

Committee Name and Date of Committee Meeting

Improving Places Select Commission – 06 February 2024

Report Title

Social Housing Regulation Update

Is this a Key Decision and has it been included on the Forward Plan?

No

Strategic Director Approving Submission of the Report

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Report Author(s)

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Ward(s) Affected

Borough-Wide

Report Summary

The regulatory framework for social housing is changing. Legislation has been introduced following the Grenfell Fire, and the coroner's findings that excessive mould in the family home contributed to the death of two-year-old Awaab Ishak, in Rochdale.

The Government aims to improve the standard of social housing stock and amplify tenant voices through the introduction of proactive consumer regulation. The new framework applies from 1st April 2024 and will include inspections by the Regulator of Social Housing.

This report summarises the changes and provides an update on Housing Services' preparedness activities.

Recommendations

The content of this report is noted by Members of Improving Places Select Commission.

List of Appendices Included

Appendix 1 Regulator of Social Housing, Tenant Satisfaction Measures

Background Papers

Social Housing Regulatory Standards (www.gov.uk/guidance/regulatory-standards)

Consumer Regulation Review 2022-23 (www.gov.uk/government/publications/consumer-regulation-review-2022-to-2023)

Consideration by any other Council Committee, Scrutiny or Advisory Panel
Improving Places Select Commission – 06 February 2024

Council Approval Required

No

Exempt from the Press and Public

No

Social Housing Regulation Act: Update on Housing Services Preparedness

1. Background

- 1.1 The Social Housing (Regulation) Act 2023 became law on 20 July 2023. The Act aims to give tenants greater powers, improve transparency and access to redress, and provide a robust mechanism to drive improved standards across social housing.
- 1.2 The Act introduces a suite of revised standards against which social housing landlords, including stock retaining Councils such as Rotherham Metropolitan Borough Council, will be regulated. These include:
- Tenant Satisfaction Measures (including an annual Tenant Perception Survey)
 - A revised set of social housing Consumer Standards, supported by a Code of Practice.
- 1.3 The Regulator of Social Housing (the Regulator) will gather evidence and assess providers' ability to deliver a housing service which meets the standards through:
- In person inspections – either as part of a planned programme or in response to information that standards are not being met
 - Desk-top reviews – reviewing performance data (results of Tenant Satisfaction Measures, including Tenant Perception Survey results, complaints information from the Housing Ombudsman etc.).
- 1.4 The proposed revised Consumer Standards and the Code of Practice were subject to a consultation process which closed on October 17th 2023. The finalised standards will be published by the Regulator in early 2024 and will come into force in April 2024. From this point, the Regulator will proactively drive compliance with the standards, including through the new inspection regime.
- 1.5 The new proactive consumer regulation framework replaces the existing framework which is often described as 'reactive'.
- 1.6 The Regulations and this report apply only to the 'landlord services' aspects of the Council's housing functions. It does not encompass strategic housing, development, homelessness, private sector housing, Right to Buy or Disabled Facilities Grants (DFGs).

2. Key Issues

2.1 Regulatory changes

2.1.1 SUMMARY OF MAIN CHANGES

Change	Detail
Tenant Satisfaction Measures introduced (including annual Tenant Perception Survey)	Please see paragraphs 2.1.2 to 2.1.5

