

**Report to:** Cabinet

**Date:** 6 June 2024

**Title:** Social Housing Regulation Update

**Report of:** Ian Fitzpatrick, Deputy Chief Executive and Director of Regeneration and Planning

**Cabinet member:** Councillor Mark Slater, Cabinet member for tenants, and those in housing need.

**Ward(s):** All

**Purpose of report:** To provide Cabinet with an update on revised changes to social housing regulation, including revised consumer standards and proposals to introduce a competence standard for social housing staff, a new complaints handling code.  
To propose updated governance arrangements to take account of these changes.

**Decision type:** Key

**Officer recommendation(s):** That Cabinet note the work underway to align services with the new regulatory regime and ask for approval of the outline plans to deliver revised governance arrangements.

**Reasons for recommendations:** To keep Cabinet updated and informed on the potential impact of the regulatory changes on service delivery.

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## **1. Introduction and background.**

1.1. This paper provides an update on the changes introduced by the Social Housing (Regulation) Act 2023. This Act put in place a number of key changes that provided the Regulator of Social Housing (RSH) with new powers, which came into effect on the 1<sup>st</sup> April 2024. These:

- Introduced safety, transparency & energy efficiency to the list of economic and consumer objectives already covered by the regulator, in response to some of the failings acknowledged by the sector following the Grenfell fire.
- Strengthened the regulator's enforcement powers, making it easier for them to intervene where they believe that landlord services are failing tenants.
- Placed the relationship between the regulator and the Housing Ombudsman's Service on a statutory footing.

- Extended the regulator's powers, paving the way for the introduction of four revised consumer standards, which cover all aspects of landlord services
- Introduced a more pro-active regime of inspections.

1.2. The Act also bolstered the powers of the Independent Housing Ombudsman's (IHO's) Service, empowering them to issue a new *complaints code*, which also came into effect on the 1<sup>st</sup> of April. The code sets out expectations that all landlords will; follow best practice in managing complaints handling; have in place strong processes for managing complaints; and embed a strong complaint handling culture into their services. More details are set out in section 5.

1.3. Plans to address levels of professionalism amongst social housing staff were also set out in the 2023 Act, and the Government subsequently consulted the sector on plans to introduce a new *Competence and Conduct Standard*. The consultation closed on the 5<sup>th</sup> of April, and the final details of the new standard will be published shortly. More information is set out in section 6.

## 2. Revised consumer standards.

2.1. The revised standards share the same format as the ones they replace, setting out a series of high level outcomes for each of the four revised consumer standards, alongside a more detailed set of specific expectations. However, they are much more extensive, with the eleven outcomes set out in the old standards replaced by nineteen in the revised version, whilst the number of specific expectations has increased from thirty-six to sixty. Additional guidance in an accompanying code of practice gives examples of the kinds of activities registered providers should consider having in place to effectively deliver the standards. The four revised standards are:

2.2. **The Safety & Quality Standard** - this replaced the old *Home Standard*, which set out outcomes and expectations relating to property and repairs. It retains the requirement to meet Decent Homes standards and contains new outcomes relating to health and safety, stock quality, repairs, and adaptations, with ten specific expectations replacing the two in the old standard. These include expectations that registered providers will:

- Record stock condition based on the physical inspection of individual homes.
- Identify health & safety requirements for all homes and communal areas.
- Carry out any required compliance actions within appropriate timescales.
- Enable easy to access repairs reporting and set clear response times.
- Communicate clearly about how they will deliver required adaptations.

**The Transparency, Influence & Accountability Standard** - this replaced the old *Tenant Involvement and Empowerment* and *Tenant Satisfaction Measures Standards*. It retains the requirement to treat tenants with fairness and respect, and contains new outcomes relating to diverse needs, engagement, and complaints. These are set out across twenty-two specific expectations, more than double the number (ten) in the old standard. Notable amongst these are that registered providers should:

- Use data and other relevant information to understand the diverse needs of tenants and help assess whether services are being delivered fairly.
- Offer tenants meaningful ways to influence and scrutinise landlord activities.

- Provide more specific info. on health & safety, Decent Homes, & tenancies.
- Provide clear and accessible information about complaints processes and outcomes, and how learning from complaints has been applied.

