

Report subject	Housing and Property Compliance Update (Housing Revenue Account)
Meeting date	13 December 2023
Status	Public Report
Executive summary	<p>This report provides information on how the council meets its responsibilities in ensuring that all council housing within the Housing Revenue Account is managed in a way that meets compliance with current health and safety legislation, best practice and regulatory standards to ensure the health and safety of residents. It also sets out issues concerning compliance and demonstrates how these are being managed.</p> <p>The report provides performance information to the end of quarter 2, 2023/24. There are no significant issues of non-compliance to report.</p> <p>There are increased responsibilities placed on social landlords to manage the health and safety of residents primarily included in the Building Safety Act 2022 although many of its provisions require further secondary legislation.</p> <p>With the creation of BCP Homes, work has commenced to align policies and procedures regarding property compliance.</p> <p>Changes have also been made to the regulatory regime overseen by the Regulator of Social Housing through the Social Housing Regulation Act 2023. New national Tenant Satisfaction Measures are reported on since April 2023 which include those relating to maintaining building safety.</p> <p>A BCP Homes Advisory Board is in place to support the work of the new BCP Homes service and the Portfolio Holder for People and Homes. The Board, consisting of independent, resident and councillor members will provide an additional element of oversight and assurance around many areas including property compliance.</p>

Recommendations	<p>It is RECOMMENDED that:</p> <p>(a) Cabinet notes the compliance information provided which details how the council is performing against statutory building compliance relating to its council housing.</p> <p>(b) A performance report will be made annually to Cabinet in future years.</p>
Reason for recommendations	<p>The council, as a landlord, has many legal obligations it must satisfy to ensure the health, safety and welfare of its tenants and leaseholders. It must also adhere to the regulatory standards as set out by the Regulator of Social Housing, particularly the Home Standard.</p> <p>Councillors should also have oversight and assurance of compliance against the legal and regulatory requirements that are placed upon it through this annual report to Cabinet.</p>
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Corporate Director	<p>Jess Gibbons – Chief Operations Officer</p> <p>Jillian Kay - Wellbeing</p>
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Wards	Council-wide
Classification	For Recommendation

Background

1. This report demonstrates how compliance within the Housing Revenue Account (HRA) housing stock for BCP Homes is managed. The HRA is the ring-fenced account within BCP Council relating to the income and expenditure for its rented council homes.
2. Responsibility for property compliance work rests with the Facilities Management team, part of the Customer, Arts and Property Directorate but BCP Homes will act as a client and seek assurance that legal and regulatory requirements are being met. Compliance work is currently undertaken by the inhouse team or external contractors.
3. To ensure that residents have a voice in how BCP Homes is run, a resident engagement structure has been implemented. This includes a Residents Committee to consider strategic issues including compliance but also a customer panel, the Home Safety and Energy panel, to discuss more operational issues.

4. The BCP Homes Advisory Board has been established and part of its role is to consider compliance issues and provide greater assurance to the council. Residents, Councillors and independent specialists will sit on the Board which will have an oversight on all matters relating to BCP Homes.
5. The total rented stock for BCP Homes as of 31 July 2023 was 9,529 for which the council is responsible for compliance work.
6. There were also 1,139 leasehold homes as well as 33 shared ownership homes. The council is not responsible for gas safety or electrical checks to these homes, but we are responsible for compliance issues relating to communal areas and services that may impact on them.
7. The report excludes the following properties: the council's General Fund hostels, leased temporary accommodation, Seascope Homes and Property Limited stock and corporate non-residential properties across BCP Council. Statutory compliance in respect of these is monitored separately on a monthly, quarterly and annual basis, depending on the relevant legislation and is not the subject of this report.
8. The council, as a housing landlord, has many legal obligations it must satisfy to ensure the health, safety and welfare of its tenants. These obligations form part of an ongoing cyclical inspection and maintenance regime to ensure key elements in the home do not pose undue risk.
9. The minimum standards that must be met are set out in legislation, codes of guidance and good practice. There are also regulatory requirements as set out within the Regulator of Social Housing's (Regulator) Home Standard. As a registered provider of social housing the council is expected to adhere to the standard.
10. Section 1.2 of the Home Standard states:
 - Repairs and maintenance Registered providers shall:
 - (a) provide a cost-effective repairs and maintenance service to homes and communal areas that responds to the needs of, and offers choices to, tenants, and has the objective of completing repairs and improvements right first time.
 - (b) meet all applicable statutory requirements that provide for the health and safety of the occupants in their homes.
11. Failure to comply with this standard can result in a Regulatory Notice being issued against a landlord if the Regulator believes that the failure has resulted in actual or potential serious detriment to residents. When applying the serious detriment test they will balance the factors of the case including the number of tenants, the duration of the harm (or risk of harm) and the seriousness of the issue.
12. The Regulator also expects social landlords to self-refer if they have information that suggests that they have failed to comply, although referrals can also come from other sources. However, from the 1 April 2024 the Regulator will commence inspections of social landlords' compliance against the consumer standards and issue gradings.
13. The Smoke and Carbon Monoxide Alarm (Amendment) Regulations 2022 require the council to ensure a carbon monoxide alarm is equipped in any room used as living accommodation which contains a fixed combustion appliance by the 1 October 2022. If landlords are not compliant with the regulations, they should undertake remedial action as soon as practicable and refer to the Regulator of Social Housing. The Regulator will expect the council to have plans in place to ensure their compliance in a prompt and timely manner.