Introduction of new consumer standards	Please see paragraphs 2.1.7 and 2.1.8
Inspections will be introduced	Social housing landlords with more than 1000 properties will be inspected by the Regulator on a four-year cycle. See paragraph 2.1.10 and 2.1.11
Serious detriment test will be scrapped	Currently the serious detriment test prevents the Regulator from intervening in cases unless it has reasonable grounds to believe tenants are at risk of 'serious detriment'. This will be removed.
Cap on fines will be lifted	Currently the maximum fine which can be imposed upon social housing landlords for regulatory non-compliance is £5k. This limit will be scrapped, and fines for non-compliance will become unlimited.
The 'democratic filter' has been removed from the complaints process.	The Building Safety Act 2022 removed the 'democratic filter' previously contained in the Housing Act 1996 enabling tenants to raise a complaint with the Housing Ombudsman immediately after they have exhausted their landlord's complaints process. This means that residents will no longer have to contact a designated person or wait eight weeks before referring their complaint to the Housing Ombudsman.
Professionalisation of the housing sector	Social housing landlords are awaiting further detail on the Government's proposal to improve the sector by introducing a requirement for housing managers to hold a professional qualification. Information is expected before March 2024.
Review of the Decent Homes standard which was last reviewed over 20 years ago.	In the Social Housing White paper, published in November 2020, the Government committed to review the Decent Homes Standard. A recent announcement stated that 'the current standard remains broadly suitable and effective, but updates may be beneficial'. Further announcements are expected before March 2024.
Regulatory fees	The Regulator will start to charge fees to councils owning over 1,000 homes for the first time, at £7 to £8 per unit.

- 2.1.2 In addition, the Government recently published a consultation on 'Awaab's Law', a proposal to create statutory timeframes for social landlords to respond to repairs issues that constitute health hazards.

Taken together, these changes amount to a radical overhaul of the regulatory framework for social housing.

- 2.1.3 **Tenant Satisfaction Measures** (TSMs) are a series of 22 performance measures, which require responses from all social housing landlords with more than 1000 properties. Data regarding 10 of the performance measures will be submitted directly by the Council and 12 will be captured through a Tenant Perception Survey. The survey questions are prescribed by the Regulator and cannot be deviated from, although the Council can add additional questions at the end of the survey.

- 2.1.4 The survey seeks to capture tenants' views about their satisfaction with aspects of landlord services. These include:

- Overall satisfaction with the Housing Service
- Satisfaction with the repairs service, general maintenance, and the condition of the property
- The cleanliness and maintenance of communal areas
- Communication and listening to customers
- Complaint handling
- Dealing with anti-social behaviour.

- 2.1.5 The 22 TSMs sit under the following six themes:

- Keeping properties in good repair
- Maintaining building safety
- Safety checks
- Respectful and helpful engagement
- Effective handling of complaint; and
- Responsible neighbourhood management.

See Appendix 1 for a full list of TSMs.

- 2.1.6 KWest Research Limited have been procured to complete the Tenant Perception Survey on behalf of the Council in accordance with the Regulator's requirements. KWest will survey 1014 of Rotherham's tenants (5% of tenants, being the prescribed sample size) by telephone or email between October 2023 and March 2024. It is anticipated that 70%-75% of survey responses will be telephone surveys. KWest will seek to undertake around 200 surveys per month. The Council will receive a report detailing the findings of the survey and will be required to submit the survey data to the Regulator of Social Housing by June 2024.

- 2.1.7 In addition to the Council undertaking the TSM survey, the Regulator has also recently announced that it will undertake its own TSM survey of tenants. It is anticipated that the results will be compared, and the

Regulator is likely to challenge any landlords where there are disparities in the results of the two surveys.

2.1.8 **Consumer Standards** have been subject to a consultation which ended on 17 October 2023. As of 12 January 2024, the Regulator is still considering the consultation responses. It is anticipated that a decision statement and the final form of the consumer standards will be issued in early 2024, with the new standards coming into force on 1 April 2024.

2.1.9 The TSM themes align with the four proposed consumer standards. These are set out below.

- The Safety and Quality Standard – this standard requires landlords to provide safe and good quality homes and effective landlord services to tenants.
- The Transparency, Influence and Accountability Standard – this standard requires landlords to be open with tenants and treat them with fairness and respect so that tenants can access services, raise complaints, influence decision making and hold their landlord to account.
- The Neighbourhood and Community Standard – this standard requires landlords to engage with other relevant organisations so that tenants can live in safe and well-maintained neighbourhoods and feel safe in their homes.
- The Tenancy Standard – this standard sets out requirements for the fair allocation and letting of homes and for how tenancies are managed and ended by landlords.

