any regulatory breaches:

**3<sup>rd</sup> Line of Defence:** Establish independent and objective assurance to the executive management team and the Cabinet through internal and external audit that reports to the Building Safety Assurance Board (BSAB)

**2<sup>nd</sup> Line of Defence:** The delivery of operational compliance services underpinned through formally agreed policy and process, effective performance monitoring and guidance/training to the 1<sup>st</sup> line

**1<sup>st</sup> Line of Defence:** Establish the responsibility of operational line managers to effectively identify, manage and control risk, timely delivery of compliance inspection and remediation programmes, further ensuring adequately qualified resources to undertake the allocated compliance functions

2.3 The review identified 48 individual recommendations which form the basis of the improvement plan:

- |  |                   |
|--|-------------------|
| • Cross Cutting; Governance and oversight: | 7 recommendations |
| • Property and Assets in Management:       | 9 recommendations |
| • Compliance and Performance:              | 3 recommendations |
| • Fire Safety:                             | 8 recommendations |
| • Electrical Safety:                       | 3 recommendations |
| • Gas Safety:                              | 2 recommendations |
| • Asbestos Safety:                         | 6 recommendations |
| • Water Hygiene:                           | 6 recommendations |
| • Passenger Lift Safety                    | 4 recommendations |

- 2.4 All recommendations were assigned to lead officers and during the implementation period we combined 6 recommendations from the compliance review relating to data validation, asset controls and the provision of performance information as they overlapped and related to the same outcome; we have therefore reduced the original number from 48 to 42.
- 2.5 We added 13 recommendations that remained outstanding from previous Mazars audits to prevent duplication and therefore established an improvement plan with a total of 55 recommendations and at the time of writing, 31 have been completed and signed off by the independent consultant

Recommendations	Not Started	In Progress	Complete	Superseded	Total	% Complete
Compliance Review	2	13	27		42	64%
Mazars	0	4	4	5	13	50%
<b>All Actions</b>	<b>2</b>	<b>17</b>	<b>31</b>	<b>5</b>	<b>55</b>	<b>62%</b>

- 2.6 Overall the improvement plan remains on programme as we continue to complete recommendations by priority and key areas of the improvement plan. The estimated completion date of the overall plan is 29/09/23 and coincides with the estimated completion of outstanding FRA remedial works to low rise blocks, this is however subject to contractor capacity, uninterrupted access and specialist materials.
- 2.7 Given the priority relating to FRA work actions, we also track the completion of every high priority action (AA) and those to High Rise blocks notified to the Regulator, on a weekly basis to ensure we are fully sighted on progress and can resolve possible delays at the earliest opportunity.

Fire Risk Action Summary - 19/11/21			
AA Fire Risk Actions			
Category	Starting Figure	Current Total 19/11/21	Anticipated Completion Date
<b>Grand Total</b>	<b>272</b>	<b>86</b>	30/03/22

Fire Risk Action Summary 19/11/21			
High Rise Fire Risk Actions			
Category	Total	Current Total 19/11/21	Anticipated Completion Date
<b>Grand Total</b>	<b>1121</b>	<b>735</b>	28/03/2022

2.8 As part of the ongoing dialogue with the Regulator of Social Housing and self-referral made in January 2021, we advised her of the compliance review commissioned in early January 2021, we provided further updates in February, May and September, sharing the full report in October. We met with the Regulator on 3<sup>rd</sup> November 2021 during which we provided overview and a detailed update against the review including:

- The background and context to the Compliance Review
- The key issues identified within the report
- The overdue fire safety remedial actions that the Council became aware of as part of its due diligence for Transfer
- Current numbers of overdue fire safety actions
- Further detail on the timescales for the high, medium and low risk fire safety actions to be completed
- The plans to remediate the issues identified and timescales for this.
- Any mitigations that are in place to mitigate the risk to tenants in the interim.

2.8 The Regulator has noted the work that has been undertaken by the Council since the service has come back in house and the progress with delivering the actions in the improvement plan to date. The Regulator also recognised that there is still work to be done to deliver our action plan and has asked for a monthly update on progress up to March 2022. This will assure them that our plans are being delivered before they formally conclude on these matters. Whilst there is still some on-going assurance to provide to the regulator, good progress is being made and there is a strong internal framework of assurance and increase in capacity will enable support to be made available where and when it is needed.

### **3.0 Conclusions**

3.1 The review of Compliance and Building Safety has provided a timely opportunity for a detailed assessment of our safety management system, it coincides with major regulatory reform following Grenfell and the introduction of clear guidance in the form of the Building Safety Bill 2020, Fire Safety Act 2021, MHCLG Consolidated Advice Note 20 Jan 2020, The Social Housing White Paper 2020 and aligns well to the Building Safety Transition Plan published by MHCLG in October 2021.

3.2 The review makes recommendations that allow us to tackle a number of issues that will improve the way we keep our tenants safe, meet our statutory obligations, demonstrate compliance and provide assurance to residents, the Cabinet and other stakeholders..

3.3 The known costs of delivering the improvement plan have been accounted for in the 30-year HRA Business Model alongside other investment streams that seek to address the quality of the home and the quality of the places that council tenants live in. These investment streams include:

- Decarbonising our housing stock to achieve net zero
- Damp and Disrepair to contribution the health and well-being of our tenants
- New council house building and acquisitions to help address the acute shortage of affordable housing
- Regeneration and renewal of high-rise buildings
- Cyclical replacement programmes – boilers, windows, kitchens, bathrooms etc
- Cyclical environmental programmes
- A new lettable standard to improve the tenant's experience of their home

- 3.3 The ongoing improvement plan has delivered significant and tangible benefits, in particular; a robust governance structure with a focused Assurance Board, reliable asset data and an asset structure that clearly identifies all properties with a compliance requirement, an inspection programme with clearly defined dates and a prioritised remediation programme and forward plan aligned to the current Regulatory Framework.
- 3.4 There is a firm organisational commitment from all services in particular, legal, procurement and IT, to ensure that Building Safety and Compliance remains a corporate priority and is supported through a robust governance structure and the resources required to deliver and embed the improvement plan.

