



Changes to the Regulation of Social Housing

Housing Scrutiny Commission: 11 July 2024

Assistant Mayor for Housing: Cllr Cutkelvin

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1. Summary – Purpose of report

1.1 This report provides an update on the changes taking place in the regulation of social housing.

1.2 Executive Summary

1.2.1 In July 2023 the Social Housing Act received royal consent. The Act has cross party support and strengthens the powers of the Social Housing Regulator. It introduces consumer standards that all social housing providers are required to meet and will be measured against.

1.2.2 The legislation places key functions of social housing, including complaints, delivered by other parts of the council on a statutory footing. The regulator will be carrying out inspections of social housing providers, which have already started on a risk-based approach. The increased powers of the regulator include, audits, enquiries, penalty notices, transfer of stock, and censure of local authority employees.

1.2.3 The legislation is in response to tragedies such as Grenfell and the consumer standards that social landlords will now be audited against are:

- Safety and Quality Standard
- Transparency, Influence and Accountability Standard
- Neighbourhood and Community Standard
- Tenancy Standard

1.2.4 The regulator at this stage is testing its methods and will be more interested in action plans landlords develop to improve services. The Housing Division has carried out a self-assessment and a comprehensive action plan has been developed. Work is underway to deliver the required change to ensure the Housing Division complies with the standards.

1.2.5 There is limited funding for social landlords to carry out the regulatory changes required. One of the key areas that we need to strengthen is communication. Initial work has started to develop a formal engagement strategy, to ensure tenants are aware of how to be involved in shaping the services we provide.

2. Background

2.1 The Social Housing (Regulation) Act 2023 has significantly increased the role and powers of the Regulator of Social Housing (RSH) to create a more proactive management regime for all providers of social housing. The Act also introduced a set of consumer standards which the RSH will use to assess performance and outcomes for customers. All social landlords are now subject to regulation from 1 April 2024, regardless of size, location or type.

2.2 It is important to note that in the same way as the Housing Division must comply with other pieces of legislation such as the Housing Acts (1985,

1996) and the Landlord and Tenant Act (1985), it must also comply with the consumer standards and regulatory regime. This applies to corporate services delivered on behalf of housing service e.g., Complaints and Customer Services.

- 2.3 During the passage of the Act through parliament, it received cross party support. Indeed, the aims were agreed by the select committee (chaired by Clive Betts MP) and the indications are that none of the main parties will be proposing any changes to the regulations in their manifestos, instead the focus will be on the supply of housing and the planning system.
- 2.4 Many of the provisions in the Act are responses to the tragedies of the 2017 Grenfell Tower fire and death of two-year old Awaab Ishak, who died in 2020 from exposure to serious mould. Additionally, the Secretary of State has recently written to several landlords to set out that their responses to complaints are seriously lacking.
- 2.5 Significantly, the Act puts the Housing Ombudsman's Complaint Handling Code on a statutory footing, meaning that the way complaints are dealt with is no longer a matter of local decision making.
- 2.6 It is important to note that the RSH do not expect perfection on day one. The RSH is well aware that this is a journey for all landlords. The important thing is that we know where we are and what we need to do to achieve the standard and that the regulator has confidence that a provider is able to deliver on actions in a timely manner.
- 2.7 The regulatory changes should be considered in the context of available funding (which is conspicuous by its absence). It is inevitable over the coming years that difficult choices will have to be made in terms of budgets as some of the requirements and proposals will require resources and/or investment in services. These include the need to have accurate stock data on every home at an individual level, the need to hold accurate demographic data on tenants and the competency standard which will require providers to ensure that staff are trained, developed and in some cases hold recognised qualifications.
- 2.8 Going forward it is expected that councils with a HRA will need to meet the increase in regulatory requirements from existing budgets, which we know are under significant pressure.

3. The Consumer Standards

- 3.1 A set of revised customer standards came into force on 1 April 2024, alongside the new approach to customer regulation.
- 3.2 There are four standards which set out the expectations of the RSH, together with a revised Code of Practice. The standards are:
 - Safety and Quality Standard
 - Transparency, Influence and Accountability Standard

- Neighbourhood and Community Standard
- Tenancy Standard

3.3 In broad terms, the standards cover the following:

3.3.1 Safety and Quality Standard:

- Have an accurate record at individual property level of the condition of all the homes LCC owns and manages.
- Meet the decent homes standard.
- Meet all H&S requirements (the “big six”, (although electrical safety is not expressly set out, it is implied)
- Carry out repairs, improvements and planned programmes.
- Deliver adaptation services.