**The Tenancy Standard** – the changes to this standard are more limited and it retains the same name, with the outcomes and expectations relating to allocations, use of tenure, tenancy sustainment, evictions and mutual exchange remaining largely unchanged. A small number of new expectations require registered providers to:

- Take action to detect and prevent tenancy fraud.
- Match properties designed or adapted to meet specific needs, with tenants who have such needs.
- Offer tenants considering a mutual exchange more information about the implications for their tenure, tenancy rights, rent, and service charges.

**The Neighbourhood & Community Standard** - again, the changes to this standard are more limited and it also retains the same name. It contains a new outcome relating to domestic abuse and modifies the existing expectations relating to anti-social behaviour, by extending the requirements that registered providers must have in place (accessible processes, taking prompt action, and supporting tenants) to reported hate crimes. The new domestic abuse expectations require providers to:

- Have effective policies in place for responding to domestic abuse.
- Co-operate with appropriate local authority departments to develop local strategies and commissioned services for victims of domestic abuse.

The outcomes requiring registered providers to work co-operatively with tenants and other partners to protect shared spaces and promote social, economic, and environmental wellbeing, remain unchanged.

- 2.3. These changes are wide-ranging and will have a significant impact on the delivery expectations placed on all teams across Homes First, as well as teams elsewhere in the Council who support service delivery through, setting and collecting rents, carrying out neighbourhood inspections, and logging complaints, on their behalf. There is no transition period and all of the outcomes and expectations set out in the consumer standard apply from April the 1<sup>st</sup>.

### 3. An updated regulatory approach.

- 3.1. New powers granted to the regulator, mean that it no longer needs to have concerns that a landlord is causing *serious detriment* to tenants, in order to serve notice of an inspection. In fact, the opposite is true, and the regulator's stated approach is to now inspect all large landlords (those who own 1,000 or more social rented homes) at least every four years. It is the biggest shake up to social housing regulation in over a decade.
- 3.2. The new approach will focus on service outcomes, and the landlord's transparency with, and accountability to tenants. In doing so they will look at how landlords are performing using the new Tenant Satisfaction Measures, as well as key information about stock condition, the quality of homes, and rents.

This information will be assessed on a routine basis to identify where landlords are at risk of failing to deliver the outcomes set out in the standards, to help inform the shape of the future inspection programme. The regulator will usually give providers six weeks' notice of programmed inspections.

- 3.3. The regulator will also continue to undertake reactive inspections where there is clear evidence of potential landlord failures, usually arising from regular reviews of data, referrals made by other stakeholders or regulators, or via self-referral.
- 3.4. All inspected registered providers will be given a regulatory judgement. This will consist of a new consumer grading, ranging from C1 (overall the landlord is delivering the consumer standards) to C4 (there are very serious failings in delivering against the consumer standards), and a summary of the reasoning behind the decision. The summary will provide context and help all stakeholders understand how services are being delivered and where improvements can be made. The four new consumer gradings are set out in full in appendix 1.
- 3.5. The first round of inspections has already been announced, and for the majority of those concerned this will be the first time they have been asked to demonstrate how their services measure up to any of the consumer standards. The first reports based on the new regulatory regime are expected to be published in the summer, and only then will it start to become apparent how prescriptively the new standards are being applied. Analysis of the first year's Tenant Satisfaction Measured will be released in the autumn, which will then be used by the regulator to shape the programme of inspections for the year ahead.
- 3.6. The regulator will continue to apply one of its economic standards, the Rent Standard, to local authorities. Although there are no changes to the outcomes or specific expectations it contains, compliance is likely to be checked more pro-actively, in line with the new approach being applied to the revised consumer standards. Checking compliance against this standard is a technical exercise seeking assurance that rent and service setting and increase processes are fully aligned with the guidance. A check, undertaken as part of this gap analysis, has found that the processes in place are largely compliant, with one identified issue concerning affordable rents setting and service charges, currently being rectified. There is also an identified need to draw together some guidance regarding rent setting processes, but this is also in hand.

