

Brighton & Hove City Council

Cabinet

Agenda Item 63

Subject: Improving Housing Services: Responding to the Regulator for Social Housing's Judgement

Date of meeting: 26 September 2024

Report of: Cabinet Member for Housing and New Homes

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Ward(s) affected: All Wards

Key Decision: Yes

Reason(s) Key: It is significant in terms of its effect on communities living or working in an area comprising of two or more wards.

1. Purpose of the report and policy context

- 1.1 This report responds to the recent Regulatory Judgement by the Regulator of Social Housing (RSH). This judgement follows a period of engagement during which the Council shared information on our backlog of routine repairs and our Housing, Health & Safety Compliance Review. RSH considered the information in line with their new enhanced consumer regulation process (effective from 1st April 2024) and identified serious failings in the Safety and Quality compliance category in the areas of health & safety and the routine repairs backlog. These are significant challenges that we are addressing with urgency. This report outlines our progress and the work that remains to meet regulatory requirements.
- 1.2 We recognise the seriousness of the situation. Progress has been made, and a strategy is in place to address these challenges. Updates are provided in this report on areas of concern raised by RSH, including: electrical safety; provision of smoke detection; water safety; fire safety remediation actions and the backlog in routine repairs. We have also provided information on other areas of Safety and Quality (gas & fuel, asbestos, lifts and lifting equipment) and other areas of compliance.
- 1.3 These actions will ensure full compliance with building safety and quality standards under the Building Safety Act and Social Housing (Regulation) Act 2023. We are committed to meeting these regulatory requirements, emphasising our priority of ensuring the health & safety of our residents and those who visit and work on our homes.

- 1.4 This report follows previous Housing, Health & Safety Update reports considered by the Housing and New Homes Committee in June 2023, September 2023, January 2024 and March 2024 and by Cabinet in June 2024.
- 1.5 Improving the quality of our homes and ensuring that the Council complies with new social housing regulations is a key action toward delivery of the Homes for everyone Council Plan priority.

2. Recommendations

That Cabinet:

- 2.1 Note the Regulator of Social Housing Regulatory Judgement, following responsive engagement with the Council, that there are serious failings in how the Council is delivering on the standard of Safety and Quality, and that significant improvement is needed.
- 2.2 Note the update on progress on actions being undertaken toward Safety & Quality compliance to address the Regulator's concerns, meet our statutory and regulatory obligations, and improve housing services for our residents.
- 2.3 Agrees Overview & Scrutiny oversight arrangements as set out in section 6 of this report.

3. Context and background information

The Regulator of Social Housing Regulatory Judgement

- 3.1 Following the Grenfell Tower tragedy there have been significant legislative and regulatory changes impacting social landlords. In anticipation of these changes, the Housing service undertook a Housing Health & Safety Compliance Review of our approach to health & safety compliance and assurance for council homes. The Housing & New Homes Committee considered reports on the outcomes, action plan, resourcing and progress arising from this Review in June and September 2023 with further reports considered at Committee meetings in January and March 2024. Cabinet considered a Housing, Health & Safety Update report in June 2024. These reports included reference to and updates on engagement with the RSH.
- 3.2 On 9 August 2024 the RSH issued a judgement for Brighton & Hove City Council to confirm a consumer grading of C3. The judgement identifies serious failings in the Council's performance against the Safety and Quality Standard.
- 3.3 Responsive engagement began with the Regulator in October 2023 following a Housing & New Homes Committee report concerning plans to address the backlog of routine repairs to council homes. The Council provided the Regulator with additional information highlighting concerns regarding health and safety compliance arising from our Housing, Health & Safety Review as

reported to Housing & New Homes Committee. The judgement is based on a review of documents, data, and these discussions.

- 3.4 The RSH has identified that Council has failed to meet health and safety regulatory requirements in the following areas: electrical safety; provision of smoke detection; water safety; and fire safety actions. Additionally, there is a significant backlog in routine repairs. These failings necessitate substantial improvement.
- 3.5 The Council is in ongoing intensive engagement with the Regulator to monitor progress in addressing these issues. Although enforcement powers are not currently being used, the situation will remain under review to ensure tenant safety and compliance with standards.
- 3.6 The published Regulator's report is linked in Appendix A.