3.3.2 Transparency, Influence and Accountability Standard

- Treat all customers with fairness and respect, this includes prospective tenants (everyone on the housing register)
- Ensure that services are accessible and are tailored to meet the diverse needs of tenants and also know who is living in the properties by collecting and keeping up to date demographic information.
- Engage with tenants and take their views into account when designing and delivering services (and be able to evidence and demonstrate this).
- Provide information to tenants about how services are delivered and what they can expect from us as a landlord.
- Collect and provide information to tenants to allow effective scrutiny of services.
- Have a fair and accessible complaint process (which falls in line with the Housing Ombudsman’s code of guidance).

3.3.3 Neighbourhood and Community Standard

- Co-operate locally.
- Deal with ASB and hate crime.
- Tackle domestic abuse and provide effective support services.

3.3.4 Tenancy Standard

- Allocate homes fairly.
- Support tenants to maintain and sustain tenancies.
- Offer tenancies to ensure efficient use of stock and meet statutory requirements when doing so.
- Support tenants to mutually exchange.

3.4 Please note, there are further amendments to the standards which are based on legislative changes in due course, such as Awaab’s Law,

professionalisation & competency and Decent Homes. The government are able to make further direction in the future on these and other matters, if not already incorporated into the standards and inspection regime, they will be added at a later date.

3.5 Code of Practice

3.5.1 Sitting alongside the standards is a code of practice, while the code is not a binding requirement, landlords need to have “due regard” to the code when delivering services and when assessing if they are meeting the standards.

4. Inspections

- 4.1 As part of the regulatory regime all landlords will be subject to regular, cyclical inspections. Initial indications are that these will be approximately four years apart, but where there are identified shortcomings, it is likely that repeat inspection will be held on a more frequent basis. While not operating in the same way as the now defunct Audit Commission, there are some comparisons which can be drawn in the proposed inspection process.
- 4.2 Inspections have started and are being conducted on a risk-based approach. Given we have a high level of stock we anticipate being early in that cycle of inspections. We remain ungraded until that point.
- 4.3 Inspections will be outcome based. RSH will be looking for assurance that standards are being met or worked towards. They will look at the role of SMT and elected members, and how they scrutinise services by using meaningful information on performance and other indicators. The RSH expects that landlords can demonstrate how tenants’ views are at the heart of decision making, and how the governance structure ensure this happens and receives assurance of universal service delivery.
- 4.4 Inspections will be bespoke to each landlord, but there will be two core areas aligned to the consumer standards:
 - Service Outcomes
 - Transparency, influence and accountability
- 4.5 The RSH will grade each landlord from C1 to C4, with C1 and C2 being complaint, C3 being requiring improvements and C4 where the landlord is in serious detriment. These grades are aligned to the current governance (G) and viability (V) ratings the RSH gives to Housing Associations.
- 4.6 Where a landlord does not meet the standard, the RSH will look for evidence that they are aware of the gap and assurance that there is an adequate plan in place to meet the expectation. Where a landlord is not meeting the standards, the regulator will act to protect the interests of customers.

5. Enforcement Powers

5.1 Where a landlord is failing to meet a standard (or they are likely to fail to meet), there are a range of new powers available to the RSH. The landlord is also required to self-refer if in its own assessment it is not compliant with the standards. It is likely that the regulator will take an incremental approach to enforcement, by working with landlords to remedy any failings before more draconian measures are taken, unless the failing is of such a serious nature that there is no confidence the landlord was able to rectify the matter where swift intervention may be necessary. The powers are:

5.2 **Property Survey** - Applicable to all providers.

5.2.1 This power allows the regulator to authorise a person to enter a home managed by a landlord to carry out a survey of the property where the RSH suspects that the landlord is failing to maintain the premises to the required standard. The RSH can make the provider pay the costs of this survey.

5.3 **Inspections** - Applicable to all providers.

5.3.1 This allows the regulator to carry out inspections, to enter premises at reasonable times and to inspect documents and computer records.