#### **4. Interim gap analysis outcomes.**

- 4.1. Work to check the compliance of policies, processes, and practices against the consumer standards is ongoing. In many areas the service matches up well, whilst in others, plans are already being delivered to drive up levels of assurance against the standards. The summaries below set out where this work is focussed to raise levels of compliance.
- 4.2. **The Safety & Quality Standard** - in working towards compliance the service has; completed a stock condition survey within the past five years, based on the physical inspection of 80% of the Council's homes; delivered asset improvement works that have resulted in 94% of homes being compliant with Decent Homes standards; has in place an accessible repairs service that set out clear

timescales for response and publishes notice of all planned improvement works scheduled to take place within each financial year.

The check against the revised standards has identified a number of areas where work needs to focus to help drive up levels of compliance. These include:

- Taking steps to ensure that up to date health and safety data is available for all homes, to enable the statutory reporting of compliance and support the efficient delivery of remedial works.
- Putting in place processes to complete the physical inspection of 100% of homes, once every five years, or more frequently as the condition of stock dictates.
- Reviewing the agreed approach to placing all non-essential repairs on hold, put in place last year in order to meet budgetary challenges, which may be viewed by the regulator as not providing tenants with value for money.

Work to address these is already underway, led by a restructure of the repairs team, and the delivery of new contracts put in place to fill the gaps in electrical safety, asbestos, legionella, and other compliance data. In regard to property inspections consideration needs to be given towards moving towards a rolling programme of delivery, which can be aligned with routine visits, such as those carried out to check annual gas safety checks. This approach could help raise levels of compliance and limit additional costs, but will require additional investment in data collection systems. The best performing landlords will be expected to clearly demonstrate that they routinely adjust services to meet the vulnerabilities of individual tenants, and have in place processes and systems that enable tenants to track repairs via self-service, either online or via an APP. Again, this will require investment in new systems.

**The Transparency, Influence & Accountability Standard** - in working towards compliance the service has in place; an established tenant involvement strategy supported by local budgets and training; collaborative arrangements that support a Scrutiny Panel; a clear policy for managing complaints with a limited number of stages in line with the IHO's code of practice; processes to deliver reporting the first round of Tenants Satisfaction Measures before the July 2024 deadline.

The check against the revised standards has identified a number of areas where work needs to focus to help drive up levels of compliance. These include:

- Identifying further opportunities to give tenants a more forthright role in monitoring performance, which is currently being addressed through a review of governance arrangements (see section 7 for further details).
- Taking steps to update the data held about the protected characteristics and vulnerabilities of tenants on housing management systems.
- Putting in place processes that support systematic learning from complaints, to help ensure that learning opportunities to improve services are maximised.

Landlords scoring well in relation to this standard will be expected to clearly show that they are routinely using data, and satisfaction scores, to assess that the services they provide are fair and equitable, then make reasonable adjustments for diversity and vulnerability as required. Having in place a single view of service standards, which could help tenants see more clearly the level of

service they can expect to receive, is also likely to fit well with expectations. Work is needed to address all of these issues.

**The Neighbourhood & Community Standard** - in working towards compliance the service has in place; effective internal partnerships to manage block inspections, address fly-tipping, graffiti, and abandoned cars; comprehensive approaches to managing anti-social behaviour and domestic violence, supported by a dedicated team focusing on high risk cases; an agreed programme of work to secure accreditation against the Domestic Abuse Housing Alliance Standards. The wider work of the Council supports neighbourhoods through strategic partnerships that address community safety, and funding arrangements that support local advice services, youth clubs and food banks.

The check against the revised standards has identified a number of areas where work needs to focus to help drive up levels of compliance. These include:

- Delivering estate inspections on a more consistent basis.
- Establishing clearer monitoring of block and estate inspections via new KPIs and considering the introduction of a mechanism to grade blocks / estates.
- Developing a separate policy to guide how hate incidents reported by tenants should be handled.
- Introducing more dynamic KPIs to monitor anti-social behaviour.

**The Tenancy Standard** - in working towards compliance the service has arrangements in place that; help the Council meet housing need, working in successful partnership with other local registered providers of social housing; tackle the under occupation of council homes through allocating priority on the housing register and offering cash incentives to move; set out an approved tenure policy that provides tenants with the correct security of tenure.