Addressing these challenges

- 3.7 We have established a comprehensive cross directorate Corporate Housing Building Safety Programme, including reporting into Corporate Leadership Team. Detailed tracking of all compliance actions allows us to manage risks effectively and demonstrate progress across five key workstreams: Fire Safety, Water Safety, Gas & Fuel, Electrical Safety, Lifts and Lifting and Asbestos. In addition, we are also tracking compliance with provision of smoke and carbon monoxide detection as well as progress with addressing the backlog of routine repairs.
- 3.8 We have adopted a risk-based approach to inspections and following remedial actions, prioritising properties based on the severity of identified risks. This strategy ensures that high-risk issues are addressed first, while also providing a clear timeline for completing lower-risk actions. This approach is designed to give confidence that we are managing our compliance obligations in a structured and effective manner.
- 3.9 Our monitoring framework includes regular updates to the RSH. With regard to compliance with the wider building safety and fire safety requirements we are also engaging with other regulatory bodies we are accountable to, including East Sussex Fire and Rescue Authority and the Health and Safety Executive/ Building Safety Regulator.
- 3.10 Within the Council, officers are monitoring and supporting progress through the Housing Compliance Board and the Corporate Modernisation Board. Regular reporting to the Corporate Strategic Risk SR 32 ensures that progress is monitored at the highest level, with risks and challenges escalated as necessary. The Housing Building Safety Project remains a critical component of our Corporate Strategy, reflecting the importance of these initiatives to the entire organisation.
- 3.11 In order to ensure Executive oversight, additional arrangements are being put in place via regular reports to Leadership and lead Cabinet member.

Update on progress on areas of non-compliance identified by RSH.

- 3.12 **Fire Safety Compliance:** Fire safety remains a top priority. We have achieved 100% compliance in Fire Risk Assessments (FRAs) for all 68 high-risk buildings, these are assessed annually. The Council has also completed fire risk assessments for 569 non-high-risk buildings. For our 46 high-rise residential blocks, we have implemented detailed block-by-block action plans, provided the East Sussex Fire & Rescue Service (ESFRS) with essential building information, and ensured that wayfinding signage, premises information boxes and other compliance measures are in place.
- 3.13 In order to ensure ongoing compliance and that we have a full set of up to date risk assessments for all our properties, we have commissioned a contractor to undertake a full new set of FRAs on both our high risk and lower risk buildings. These 2nd phase FRAs are those completed under new Tersus contract, with the same buildings covered by the existing FRAs. There is still work to do on completion of these 2nd phase FRAs for non-high-risk buildings, with 57% of FRAs complete by July 2024. However, we are on track to have completed 2nd phase FRAs for all buildings by the end of December 2024.
- 3.14 We have advised the RSH that we will follow up on the FRA remediation actions once we have completed review and reconciliation of the new FRAs and actions arising. The figures outlined below show the new remediation actions arising from the 2024 FRAs and while these are outstanding a portion of them will not be overdue. We are currently categorising and analysing these remediation actions, so we are clear on timelines they have to be completed within and preparing a dashboard to enable tracking of completed actions. Additional contractor capacity is being deployed to work alongside Council teams to undertake these remediation actions.

**Figures highlighted in italics show those previously shared with the regulator*

Compliance Indicator	Feb 24	April 24	June 24	July 24
FRAs in high risk buildings (% of buildings)	100%*	100%	100%	100%
FRAs in non-high risk buildings: 1st phase (% of buildings)	99.8%	100%	100%	100%
FRAs in non-high risk buildings: 2nd phase (% of buildings)	-	-	20.9%	57.0%
FRA remediation actions (snapshot number of live actions)	1,748		4,253	6,472

- 3.15 **Electrical Safety:** The Council has made significant investments in setting up a dedicated Electrical Testing & Compliance Team, with a goal of retesting all domestic and communal properties within three years (by December 2026) and then permanently maintain a 5-year testing cycle. As of our latest update,

55.8% of domestic properties have a valid Electrical Installation Condition Report (EICR) within the last 5 years and 73.7% within the last 10 years.