5.4 **Inquiry and extraordinary audit** - Applicable to all providers.

5.4.1 The power to hold an inquiry will be used where the regulators suspect that:

- the affairs of the registered provider may have been mismanaged,
- the registered provider has failed to meet a standard under section 193, 194 or 194C¹ of the Act; or
- there is a risk that, if no action is taken by the regulator or the registered provider, the registered provider will fail to meet a standard under section 193, 194 or 194C of the Act.

5.4.2 If the provider meets the ground for an inquiry, no additional ground is needed to carry out an audit. An audit can be carried out as a standalone in the following circumstances:

- there is a material mis-statement in the accounts.
- the accounts have been qualified.
- a PRP's solvency is in doubt.
- there may have been a fraud; or

¹ S193 – standards relating to consumer matters.
S194 – standards relating to economic matters.
S194C – standards relating to information and transparency.

- auditors have raised matters of serious concern, for example in their management letter.
- There may be other circumstances where an extraordinary audit is considered necessary.

5.4.3 There is no right of appeal. Some powers can only be exercised during or following an inquiry. For local authorities these are transfer of management functions and censuring an employee.

5.5 Performance improvement plans - Applicable to all providers.

5.5.1 Where a provider has failed to meet a standard, or there is a risk of failing a standard or the provider has self-referred and failed to improve, the regulator can issue a performance improvement plan notice requiring the organisation to draw up a performance improvement plan (PIP).

5.5.2 The PIP will be considered by the regulator and can agree to it or suggest changes which the provider must comply with. There is an appeal process through the High Court.

5.6 Enforcement notices - Applicable to all providers.

5.6.1 The regulator can issue a notice which requires the landlord to take action or actions and will be where a landlord has failed to meet a standard, failed to comply with any enforcement notice or other serious failing. There is a right of appeal through the High Court.

5.7 Emergency remedial action - Applicable to all providers

5.7.1 This power enables the regulator to authorise an appropriate person ('authorised person') to enter social housing premises to undertake emergency remedial action. It is likely that this will be used in conjunction with the power to carry out a survey and will be used in circumstances where there is an urgent need to do a repair or make good a serious defect. There is a right of appeal through the High Court

5.8 Penalties - Applicable to all providers

5.8.1 The regulator can impose unlimited penalties (fine) on a provider where a failing has been identified. The failings are the same as listed under the section on enforcement notices (above). There is a right of appeal through the High Court.

5.9 Management tender- Applicable to all providers.

- 5.9.1 The regulator can make a landlord tender all or some of its functions. This means that if all the functions have to be tendered, then effectively the management will pass to another organisation (likely be a housing association) or it could be one part of the function, for example repairs or cleaning services. There is a right of appeal through the High Court
- 5.10 **Management transfer** - Applicable to all providers.
- 5.10.1 This power allows the regulator to order a provider to transfer all or some of its functions to a specified person (transferee manager). This power can only be used following an inquiry or extraordinary audit.
- 5.10.2 Under this power, the regulator will identify the transferee manager and appoint them based on the specific needs of the functions which are being transferred. There is a right of appeal through the High Court.
- 5.11 **Appointment of advisers to local authorities** - Applicable to Local Authorities only.
- 5.11.1 The regulator can appoint (or require to be appointed) one or more advisers to assist the LA in managing all of the social housing function or some parts of that function.
- 5.11.2 There is no statutory right of appeal in this power, but the local authority can use the Regulators Appeal Scheme.
- 5.12 **Censure of local authority employees** - Applicable to Local Authorities only.
- 5.12.1 This power enables the regulator to issue a censure notice to a local authority identifying an employee or agent who has contributed to failures during or following an inquiry under Section 206 of the Act. The local authority can then decide whether to take action against such individuals, as this is outside of the regulator's remit.
- 5.12.2 The regulator may issue more than one censure notice in relation to the same failure, but only one employee or agent can be named in each censure notice. This power can only be used during or after an inquiry.
- 5.13 As can be seen the powers are wide ranging and are focused on the consumer standards and customer outcomes. It is vital that landlords are able to demonstrate that they are meeting the standards with clear evidence. The RSH will not accept a policy statement or a process document, they will be looking to see how the landlord measures how services are delivered and want to hear "we know it's working, and this is how we know".