14. All our homes have had a carbon monoxide monitor fitted; this programme was completed at the end of February 2023.
15. There are policies and procedures which have been developed from the legislation governing health, safety and welfare of tenants.
16. The legislation that covers general topics around the requirement of a landlord, include The Health and Safety at Work Act 1974 (HSWA), The Landlord and Tenant Act 1985 and The Housing Act 2004. There is more specific guidance around fire safety, electrical safety, gas safety, water hygiene and lift safety.
17. The following areas of compliance are of the highest risk and therefore the ones that are high priority and are measured and monitored on an ongoing basis.
 - Water Quality
 - Gas Safety
 - Asbestos
 - Electrical Safety
 - Fire Safety
 - Lift Safety
18. There are many more repairs that happen on a day-to-day basis, as and when they arise, that are undertaken to ensure the safety of our residents.

Regulatory and legal changes

19. The Building Safety Act was introduced to improve building safety following recommendations from an independent review of building regulations and fire safety after the Grenfell Tower Fire in 2017. Secondary legislation will be required to set out some timetables, provide clarification and guidance before all aspects of the new Act are brought into force. BCP Homes will work with the Facilities Management team to ensure that all aspects of the Act are complied with, in accordance with the prescribed timetables and guidance.
20. The Act has:
 - Created a new Building Safety Regulator within the Health and Safety Executive to implement and oversee a new regulatory regime for higher- risk buildings and drive improvements in building safety and performance for all buildings.
 - Established a new regulatory regime for higher-risk buildings, i.e., those buildings that are over 18 metres tall or have seven or more storeys.
 - Ensure residents have a stronger voice in the system through a Residents Panel to help the new regulator fulfil its role.
 - Strengthened the obligations under the Regulatory Reform (Fire Safety) Order 2005.
 - Provided a stronger and clearer framework for oversight of construction products.
 - Assisted and encouraged the improvement of competence in the building industry and amongst building control professionals.

21. The new regulatory regime for higher-risk buildings includes new design and construction obligations:
- Duty holders have clear accountability and statutory responsibilities as buildings are designed, constructed and refurbished.
 - Gateways (stop/go decision points) will provide rigorous assessment of regulatory requirements to ensure building safety and regulatory compliance is considered at each stage of a building's design and construction.
 - The requirement for a golden thread of building information – created, stored and updated throughout the building's lifecycle.
 - Mandatory reporting to the new Building Safety Regulator of prescribed fire and structural safety occurrences.
 - Building Safety Regulator has oversight of building work as the building control body for high-rise residential and other in scope buildings. This will strengthen regulatory oversight and require duty holders to implement appropriate measures to manage building regulations compliance.
22. The Act creates obligations for buildings in occupation and each higher-risk building will need to have an Accountable Person. This is the person or entity that owns the building and will usually be the landlord. They will need to appoint individuals to discharge their duties and obligations as set out below:
- Registering a higher risk building.
 - Applying for a Building Assessment certificate every 5 years. (a process which is expected to begin from April 2024)
 - Ongoing obligation to manage and prevent fire safety risks and maintain a safety case report for each higher risk building.
 - Providing residents with information and developing an engagement strategy.
23. A safety case report will be provided for each building which will identify major hazards associated with fire and structural risks and demonstrate the measures in place to manage and control these. It will need to be reviewed and updated to provide continued assurance and submitted to the Building Safety Regulator.
24. The Act has several other provisions which include:
- Obligations on residents in high-risk buildings to comply with requirements to maintain safety as well as requirements not to act in a way that creates a significant risk.
 - Landlord right of entry for building safety purposes.
25. The Social Housing (Regulations) Act sets out the intention to remove the serious detriment test and introduce routine inspections for the largest landlords rather than waiting for information to be referred to them. This will result in more proactive regulation and raises expectations for landlords to self-refer where there are failures to comply with standards.
26. Implementing these regulatory and legal changes will be considered to ensure that the council is meeting all its statutory and regulatory obligations.
27. BCP Homes is also taking steps to ensure that information, performance data and systems used to manage compliance are robust. This will provide assurance that