3.16 By way of risk mitigation, the priorities for the domestic electrical testing programme are: Priority 1 - properties with an unsatisfactory certificate; Priority 2 - properties with no certification; Priority 3 - all properties based on age of certification, starting with the oldest first. In undertaking our electrical testing programme, we ensure that all risk actions are remediated and resolved before issuing an electrical safety certificate. All Category 1 (C1) hazards are immediately repaired or isolated, ensuring no immediate danger remains. In addition to the figures provided on our progress with our current electrical testing programme our records show 87% (10,493 of 12,013) dwellings have satisfactory certification issued since our records began in 2007.

3.17 To establish and ensure full compliance, the Electrical Testing & Compliance Team is re-testing all communal areas on a risk-based priority by Dec 2026. By way of risk mitigation, the priorities of the communal electrical testing programme are: Priority 1 - Communal supplies in high rise blocks (target date for completion December 2024); Priority 2 – Communal supplies in blocks that are conversions for residential use (target date for completion- December 2024). In the addition to the figures provided we have advised RSH that we hold electrical certification for 551 (71%) of 775 communal areas identified as of 25th April 2024.

Compliance Indicator	Feb-24	Apr-24	June-24	Jul-24
5 Year EICR domestic testing (% of homes)	42.9%	49.1%	53.0%	55.8%
10 Year EICR domestic testing (% of homes)	66.6%	70.1%	72.0%	73.7%
Communal EICRs (% of communal areas)	5.3%	14.0%	20.8%	22.0%

3.18 **Water Safety:** In April 2024 we advised RSH that given the issues in the performance of our water safety contract, we cannot rely on the figures previously provided. We advised that we had asked another contractor Ridge to review and validate these figures to assure the Council of their accuracy before presenting them to the RSH as our final position. We continue to validate figures. Our current contractor has been instructed to focus on reviews and remedial actions in high-risk blocks. Additional contractor capacity is currently being procured to provide new water risk assessments. Three contractors have been approached with a view to mobilise in September / October 2024 via a procurement waiver. Re-tendering the water safety contract, separating risk assessment from completion of remediation actions, is being taken forward as a priority. For July 2024 we can report the following with regard to water risk assessments:

- Water risk assessments (% of water systems covered) - 79.0%.
- Water risk assessments (% of dwellings covered) – 35.1%.

3.19 **Smoke Detection:** In addition to battery powered smoke detection, we have a programme to install hard wired smoke detection in all homes by Dec 2026. We have written to all residents living in homes that according to our records do not have hard wired smoke detection requesting them to contact us to arrange an appt to install detection.

Compliance Indicator	Feb 24	April 24	June 24	July 24
Smoke alarms/detectors (% of homes)	50.8%	77.0%	81.5%	83.6%

3.20 **Routine Repairs:** Current jobs with our two contractors procured to reduce the backlog of routine repairs have reduced from 6,476 in June 2024 to 5,309. Our draft Q1 performance report for 2024/25 on routine repairs indicates that of the 2,829 newer jobs issued on or after 1st April 2024, 77.0% (2,330 of 3,025) were completed within 28 days, which is above the 70% target.

Compliance Indicator	Feb 24	April 24	June 24	July 24
Routine repairs jobs open for more than 28 days			9,653	7,250

Other health & safety measures – not subject to the regulatory judgement.

3.21 **Gas Safety:**

Compliance Indicator	Feb-24	Apr-24	June-24	Jul-24
Communal Boilers	100%	100%	100%	100%
Domestic Dwellings	99.99%	99.99%	99.97%	100%

3.22 **Carbon Monoxide Detection/Alarms:** 223 properties require a carbon monoxide (CO) alarm (non-compliant). Of these, 119 have an installation appointment already in place, and in 104 properties access has not yet been gained. These are to undergo a gas safety inspection over the next 3 months. All new build properties with gas appliances will have a CO detector installed and any buy back or other purchased properties will have a detector installed as part of the empty home inspection.

Compliance Indicator	Feb-24	Apr-24	June-24	Jul-24
Domestic Dwellings	71.7%	98%	97.79%	99.32%

- 3.23 **Asbestos Safety:** Management surveys have been undertaken within 616 blocks that had required an asbestos survey: 71 blocks have no asbestos items identified, which leaves a re-inspection programme of 545 properties. These are re-inspections of the condition of any asbestos containing material within the non-domestic areas.