- 5.14 The RSH also expects that there is clear oversight by members / lead member of performance.
- 5.15 As the Ombudsman is now under a regulatory footing, failure to action an order issued by the Housing Ombudsman can result in the regulator taking enforcement action.

6. Preparation.

- 6.1 In terms of the revised consumer standards, although they came into force in April 2024, a baseline self-assessment was carried out in Q4 of 2023/24. The draft assessment against each standard has been assigned to a Head of Service to lead on and they will now look at the outcomes, consider the findings which have been fed into the action plan.
- 6.2 We also need to be able to analyse and submit complaints data, performance data and feedback from tenants on access and delivery of services.
- 6.3 This will be overseen by an internal RSH Project Board that has been set up and Chaired by the Director of Housing and will tie into a series of service improvement areas that are inter-related and cross cutting. The board will also ensure that the requisite consultation and engagement with the Tenant and Leasehold Forum is carried out.

7. Performance

- 7.1 In relation to performance, we collect data from all key housing service areas, which will be submitted to the regulator. Some of areas demonstrate particularly high performance, 93% of tenants are satisfied when a repair has been completed, which is a great achievement when you consider **104,860k** repairs were carried out over the last year. Feedback from this process is fed directly back to the service.
- 7.2 In addition, our Housing Officers have carried out **1,623** welfare visits to check on tenants and the STAR service provides wraparound person-centred support for our most vulnerable tenants. This is reflected in high tenancy sustainment rates at 95% and high rent collection which is at 98.5%. Where we have been able to invest, we see direct evidence of customer satisfaction.
- 7.3 Where we are aware of specific issues in particular wards, we have responded immediately by putting in multi-agency action plans. Please find below examples of work completed.

7.4 The Burns Flats

The work on the Burns Flats in the New Parks area is an example of where the Housing Service responded effectively to the concerns of tenants and ward Cllrs. The housing service was made aware of the need for improvements. The service developed a wide-ranging action plan to improve external and internal areas within the buildings.

- Setting up a programme to review and improve the standard of cleaning, including regular deep cleans.
- Procuring additional bin stores
- Starting a programme to replace soil vent pipes.
- Clearing guttering
- Setting up a programme to review balconies.

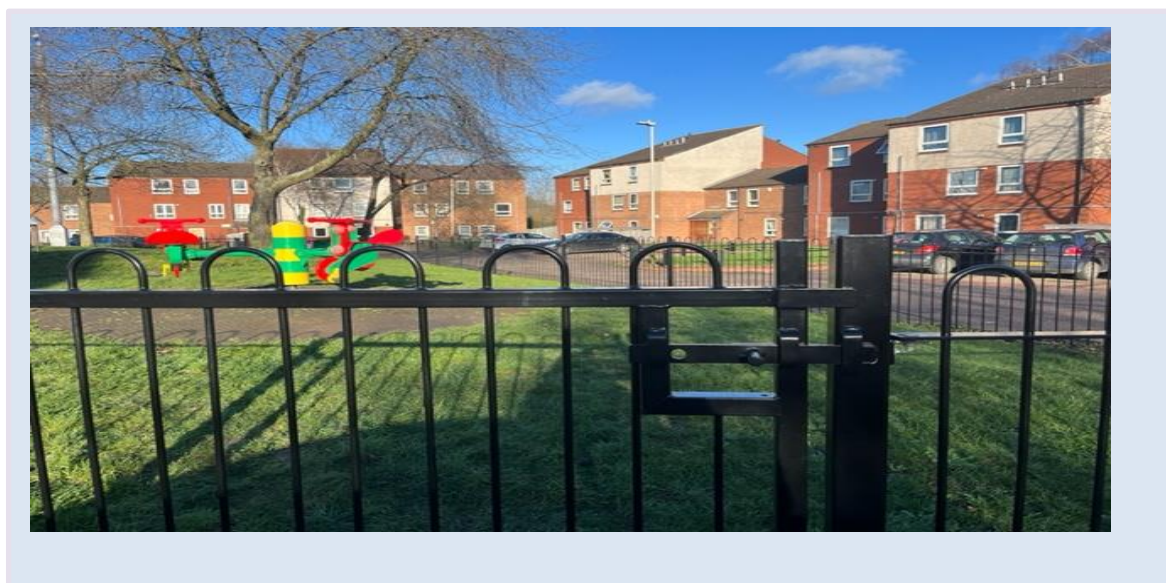
The Burns Flats

Refurbishing the community rooms and handing it back to the tenants so that a new Burns Flat Tenant's Association could be set up!