The check against the revised standards has identified a number of areas where work needs to focus to help drive up levels of compliance. These include:

- Gathering an up to date profile of household occupancy, especially for those who have been living in their homes for a considerable amount of time.
- Further automating the completion of CORE form returns (the Government's mandatory lettings monitoring system) using data generated from housing management systems.

- 4.3. The next phase of this work will entail holding a series of workshops with staff teams, tenants, and members, who will be asked to review the outcomes in relation to each of the four consumer standards. The goal of the workshops will be to produce finalised action plans which can then be risk assessed, costed, and prioritised for delivery, or worked into the 2025/26 planning process as appropriate. This work will be scheduled to complete in September. The ongoing delivery of compliance against the consumer standards will be steered through the revised governance arrangements being put in place to oversee the delivery of Homes First services (see section 7) and summarised for Cabinet in an annual 'health check' report.



## **5. The New Complaints Code of Practice.**

5.1. The Social Housing (Regulation) Act 2023 also empowered the Housing Ombudsman to issue a new *Code of Practice*, setting out details of the processes that members of the scheme should have in place for handling complaints. It also placed a duty on the Ombudsman to monitor compliance with a new Code, which was introduced on the 1<sup>st</sup> of April 2024.

5.2. The Code has nine parts, covering the following aspects of complaint handling:

- Definition - setting out universal wording for landlords to use in policies.
- Exclusions - specifying when landlords can refuse to accept a complaint.
- Accessibility & awareness - requiring landlords to make it easy to complain.
- Staffing - requiring case management via a dedicated staff member / team.
- Processes - requiring resident focussed and fair responses to complaints.
- Stages - setting out a two-stage process and clear timeframes for response.
- Self-assessment - setting standard contents for a yearly performance report.
- Remedies - acknowledging failings and steps taken to put things right.
- Scrutiny & oversight - setting expectations on learning, feedback, and transparency in annual reports.

5.3. The Ombudsman will monitor compliance through checking that landlords have; up to date practices in place that comply with the Code when handling complaints; scrutinised and checked their adherence to the Code; published the outcome of this check on their website. Where a landlord does not meet the requirements of the Code and fails to correct this within a reasonable timescale, the Ombudsman can issue a Complaint Handling Failure Order (CHFO) The CHFO will be shared with the Regulator of Social Housing and published on the Ombudsman's website.

5.4. The Code prescribes a self-assessment form, specifying the full requirements against each of these nine parts and the expectation is that this is completed annually and reported to the responsible governing body. Plans are afoot to incorporate the self-assessment into the *2023/24 Complaints and Service Improvement Report*, which will be received by Cabinet later in the summer

## **6. A New Competence & Conduct Standard.**

6.1. The Government is yet to issue its final direction to the Social Housing Regulator on the contents of a new *Competence & Conduct Standard*, which will apply to all registered providers of social housing. However, based on the Government's consultation exercise, which closed on the 5<sup>th</sup> of April, the outcomes and expectations are likely to set out:

- A broad requirement for registered providers to have a written policy for managing the skills, knowledge, experience and conduct of all their staff.
- Which roles are likely to be classed as a *Relevant Person* for the mandatory qualification element of the standard. The consultation referred to senior housing managers and executives who had a substantive role in managing

the delivery of housing services. However, which roles are included for certain will not become clear until the final standard is published.

- The likely content that mandatory qualifications might cover, and the potential exemptions that may be provided for those holding existing qualifications.
- A transitional timeframe for the qualification elements of the new standard, which is expected to give providers a two year period over which to implement the changes.

6.2. Teams across Homes First have already reviewed the qualifications held by frontline housing staff and their managers, so should be well placed to assess the impact of the proposals once the new standard is published.

## 7. Accompanying Governance Changes.

7.1. The impact of the changes introduced by the new regulatory approach and in particular the Transparency, Influence & Accountability Standard, require that registered providers have in place Governance arrangements that:

- Give tenants real influence over service improvement and delivery.
- Are transparent and enable tenants hold the Council to account about the standard of service they receive.
- Link together the interest and engagement of all key stakeholders, including tenants, tenant representative bodies, staff, lead members and Cabinet.
- Provide all stakeholders with timely and accessible performance information.
- Offer tenants representative bodies the opportunity to prioritise the issues that matter most to them.