2.1.10 **Inspections** will take place on a four yearly-cycle. It is anticipated that social housing landlords will be given approximately six weeks' notice of an inspection. Prior to inspection, the Regulator will request a list of documents which they will review before arriving. A library of key documents is being created within the Council with the aim of having the documents that are likely to be requested in one place, and ensuring those documents are current and accessible.

2.1.11 It is not known when an inspection will take place in Rotherham and as such, the Council should remain in an ongoing state of preparedness.

2.2 How the Council is preparing for new regulation

2.2.1 Much of the content of the proposed standards is already part of the regulatory framework for social housing, or indeed a legal requirement, and for these areas the key difference will be the requirement to evidence compliance to a proactive Regulator and to strengthen further the Council's communication with tenants and Elected Members. In other

areas, such as Awaab's Law, new regulatory requirements will be placed on the Council that will require service changes.

- 2.2.2 Work is underway to assemble a strong evidence base to demonstrate how the Council complies with the Standards. The Regulator's approach will be outcome and assurance based, i.e., it will expect the Council to demonstrate how it provides assurance to Elected Members and tenants on how the standards are met. The Council is exploring how it can share more information on performance, how its existing tenant engagement service can be strengthened further, and how Cabinet, Council and scrutiny committees are briefed on compliance. Policies are being updated and, in some cases, new policies are being developed. Investments are being made in quality assurance, IT systems, business improvement and reporting functionality in order to support these activities.
- 2.2.3 Given the absolute priority attached to the health and safety of Council homes, the Housing Revenue Account (HRA) Business Plan earmarks investment in staffing and systems to support the Council's compliance responsibilities which continue to grow under the new regulatory framework and the proposed 'Awaab's Law'.
- 2.2.4 The HRA Business Plan also makes provision for significant investment in stock condition surveys. Much of the Council's survey data is relatively old. The aim is to conduct a 100% stock conditions survey over the next few years, which will inform the HRA capital programme and the Council's energy efficiency plans. A review will be undertaken of the housing asset management function to ensure sufficient internal resources to sustain a rolling surveying programme. This will be supplemented by a commissioned programme of surveys.
- 2.2.5 The Council is improving its approach to tenant data, accounting for tenants' diverse needs, accessibility, and vulnerabilities. "Knowing who is behind the door" is a consistent theme espoused by the Regulator. The Housing Service is developing the Housing Management IT System to hold protected characteristic data for tenants in a format to assist and improve service delivery.

3. Options considered and recommended proposal

n/a

4. Consultation on proposal

n/a

5. Timetable

5.1	Outcome of Consumer Standards consultation to be published and final standards confirmed	Early 2024
	Consumer Standards to go live 1 April 2024	April 2024
	First year of Tenant Satisfaction Measures to be submitted to the Regulator	June 2024

6. Financial and Procurement Advice and Implications

- 6.1 The activity relating to preparation for inspection will be funded via existing staffing resource and within existing budgets. Additional resource has been included in budgets for 2024/25 to manage emerging pressures arising from new regulations.
- 6.2 The budget for tenant engagement has been increased in 2024/25 to fund the re-procured contract in this area and to manage anticipated activity to strengthen the tenant voice.

7. Legal Advice and Implications

- 7.1 The Social Housing (Regulation) Act 2023 introduced following the tragic death of Awaab Ishak has been widely publicised, and the right to bring complaints to landlords, particularly in relation to the quality of social housing and disrepair issues in social housing stock, is increasingly at the forefront of the public consciousness.
- 7.2 The tone of the new legislation and associated Customer Standards indicate that the Regulator will be taking an increasingly serious approach to regulatory non-compliance.
- 7.3 The Building Safety Act 2022, which removes the 'democratic filter' that was previously contained in the Housing Act 1996, makes the process of raising a complaint with the Housing Ombudsman easier for tenants. The Social Housing (Regulation) Act 2023 will also remove the serious detriment test, which previously acted as barrier to the Regulator becoming involved in cases unless there were reasonable grounds to suspect that a landlord's breach could cause serious detriment to a tenant
- 7.4 Section 5 of the Social Housing (Regulation) Act 2023 added section 100H to the Housing and Regeneration Act 2008, introducing a requirement for the Regulator to cooperate with the Housing Ombudsman in the exercise of their respective functions.
- 7.5 Schedule 3 paragraph 6 of the Social Housing (Regulation) Act 2023 will increase the penalty able to be imposed on landlords for non-compliance from the current cap of £5,000 to an unlimited fine. Whilst this particular

provision of the Act has not yet come into force, once introduced it will present a greater financial risk for non-compliance with the relevant legislation.