Neston Gardens in Saffron is another example of where when we had complaints of drug use around the blocks in 2022. Housing and community safety staff went door to door to reassure tenants and introduced a local letting policy until the problems in the area settled down. We also got the Police Design out Crime Officer out to assist us with improving security on the estate to prevent further issues. Ward and

environmental budget funding was used to secure the play area for children on the estate.



8.7 We regularly attend patch walks and site visits independently or when requested by residents. Tenants in council areas have expressed their appreciation of the work that has been carried out on estates across the city, as indicated in the compliment received below.

May I take this opportunity to extend my total gratitude for all the sterling work that you in particular, and your team have done to improve the standards and aesthetics of the area in which I live.

8. Self-Assessment.

- 8.1 In Q4 of 2023/24 a baseline self-assessment against the proposed standards was carried out.
- 8.2 The interim analysis shows that out of 69 specific expectations, we can demonstrate, with evidence, that we are 13% fully compliant. There are a further 36 areas (52%) where we are working towards compliance. It should be noted that we have judged ourselves critically in order to ensure that we pick up everything we can do to prepare for an inspection.
- 8.3 The assessment against each standard has been assigned to a Head of Service to lead on and they will now look at the draft outcomes, consider the findings and collate the necessary action plan.

- 8.4 The service analysis and improvement will feed into an overall action plan, which will be presented to the Tenant and Leasehold forum to be discussed, and the priorities agreed.

9 Improvement Plan

- 9.1 The action plan is being overseen by the RSH Project Board and will tie into a series of service improvement areas that are inter-related and cross cutting. Initial improvement work has already started on some areas in relation to communal cleaning and estate maintenance.
- 9.2 Each of the standards has been assigned to a Head of Service to lead on:
- Safety and Quality, Simon Nicholls
 - Transparency, Influence and Accountability (TIA), Charlotte McGraw
 - Neighbourhood and Community, Gurjit Kaur Minhas
 - Tenancy Standard, Gurjit Kaur Minhas
- 9.3 The headline focus for each workstream can be summarised as:
- 9.3.1 Safety and Quality will focus on stock data and information on the condition of assets. Work on this took place during 2022/2023 when the service was reviewed. A new team is currently being recruited to commence individual inspections in 2024.
- 9.3.2 TIA will concentrate on two main themes. Firstly, ensuring services are delivered to meet the diverse needs in the City, and secondly that tenants are involved and engaged with the landlord function
- 9.3.3 Neighbourhood and Community's focus will be ensuring that the centralised ASB service delivered by the Community Safety team is compliant with the standard.
- 9.3.4 The tenancy standard is broadly compliant with the requirements, and the focus will be ensuring that the evidence base is robust.
- 9.4 In addition to the individual standards, there are several across-cutting themes which have been identified, which are:
- Policy review.
 - Accessibility of services for customers.
 - Ensuring the KPI suite is fit for purpose.
 - Reviewing the staff induction and training plans.
- 9.5 Work is underway on all of these themes, and in some cases has been carried out as part of business as usual.

10 Improving Perception and Satisfaction

- 10.1 The action plan itself will address key areas that will impact on perception and satisfaction levels.

- We are developing a communication strategy that will look at innovative ways of promoting what we do well. We are aware there have been issues with communicating with tenants with an increase in online service provision and a decline in attendance at ward meetings, especially in areas where we have council housing.
- We are also developing an engagement strategy to improve how we involve tenants in shaping housing services. We currently have the Tenant's Forum, excellent work already happens on estates with consultation on local services the Environmental Budget, the Public Realm Work and now engagement around fire safety in tall buildings.