## **4.0 Implications for the Council**

### **4.0.1 Working with People**

The review will deliver improvements in the way we share information with residents, consult on proposals and establish a building safety case for all buildings in scope and those deemed higher risk, it aligns to the recommendations of Chapter`s 1 and 5 of the Social Housing White Paper 2020:

1. *To be safe in your home. We will work with industry and landlords to ensure every home is safe and secure*
5. *To have your voice heard by your landlord, for example through regular meetings, scrutiny panels or being on its Board. The government will provide help, if you want it, to give you the tools to ensure your landlord listens.*

### **4.0.2 Working with Partners**

A multi-agency approach is required for the delivery of the compliance and building safety programme, relationships internally, and with external partners are key to success. The Council cannot deliver programmes on its own; partners will play a vital part in shaping and delivering successful outcomes

### **4.0.3 Place Based Working**

Consultation informs a Placed based approach; we continue to develop our overall engagement plan in consultation with the Housing Advisory Board and members of the Tenant and Grants Panel (TAG). Project specific consultation is underway in collaboration with Partnership colleagues as we develop remediation programmes across all areas of compliance specific to individual estates and blocks, those are reinforced with updates on communal notice boards and face to face interactions as well as building safety updates on our website

### **4.0.4 Climate Change and Air Quality**

Fire Safety remediation programmes that affect the fabric of the building are designed to achieve compliance to Part L of the current Building Regulations therein achieve the best possible U Value and thermal rating.

### **4.0.5 Improving outcomes for children**

The compliance review will deliver safer, compliant homes and support the best start for children living in Council Housing

#### 4.0.6 Other (e.g., Legal/Financial or Human Resources)

Our current assessment of Building Safety remediation to blocks with communal areas requires £30m of Capital provision, this is addition to the £57m allocated the high-rise building safety programme

The Review has identified a critical requirement to strengthen resources in order to deliver the sizeable programme of inspection and remediation, we have therefore created a new building safety function that consists of 27 new posts at an additional overhead cost of £1.4m per annum. And further investment of almost £0.5m has been made to increase capacity in other teams that will be involved in engaging and supporting tenants whilst works are being delivered. We have also established a comprehensive workforce development plan that will equip staff with the skills and qualification required to demonstrate competency. Recruitment to the new structure commences in December 2021 however temporary appointments are being made as an interim measure to support the existing team and programme delivery.

The review makes recommendations in accordance to the current Regulatory Framework:

- Building Safety Bill 2020
- Fire Safety Act (FSO) 2021
- MHCLG Advice Note 2020
- Building Regulations Part B and L
- Social Housing White Paper 2020
- Gas Safety Regulations 1998
- The Control of Asbestos Regulations 2012
- The Electrical Safety Regulations 2019
- HSE ACOP L8: Water Quality
- Lifting Operations and Lifting Equipment Regulations (LOLER) 1998

## 5.0 Consultees and their opinions

Supporting business cases and outline options have been presented to the Growth and Regeneration Directorate's Senior Leadership Team, the Portfolio Holder, and the Council's Executive Team. Responses and views have been considered and considered prior to finalising this report.

We continue to consult, engage and communicate with tenants and all stakeholders as we develop compliance remediation programmes ensuring this feedback is used to shape delivery. As each phase of the fire safety remediation programme to low rise blocks develops, we will share proposals with residents and ward councillors confirming running orders for blocks, extent of works and sequence of delivery, we will continue to share progress with those affected throughout the delivery stage. We expect to commence works to 6 story blocks in April 2022 and will therefore aim to commence engagement in March.

## **6.0 Next Steps**

To ensure the ongoing delivery of:

- The improvement plan
- Performance reporting to the Building Assurance Board, Health and Safety Oversight Board and the Housing Advisory Board and the Cabinet
- Continued engagement and dialogue with the Regulator to ensure regular updates on progress
- The new Building Safety
- Structure to add capacity and capability
- Fire safety remediation programme commencing in April 2022

## **7.0 Officer Recommendations and Reasons**

7.0.1 That Cabinet:

- (a) Consider the review and its findings.
- (b) approve the direction of the improvement plan.
- (c) Comment on and note progress with delivery of the remediation actions.

7.0.2 Reasons:

Kirklees Council remains wholly accountable as the landlord and Registered Provider for the safety of council housing residents and therefore should be fully sighted on all risks associated to building safety with the potential to cause injury, harm or inconvenience; it is therein duty bound to ensure existing and proposed arrangements are adequate and proportionate with respect to tenant safety.

## **8.0 Cabinet Portfolio Holder's Recommendations**

Keeping the council's tenants safe is the highest priority. I am pleased to see that we have better understood the building safety issues in the council housing stock through this review and that the council has, since the transfer of engagements, acted as quickly in driving the actions required as a result of the findings and recommendations. I fully support the approach to keeping our tenants safe and meeting our obligations detailed against the regulations and ongoing, inspection, repair and improvement programmes.

## **9.0 Contact Officer**

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## **10.0 Background Papers and History of Decisions**

### **11.0 Service Director responsible**

Naz Parkar, Homes and Neighbourhoods

### **12.0 Supplementary information:**