residents are safe in their homes and that the council's obligations and duties are being met and highlight issues when they arise.

28. Some of the council's existing and proposed new homes will fall within the definition of higher-risk buildings, these include 6 existing tower blocks in Poole.
29. The new regulatory regime for higher-risk buildings is also likely to drive up standards of good practice in relation to other complex buildings that are not in scope. Landlords will need to take a risk-based approach to how they manage their buildings and may decide to apply the new regulatory requirements to buildings outside the scope of the Building Safety Act.
30. Following consultation, the Regulator announced that from 1 April 2023 all registered providers must report annually on a new set of 22 tenant satisfaction measures. These include measures relating to satisfaction with building safety and compliance with safety checks. Information will be gathered through tenant perception surveys and landlord information.
31. The TSM's which will be collected through tenant perception surveys and landlord data, will cover five main themes, repairs, building safety, effective complaint handling, respectful and helpful tenant engagement, and responsible neighbourhood management.
32. Landlords' were required to start collecting the data from April 2023 and be ready to report on this by summer 2024.
33. Regular compliance meetings take place, focusing on a scorecard of well-established performance indicators and will seek to reach consistency across both neighbourhoods and ensure one set of performance indicators is reported.

Summary of performance

34. The compliance dashboard for quarter two 2023/24, (July – September 2023), is provided in appendix 1.
35. An internal audit of the key compliance areas in Bournemouth completed during 2022 underpins the action plan that is regularly reviewed at the compliance meetings. There is an action plan in place as a result of the audit which is reviewed at these compliance meetings.
36. At the time, the audit did not extend to the Poole areas as homes there were still being managed by Poole Housing Partnership and separate audit arrangements existed.
37. A compliance audit was carried out by external auditors on behalf Poole Housing Partnership for the period 1 January 2022 to the 30 June 2022 for homes in Poole. This did not raise any issues.
38. Future audits will be carried out internally to ensure that the same methodology is applied across all the council's homes within the HRA.
39. Regular updates on progress in meeting the findings of the audit will be provided to the BCP Homes Advisory Board. The Board will also consider performance against property compliance.

Water Quality – (Legionella Management)

40. This applies to stored water in the communal parts of buildings, for example where there are cold water storage tanks, and communal water supplies. While there is a

legal duty under the Control of Substances Hazardous to Health Regulations 2002 (COSHH), for landlords to assess and control the risk of exposure to legionella bacteria, the law does not prescribe specific review periods. Health and safety law does not require landlords to produce or obtain, nor does the HSE recognise, a 'Legionnaires Testing Certificate'. The Approved Code of Practice: Legionnaires' disease: The control of Legionella bacteria in water systems (L8) outlines best practice guidance and this is followed by both neighbourhoods.

41. Risk assessments should be reviewed frequently as determined by the assessment to ensure that they are up to date. They should also be reviewed any time there is a significant change such as additions or modifications to water systems, changes to the use of the water system, where key personnel have changed, or legionella control measures are no longer working.
42. Regular safety inspections measure temperature and ensure tanks are clean or covered. In some circumstances water samples may be taken. This work is now carried out by the in-house team in Bournemouth but still by external contractors in Poole. The frequency and type of testing undertaken varies according to the nature of the water system. Tests are carried out monthly or annually. Remedial actions are identified from risk assessments and testing, and the necessary work orders raised to rectify these.
43. At the end of quarter 2, there were no outstanding tests or remedial works.