7.2. A steering group of tenants and members is in place to work towards a revised governance framework that, subject to approval, can help meet these challenges. An outline of this is set out in appendix 2. The intention is to facilitate the 'upward reporting' of issues and put in place an effective 'feedback loop' that is able to support effective co-production and accountability. A more structured feed of performance information will help deliver transparency to all stakeholders in the process.

7.3. Under the revised framework key stakeholders and their proposed roles and accountabilities would be set up along the following lines:

**Tenants of Lewes District (TOLD)** – a group of elected tenant representatives supporting the interests of individual tenants / tenant groups across Lewes District. Under the proposals the make-up of the group would be bolstered by the membership of the lead member with responsibility for tenants, and those in housing need, and additional scope to feed into business plans and recommend performance targets. The group would meet quarterly to:

- Receive quarterly performance reports.
- Receive an annual report summarising performance against the Tenant Satisfaction Measures (TSMs), (following their publication by the Regulator of Social Housing (RSH) each Autumn. The report would also incorporate an



annual compliance 'health check' for consumer regulatory standards and a summary of the annual complaints self-assessment against the IHO code.

- Recommend future performance targets and associated triggers.
- Discuss business plans and identify issues of concern to be addressed by the Tenant Service Improvement Panel.
- Deliver an annual programme of scrutiny exercises focused on those areas of service most likely to attract regulatory focus.
- Attend Cabinet (Chair / Vice-Chair) to share comments and recommendations as appropriate.

**Tenant Service Improvement Panel** – a group comprising of representatives from *Tenants of Lewes District* (TOLD) and lead officers with responsibility for delivering housing services. The group would meet quarterly to:

- Review key performance indicators / Tenant Satisfaction Measures.
- Evaluate available feedback from transactional surveys, complaints and any relevant IHO reports.
- Address any concerns identified by TOLD or Cabinet and provide feedback on actions to address these.
- Provide a quarterly performance reports for TOLD and Cabinet.
- Prepare an annual report summarising performance against the TSMs, (following their publication by the RSH each Autumn). The report would also incorporate an annual compliance 'health check' for consumer regulatory standards and a summary of the annual complaints self-assessment against the IHO code.
- Submit this annual report to TOLD and Cabinet.
- Collaborate with officers on the production of business plans and approve tenant facing policies.

**Lewes District Cabinet** - proposed roles and responsibilities under the revised governance arrangements include:

- Receiving quarterly performance reports by exception, which address identified concerns about service delivery and outcomes.
- Receiving an annual report summarising performance against the TSMs, (following their publication by the RSH each Autumn). The report would also incorporate an annual compliance 'health check' for consumer regulatory standards and a summary of the annual complaints self-assessment against the IHO code.
- Taking overall responsibility for delivery and compliance with the consumer and rent standards, and the monitoring of associated risks.
- Approving the disclosure of any self-referrals to be made to the regulator concerning serious non-compliance with the consumer or rent standards.

7.4. Subject to members approval of these outline plans, the work with tenants to agree memberships and terms of reference is scheduled to complete by

September. This will enable initial meetings of the revised TOLD and the new Tenant Service Improvement Panel to take place across the autumn.

## **8. Corporate Plan & Council Policies.**

- 8.1. Taking steps to align the delivery of housing services with the revised regulatory standards will help support the successful delivery of the 2024-28 Corporate Plan, which sets out clear goals for the Council to deliver consistently high quality and responsive services, through:
- Respecting local communities and engage meaningfully with local people to nurture strong relations
  - Identifying and addressing inequality across communities in order to promote fairness, equitable services, and a commitment to uphold these principles across service delivery.
  - Maximising the use of technology to be able to identify and target those in most need, ensuring access to the support services to which they are entitled
  - Improving the quality of customer experience by offering a wider range of access routes into services, including more on-line and self-service options, alongside the established face-to-face and phone options.
  - Getting communication and engagement right through regular information sharing and consultation.
  - Continuing to embed a culture of continuous improvement, where we constantly re-evaluate our quality of service.