10.2 Work has already started to address the gaps identified as follows:

- Customer Care training is being procured and rolled out for housing staff this year.
- We are working with Customer Services to improve the service they provide to tenants on the call lines.
- A review of cleaning in the communal areas has commenced and the SLA for housing services is being reviewed.
- The environmental budget is being used to replace bin stores in key areas where issues have been identified.
- The ASB service has been realigned and resources are being reviewed. The service has already improved access to services and provided one single point of contact for council tenants.
- The ground maintenance contract is being reviewed and tenants are now involved in closer scrutiny of the work that is carried out.
- Housing surgeries around the city to improve access to housing officers and more clarity is being provided about their role.

11 Resource Implications

- 11.1 As set out above, adherence to the consumer standards is not optional. This will inevitably mean that there will be a need to review how the Housing Division delivers services and ensures that they are accessible to all customers.
- 11.2 Failure to meet the standards will result in the RSH taking action against the council which could, in the worst-case scenario result in the forced transfer of services to another provider, or the entire housing division being turned into a housing association. However, the RSH has indicated that it will work with providers who are not meeting the standards to assist them to improve.
- 11.3 It is clear that no landlord will be fully compliant with all of the standards on day 1. Indeed, the RSH has openly stated that they are aware of the diversity of organisational type and the challenges they each face in the sector. The expectation is that landlords know where their strengths and weaknesses are and have robust plans in place to drive improvements.
- 11.4 There are resource implications to many of the requirements which will put additional pressure on the HRA for subsequent years.

- 11.5 From the initial self-assessment, the current involvement and engagement structure does not fully meet the requirements, and this is seen as a priority area. The role of tenants in the decision-making process and scrutiny of performance is vital to successful delivery of landlord services. During the next 12-18 months there will be a need to resource this area of work and ensure that the division is compliant.
- 11.6 In addition, the conduct and competency standard will require a more co-ordinated and focussed approach to staff development and training. The need for senior staff to obtain a recognised qualification will not only have a financial cost but will also mean that staff are absent from work when they are completing studies.
- 11.7 There are some workstream areas where the housing division may need to deviate from the current corporate approach which might require some duplication or parallel processes.

12 Governance

- 12.1 The regulatory regime is based on assurance and evidence. As such, all landlords need to ensure that their governance structures are fit for purpose and information and data is readily available for scrutiny.
- 12.2 The expectation is that landlords are open in their approach to publishing additional performance and management information.

13 Implications

13.1 Financial Implications

The subscription fee payable to the regulator is circa £106K, with an additional £156,585.00 in Ombudsman fees for the 2024/2025 year which has been built into the HRA revenue budget. The cost of work associated with compliance with the regulations will, in the first instance, need to be absorbed within existing budgets. As workstreams become established, shortfalls in resource may emerge, and budgetary pressures may need consideration within future HRA budgets.

Stuart McAvoy – Head of Finance

13.2 Legal Implications

As detailed in the report, the Social Housing (Regulation) Act 2023 introduces provisions for an increase in the regulation of social landlords and for protecting tenants from serious hazards in their homes.

Elements of the legislation are already in force with further regulations to follow.

Jeremy Rainbow – Principal Lawyer (Litigation)

13.3 Climate Emergency Implications

There are no significant climate emergency implications directly associated with this report.

Aidan Davis, Sustainability Officer, Ext 37 2884

13.4 Equality Implications

Under the Equality Act 2010, public authorities have a Public Sector Equality Duty (PSED) which means that, in carrying out their functions, they have a statutory duty to pay due regard to the need to eliminate unlawful discrimination, harassment and victimisation, to advance equality of opportunity between people who share a protected characteristic and those who don't and to foster good relations between people who share a protected characteristic and those who don't.

Protected Characteristics under the Equality Act 2010 are age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex, sexual orientation.

The report provides an update on the changes taking place in the regulation of social housing which should lead to improved outcomes for tenants/customers, who will be from across a range of protected characteristics. The Act aims to drive landlords' compliance with the consumer standards by empowering the regulator with new enforcement powers to tackle failing landlords. The Act will implement a set of policy measures to ensure that tenants know how their landlord is performing and are able to hold them to account, these include ensuring customers are treated with respect and fairness and ensuring diverse needs are met in the city. This would ensure that we take into account the demographic profile of Leicester, including protected characteristics.

The council need to ensure that equality considerations continue to be taken into account across the four standards and related workstreams and where changes are to be implemented, it is recommended that Equality Impact Assessments are undertaken as appropriate.

Sukhi Biring, Equalities Officer