Compliance Indicator	Feb-24	Apr-24	June-24	Jul-24
Common way surveys completed	85%	98.9%	99.4%	99.8%

- 3.24 **Lifts and Lifting equipment:**

Compliance Indicator	Feb-24	Apr-24	June-24	Jul-24
Communal (Passenger) lifts servicing	100%	100%	100%	100%
Domestic lift and stair lift, equipment servicing	100%	100%	100%	100%

4. Other Consumer Standards

- 4.1 As well as Safety and Quality (within the Home Standard), there are three further Consumer Standards landlords must deliver against in order to be compliant. The Council has not yet been assessed by the RSH on these standards. They are: Tenant Involvement and Empowerment, Tenancy Standard and the Neighbourhood and Community Standard. More information is provided in our report on Tenant Involvement later in section 7 of this report.
- 4.2 Some expectations are evidenced by data, and others require evidence such as meetings and decisions; policies and procedures; and explanatory narrative. A gap analysis of all specific expectations against the Consumer Standards and the accompanying Code of Practice has been carried out within Housing.
- 4.3 A programme of work is underway to address gaps in delivery or evidence. Areas for improvement are:
- Engagement: create more meaningful opportunities for a diverse range of tenants to scrutinise and influence services.

- Complaints and tenant insights: improving performance and a unified response, analysis and better use of feedback to improve.
- Equity: deeper understanding of our tenants and their needs and ensuring this is reflected in the services provided.
- Data: quality assurance and using data to more proactively to inform service provision.

5. Analysis and consideration of alternative options

- 5.1 The chosen approach — accelerating compliance actions through targeted resource allocation and enhanced internal oversight – is identified as the most effective way to reach compliance. This strategy ensures rapid progress while maintaining the Council’s accountability and direct management of safety and compliance initiatives.

6. Overview and Scrutiny Committee involvement & oversight

- 6.1 Following the Regulatory Judgement, we wish to engage with Overview & Scrutiny in order to provide oversight of planning and progress toward regulatory compliance.
- 6.2 There are elements contained in this report which relate to the Housing remits of both Place and People Overview & Scrutiny Committees. However, most of the actions that the Council will take in response to the Regulator’s judgement will be focused on issues of maintenance and repair, which sit within the Terms of Reference for Place Overview & Scrutiny Committee.
- 6.3 We propose to include this work as a regular item on the agenda for the Place Overview & Scrutiny Committee to ensure cross party scrutiny of the Council’s actions in response to the Regulator’s findings. We propose to invite People Overview & Scrutiny members to attend for this item, as there are important areas of work which sit within the remit of People Overview & Scrutiny Committee, particularly around tenant engagement. This will ensure transparent and focused overview and scrutiny of the Council’s response to the Judgement.

7. Community Engagement and Consultation

- 7.1 We are committed to and understand the importance of involving residents in our compliance efforts. Regular updates are being provided through Housing Area Panels, the Council Tenant Annual Conference, and the quarterly tenant publication *Homing In*. Our focus is on ensuring that residents are informed of both our progress and any ongoing issues that may affect them. We continue to engage residents proactively ensuring they are aware of safety measures and know how to report concerns. This approach is key to rebuilding trust and demonstrating our commitment to tenant safety. Appendix B: Proposed Letter to Tenants.

- 7.2 We are adopting a test-and-learn approach to our resident engagement efforts. This method allows us to pilot new engagement strategies on a smaller scale, evaluate their effectiveness, and refine them based on resident feedback before broader implementation. By experimenting with different formats, communication channels, and outreach techniques, we aim to identify the most effective ways to involve and empower residents. This iterative process not only helps us to continuously improve our engagement efforts but also ensures that we are responsive to the diverse needs and preferences of our community. Through this approach, we can adapt quickly to what works best, ensuring that our initiatives are both impactful and inclusive.
- 7.3 We have already started this work focusing on residents in Large Panel System (LPS) blocks. Actions taken to date include regular newsletters, tenancy visits, and drop-in sessions to keep residents informed and involved, as well as safety enhancements. Our plans include developing resident safety champions, expanding digital communication channels, and offering comprehensive engagement opportunities, such as focus groups and open days. Learning from our LPS block work will inform future ways of working with tenants.
- 7.4 Elected members, including ward councillors, will play a crucial role by actively participating in these engagement activities, ensuring residents' concerns are addressed at all levels of decision-making and supporting a strong, collective resident voice. The goal is to foster a collaborative environment where residents feel heard and supported, ensuring both building safety and positive long-term outcomes.
- 7.5 Alongside this, we are developing plans to reach a more diverse tenant population in order that our engagement better reflects the communities we serve, such as, young people, minority communities and marginalised groups. This includes digital surveys, neighbourhood-level outreach, project-based initiatives and tenant skill development. These changes are designed to foster greater tenant involvement in improving housing services.