- 7.6 The combined effect of these pieces of legislation is a higher level of scrutiny for social housing providers with more serious penalties for non-compliance. This therefore presents an increased risk of challenge by the Regulator or by a tenant (for example by complaint to the Housing Ombudsman) to any aspect of non-compliance and more severe consequences flowing from any finding of non-compliance by the Regulator.
- 7.7 The increased public focus on social housing issues could also increase the risk of reputational damage to the Council if findings of non-compliance were published by the Regulator.
- 7.8 The Tenant Perception Surveys intend to collect protected characteristic data from Council tenants, as part of the push from the Regulator for landlords to listen to the tenant voice, which raises data protection implications.
- 7.9 The data collected by these surveys will likely include 'special category data' as defined by the UK General Data Protection Regulation, including data about racial or ethnic origin, religious belief and sexual orientation.
- 7.10 The Council will need to ensure that any data is collected in accordance with relevant data protection legislation (including the UK GDPR and the Data Protection Act 2018), including ensuring that there is a lawful basis for the processing of the data and consideration of whether a Data Protection Impact Assessment is required, if one is not already in place.
- 7.11 As indicated within the report, there are various pieces of additional information expected from the Regulator through the course of 2024 so it is crucial that the Council to keep up with developments as and when they occur. Updated legal advice may be required at the point that any new information is received.

8. Human Resources Advice and Implications

- 8.1 There are no HR implications arising from this report.

9. Implications for Children and Young People and Vulnerable Adults n/a

10. Equalities and Human Rights Advice and Implications

- 10.1 Annex 7 – Draft Equality Impact Assessment (<https://assets.publishing.service.gov.uk>)
Annex 8 TSM – Equality Impact Assessment
(<https://assets.publishing.service.gov.uk>)

11. Implications for CO₂ Emissions and Climate Change

n/a

12. Implications for Partners

- 12.1 There is only one regulatory standard which stresses the need to work with partner organisations. Specific expectations under the Neighbourhood and Community Standard, state:
- 12.2 Maintenance of shared spaces - Registered providers must work co-operatively to assist in resolving issues affecting the upkeep and safety of the shared spaces associated with their homes. Locally, this includes other Council services and their procured contractors, in addition to the Housing Service and the Council's Repairs and Maintenance contract partners.
- 12.3 Local cooperation - Registered providers, having taken account of their strategic objectives, the views of tenants and their presence within the areas where they provide social housing, must:
- a) identify and communicate to tenants the roles registered providers play in promoting social, environmental and economic wellbeing and how they will achieve them; and
 - b) co-operate with local partnership arrangements and the strategic housing function of local authorities where they are able to assist them in achieving their objectives."
- 12.4 Safer neighbourhoods - Registered providers must have a policy on how they work with relevant organisations to deter and tackle anti-social behaviour in the neighbourhoods where they provide social housing.
- 12.5 Domestic abuse - Registered providers must co-operate with appropriate local authority departments to support the local authority in meeting its duty to develop a strategy and commission services for victims of domestic abuse and their children within safe accommodation."
- 12.6 This was discussed with registered providers who have stock across the borough at December 2023's Strategic Housing Forum. Contact details of key officers leading on regulation implementation will be shared to ensure joint working is strengthened and evidence of such can be made available to the Regulator.

13. Risks and Mitigation

- 13.1 The key risk here would be a failure to prepare adequately for the new regulatory framework leading to a failure to meet the new regulations and as a consequence a poor inspection outcome. The measures set out in this report are the mitigation against this risk.

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