## **9. Consultation.**

- 9.1. The gap analysis summarised in this report marks the beginning of a process to strengthen service delivery in line with the revised consumer standards. The next stages in the process will involve more specific engagement with tenants, staff, and members, who will be asked to review the outcomes of the gap analysis and help identify required actions. Undertaking this process, and seeking early engagement from tenants in particular, is in line with the expectations set out in the revised Transparency, Influence & Accountability Standard, which forms an integral part of this gap analysis.

## **10. Business case.**

- 10.1. There is no specific business case associated with this report. Once the action plans relating to each standard are finalised, the items setting out to address the higher risk gaps in compliance will be prioritised, with the remaining items aligned with the delivery of the 2025/26 Homes First Business Plan.

## **11. Financial appraisal.**

- 11.1. At this stage there are indications that there will be some additional costs associated with boosting compliance. The likely requirements to; schedule a rolling programme of stock condition surveys; undertake new stock and household data cleansing exercises; develop new KPIs, and develop enquiry tracking for tenants, are all potential areas of new cost. The costs associated with these, and any other areas, will be fully assessed during the next phase of

this work. Along with identified risks, cost will be one of the key considerations used to prioritise the delivery of the action plans.

- 11.2 There will also be some direct costs to take account of, with the Social Housing Regulation Act amending the legislation relating to fees for inspection, so that regulatory activities can be fully charged to landlords. These fees have just been announced, and as expected local authorities will be required to pay fees for the first time, based on the number of units they own. The Council's annual fee, based on the initial rate of £6.93 per unit, will be in the region of £22,000 per year (charged pro-rata for Q2-Q4 in 2024/25). Separately, the Housing Ombudsman's annual fee is expected to rise by 40% to around £7 per unit, so taken together both fees could be in the region of £45,000 per year.

**Deputy Chief Finance Officer consulted on 07/05/2024.**

## **12. Legal advice and implications.**

- 12.1 The Social Housing (Regulation) Act 2023 has been introduced following the Grenfell Tower fire, the tragic death of Awaab Ishak which 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. The tone of the new legislation and associated consumer standards indicate that the regulator will be taking an increasingly serious approach to regulatory non-compliance.
- 12.2 Just as the Building Safety Act 2022, removed the 'democratic filter' that was previously contained in the Housing Act 1996, making the process of raising a complaint with the Housing Ombudsman easier for tenants, the Social Housing (Regulation) Act 2023 has now removed the serious detriment test. This 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.
- 12.3 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.
- 12.4 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.
- 12.5 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. 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.

12.6 The legal implications of the Social Housing (Regulations) Act 2023 are set out below in more detail:

- **Health & Safety** - the Act requires registered providers of social housing to designate a person to act as lead on certain functions relating to the registered provider's compliance with its health and safety obligations towards tenants. The health and safety lead's functions are to monitor the registered provider's compliance with health and safety requirements, to assess risks of failure to comply, to notify the provider's responsible body of any material risks to or failures of this compliance, and to advise on steps to ensure the registered provider addresses these. However, the Act clarifies that the health and safety lead is not liable for breaches and legal responsibility for ensuring compliance with health and safety requirements remains with the registered provider. Amendments are also made to other parts of the Housing and Regeneration Act 2008 to effectively provide that the regulator may utilise its enforcement powers (such as to serve an enforcement notice, impose a penalty or appoint a manager) for failure to comply with the requirements in relation to the health and safety lead.
- **Standards** - the Act allows the regulator to set new regulatory standards and the Secretary of State to direct the regulator to set these standards. The regulator can also issue a code of practice in relation to the consumer standards which, although not strictly binding, will provide more detail around the expectations on registered providers. The Act amends the Housing and Regeneration Act 2008 to allow the regulator to set an additional regulatory standard for registered providers in relation to the competence and conduct of individuals involved in the provision of services in connection with the management of social housing, such as requiring individuals involved in the management of social housing to obtain specific qualifications.
- **Surveys** – the Act makes changes to provide the regulator with the power to arrange for surveys of the condition of properties more quickly. The regulator can enter a property at any reasonable time to carry out a survey. It must give at least 48 hours' notice to the registered provider and the occupier. The registered provider and the occupier can waive the requirement for 48 hours' notice. The regulator can apply for a warrant to enter the premises if entry is refused. A registered provider or an officer will commit an offence if they obstruct an authorised person from conducting a survey.
- **Performance improvement plans (PIP)** – new provisions are introduced which enable the regulator to give notice to require a registered provider to prepare and implement a PIP where that registered provider is failing to meet regulatory standards. The regulator for social housing must be satisfied that either the:
  - Provider has failed to meet a standard or will fail to do so if no action is taken.
  - Provider has failed to collect, process, and publish information about their performance.
  - Interests of tenants require protection.