8. Financial Implications

- 8.1 The 2024/25 HRA budget includes a revenue budget of £2.689m and capital budget of £14.714m specifically relating to the Health & Safety works. Performance against those budget provisions continues to be monitored, it is forecast that there will be an overspend against them currently. The HRA has to remain in balance and as such mitigations are being drawn up to bring budgets back into balance by the end of the financial year. The councils Targeted Budget Monitoring report for month 5 will include the details of the latest HRA's financial position.
- 8.2 The changing nature of compliance in respect of the Building Safety Act, Fire Safety Regulations and Social Housing Regulation Act means as such that there are continually areas of investment that are being identified and need to be addressed. As additional resources are identified a Value for Money assessment will be undertaken as far as ensuring that all avenues to manage

the increase in resources within the current budget envelope are explored before final approval.

- 8.3 The response to the RSH findings will require resourcing across the medium term as well as the immediate response this financial year. The 2024/25 HRA budget paper prudently included c.£50m investment provision across capital and revenue relating specifically to the Health & Safety compliance response. This will be kept under review to ensure its reasonableness, with the 2025/26 budget paper providing an update accordingly based on engagement with the Housing service.

Officer consulted: Craig Garoghan Principal Accountant Date: 30/08/2024

9. Legal Implications:

- 9.1 The Social Housing Regulation Act, came into effect from 1 April 2024 and requires social landlords to comply with the standards set by the Regulator of Social Housing (RSH).
- 9.2 Pursuant to new enhanced powers and a more interventionist regulatory regime which came into force in April 2024, on 9 August 2024 the Regulator of Social Housing issued a regulatory judgment that there are serious failings in the Council as landlord delivering the outcomes of the consumer standards and significant improvement is needed specifically in relation to outcomes for the national Safety and Quality Standard. The full regulatory judgment provides the scope of the Regulator's findings and is referred to in the report.
- 9.3 Under the Safety and Quality Standards set by the Regulator it is a requirement that the Council has an accurate, up to date and evidenced understanding of the condition of their homes that reliably informs their provision of good quality, well maintained and safe homes for tenant. Landlords are required by the Regulator to identify and meet all legal requirements that relate to the health and safety of tenants in their homes and communal areas, and to ensure that all required actions arising from legally required health and safety assessments are carried out within appropriate timescales.
- 9.4 Based on their assessment the Regulator has issued a C3 grade for Brighton and Hove CC. Under published guidance a C3 grade means that "there are serious failings in the landlord delivering the outcomes of the consumer standards, which the landlord's current arrangements are not strong enough to put right." In some instances, such as fire safety there is an interface with other regulatory bodies with potential enforcement powers being East Sussex Fire and Rescue Service, the Building Safety Regulator and the Health and Safety Executive.
- 9.5 In relation to failings to conduct routine repairs on appropriate timescales this also brings a risk of litigation by way of housing disrepair claims against the Council. Where there are issues which relate to damp and mould the Council should also be mindful that it is anticipated that the new government will bring

into force Awaab's law within the next year, which will require landlords to comply with new requirements to be set out in regulations, with the potential risk of complaints to the Housing Ombudsman Service which will have strengthened powers, and/or litigation in which courts have powers to order repairs and compensation if the issue cannot be resolved on sufficient timescales.

- 9.6 It is therefore essential on multiple regulatory fronts for the Council to fulfil its commitment as a corporate priority to meet all requirements and standards relating to the provision of housing. This includes the ongoing commitment of legal services at a senior level to provide detailed advice and oversight in the corporate programmes and boards driving currently improvements.
- 9.7 The Regulator expects the Council as landlord to develop a plan that will drive significant change and to share that with tenants. The Regulator's engagement with the landlord will be intensive and require evidence that sufficient change and improvement is being made. The Regulator has very substantial powers of enforcement available but is not proposing to use enforcement powers at this stage, provided Brighton and Hove CC continues to seek to resolve these issues. The report recommends further oversight of planning and progress towards achieving compliance.

Natasha Watson

Date: 5.9.24

10. Equality Implications

- 10.1 We are focused on understanding and meeting the needs of vulnerable and marginalised groups, such as older adults, people with disabilities, and minority communities. The Council will continue to apply an equity-focused approach to all housing compliance and safety initiatives, ensuring that no group is disproportionately affected by past shortcomings or future actions.

11. Sustainability Implications

- 11.1 Enhancing safety and compliance measures presents an opportunity to incorporate sustainable practices, such as improved insulation and energy-efficient heating systems. These initiatives will not only improve the safety and comfort of residents but also advance the Council's commitment to reducing carbon emissions and promoting environmental responsibility within the community.

12. Health and Wellbeing Implications

- 12.1 The quality and safety of housing is closely tied to the health and wellbeing of our residents. By focusing on areas such as fire safety, electrical compliance, the Council aims to create safer, healthier living environments. These efforts will also help reduce health inequalities, especially for those dealing with issues like fuel poverty or chronic health conditions.

13. Procurement Implications

- 13.1 Recent and planned procurement activities, including contracts for fire safety, building repairs, damp and condensation works, and lift maintenance, are key to the swift and effective implementation of the Building Safety Recovery Programme. All procurement will be carried out with consideration for sustainability, social value, and the long-term needs of residents.

14. Crime & Disorder Implications

- 14.1 Well-maintained and secure housing plays a vital role in reducing crime and disorder. By addressing the safety and compliance issues highlighted in this report, the Council will enhance the living environment for all residents.
- 14.2 Additionally, the Council will continue to work closely with local police, community safety teams, and other partners to meet the broader Consumer Standards, particularly in relation to anti-social behaviour (ASB) and domestic violence (DV). By integrating these priorities into our housing services, the Council aims to foster safer, more supportive communities where all residents feel secure and protected.

15. Conclusion

- 15.1 This report underscores the seriousness of the Regulator's judgement and our commitment to addressing the issues raised. While significant progress has been made, particularly in fire safety, smoke detection and electrical testing, we acknowledge that more work remains. We are taking decisive actions to ensure full compliance.

16. Appendices

- **Appendix A:** The Regulator of Social Housing's Judgement on Brighton & Hove City Council [Brighton and Hove City Council \(00ML\) Regulatory Judgement: 9 August 2024 - GOV.UK \(www.gov.uk\)](#)
- **Appendix B:** Proposed Letter to tenants

Background documents

- **Cabinet, 27 June 2024.** Agenda item 15. Housing, Health & Safety Update & Procurement Report: [Health Safety Update and Housing Revenue Account Repairs and Maintenance Procurement.pdf \(brighton-hove.gov.uk\)](#)
- **Housing & New Homes Committee, 13 March 2024.** Agenda item 65. Housing, Health & Safety Update Report: [Housing Health Safety Update Report.pdf \(brighton-hove.gov.uk\)](#)
- **Housing & New Homes Committee, 24 January 2024.** Agenda Item 51. Housing, Health & Safety Update Report: [Housing Health Safety Update.pdf \(brighton-hove.gov.uk\)](#)

- **Housing & New Homes Committee, 15 November 2023.** Agenda item 40. Building and Fire Safety Act Compliance, Procurement of Contractors: [Building and Fire Safety Act Compliance Procurement of Contractors.pdf \(brighton-hove.gov.uk\)](#)
- **Housing & New Homes Committee, 20 September 2023.** Agenda Item 24 – Housing, Health & Safety Update, Report and Action Plan.
[Housing Health Safety Update Report and Action Plan.pdf \(brighton-hove.gov.uk\)](#)
[Housing Health Safety Update Report and Action Plan. APX. n 1.pdf \(brighton-hove.gov.uk\)](#)
[PowerPoint Presentation \(brighton-hove.gov.uk\)](#)
[Consumer Standards \(brighton-hove.gov.uk\)](#)
- **Housing & New Homes Committee, 21 June 2023.** Agenda Item 10 – Housing, Health & Safety Update: [Housing Health Safety Update.pdf \(brighton-hove.gov.uk\)](#)