- Provider has given an undertaking and failed to comply with it.

The performance improvement plan notice issued by the regulator must:

- Specify the grounds on which it is served.
- Require the provider to submit a PIP to the regulator.
- Specify the date by which the plan must be submitted to the regulator.

In relation to non-compliance with PIPs:

- Failure to comply with a performance improvement plan notice or implement a performance improvement plan approved by the regulator are grounds for the regulator to issue an enforcement notice.
- Failure to comply with a performance improvement plan notice and failure to provide a copy of a PIP to a tenant who requests one are grounds for the regulator to impose a financial penalty on the registered provider and to award compensation to the tenant.
- Failure to comply with a performance improvement plan notice is grounds for the regulator to appoint a manager to a registered provider, or to appoint an adviser to a local authority.

- 12.7 The Act does confer the ability for registered providers to appeal the regulator's decision to give notice of the requirement to implement a performance improvement plan.
- 12.8 The Complaint Handling Code this became statutory on 1 April 2024, meaning that registered providers are obliged by law to follow its requirements.
- 12.9 As indicated within this report, there are various pieces of additional information expected from the regulator through the course of 2024, so it is crucial that the Council keep up with developments as and when they occur. Updated legal advice may be required at the point that any latest information is received.

***Lawyer consulted: 15/05/2024 (Legal ref: 012953-JOINT-CH).***

### **13. Risk management implications**

- 13.1. The risks associated with the gap analysis set out in this report will be fully assessed during the next phase of this work and, along with identified costs, will be one of the main considerations that used to prioritise the delivery of action plans.

### **14. Equality analysis.**

- 14.1. There are no direct equality implications arising from the recommendations of this report. However, the future delivery of action plans related to the outcomes of the gap analysis, are likely to identify issues that do need to be addressed in to help ensure that services are delivered fairly and equitably to different groups of tenants. Delivering these actions is likely to have a positive effect on any groups concerned, and a separate equality and fairness analysis will be completed to accompany any related action plans.

## **15. Environmental impact analysis.**

- 15.1 The revised consumer standards do not set out any specific requirements in relation to sustainability or energy efficiency, as their primary focus is on health and safety, building quality and Decent Homes. Clearly, meeting the specific expectations relating to these, requires the renewal of key building elements such as windows, insulation, and modern method of heating, which helps contribute to reducing the environmental impact of our stock. Separate work continues to access funding to support specific work to meet the Government's social housing sustainability targets, including the recently successful bid to the Social Housing Decarbonisation Fund, which will support the delivery of improvements to 267 homes across the District.

## **16. Appendices.**

- 16.1. Appendix 1 - Regulatory Judgements & Gradings.  
Appendix 2 – Proposed Governance Framework.

## **17. Background papers.**

- 17.1. Background information and papers associated with the report include:
- Revised consumer standards compliance check worksheets / tables.
  - Regulator of Social Housing – pilot Inspection Report.
  - Regulator of Social Housing – pilot Inspection plan Update to EHL.

## Appendix 1 - Regulatory Judgements & Gradings.

C1	Our judgement is that overall, the landlord is delivering the consumer standards outcomes. The landlord has shown that it identifies when issues occur and puts plans in place to remedy them and help prevent them happening again.
C2	Our judgement is that there are some weaknesses in how the provider is delivering against the consumer standards outcomes and improvement is needed.
C3	Our judgement is that there are serious failings in how the provider is delivering against the consumer standards outcomes and significant improvement is needed.
C4	Our judgement is that there are very serious failings in how the provider is delivering against the consumer standards outcomes. The provider must make fundamental changes so that improved outcomes are delivered.



## Appendix 2 – Proposed Governance Framework