Gas safety

44. Regulation 36 of The Gas Safety (Installation and Use) Regulations 1998 deals with landlords' duties to make sure gas appliances, fittings and flues provided for residents are safe. It details the duties of landlords to 'ensure that each appliance and flue to which the duty extends; has been checked within a 12-month period, that proof of this is kept for two years and is available for the tenant(s) of the premises.
45. There are reasons why residents fail to provide access for gas safety tests but there are well established procedures in place across both neighbourhoods to deal with these and to ensure that gas safety tests are carried out.
46. Performance is good with only one outstanding test at the end of September and is following the legal process to gain access.

Asbestos

47. Communal areas within flat blocks are inspected on a regular basis. There is no directive within the regulations as to how frequently communal areas should be re-inspected, but they should be assessed periodically. Asbestos can be present as asbestos insulation board (AIB) or as asbestos containing material (ACM), e.g., floor tiles and aertex ceilings. All communal areas within both neighbourhoods have been surveyed.
48. The condition of any asbestos in communal areas is managed through regular annual visual inspections. There were no outstanding re-inspections at the end of the quarter or issues of concern.
49. Asbestos also exists within domestic properties and surveys have been carried out to determine where it is located. This information is used to ensure that correct procedures are undertaken when work to the property is being carried out. Asbestos is removed before major refurbishment such as kitchen replacement.

Electrical safety

50. Currently there is no regulation, standard or act that defines a frequency for electrical installation inspection and testing in homes managed by social landlords. The Landlord and Tenant Act 1985 requires landlords to ensure that electrical installations are in working and safe condition both at the start of any tenancy and throughout that tenancy.
51. The Electrical Safety Standards in the Private Rented Sector (England) Regulations 2020 require private landlords to carry out electrical installation inspections every five years. This does not apply to social housing, but the Code of Practice for the Management of Electrotechnical Care in Social Housing recommends the frequency for testing and inspection to be every five years which is the inspection interval now used in both neighbourhoods. Inspections can be carried out sooner if deemed necessary by risk assessment. At the end of the inspection an Electrical Installation Condition Report (EICR) is produced.
52. Within Bournemouth testing and servicing is carried out in-house as well as by contractors while in Poole it is solely contractors who carry out the work.
53. Following investigation earlier in the year a number of properties within the Poole neighbourhood that were on a 10-year inspection cycle, these are being pulled into a 5-year cycle over the coming 12 months.
54. There are issues gaining access where properties are in poor condition or where hoarding is taking place. Testing requires safe access to all areas of a property and this work cannot be carried out where conditions are poor or extremely cluttered.
55. Across BCP at the end of September there were 325 tests over 5 years, with 16 over 10 years all over these are with the Housing Management team working with the tenant to get clear access.

Fire safety

56. Three pieces of legislation govern the actions of landlords in relation to fire safety; the Housing Act 2004, the Smoke and Carbon Monoxide Alarm (Amendment) Regulations 2022 and the Regulatory Reform (Fire Safety) Act 2005 (RRO). While legislation specifies the frequency for carrying out fire risk assessments' (FRA's) as 'regularly'.
57. Fire safety programmes incorporating a frequent FRA programme looking at a range of measures, including facades, compartmentalisation, doors and closers and clear communal areas is in place across both neighbourhoods. These are reviewed regularly within each neighbourhood.
58. The Fire Risk Assessment reports rate priorities as high, medium or low. Newer assessments rate priorities as intolerable, substantial, moderate tolerate or trivial. A programme of work, based on these priorities, continues to be undertaken using the action priorities contained therein.
59. Where we have concerns regarding a resident's use of a property, referrals can be made to the Dorset and Wiltshire Fire Service under the fire safety referral scheme. Concerns would range from; hoarding, repeated false alarm activations, actual minor fire, portable fires, dirty ovens / cooking appliances and chaotic lifestyles often due to addiction. Mitigating actions can be put in place to reduce the risk and we will work with other teams within the council and other agencies to see if support can be

provided to improve the situation. Where necessary legal action will be taken against the resident.

60. Smoke alarm tests are carried out at same time as the gas safety test. Smoke and fire alarms within senior living housing are linked to the out of hours service through the emergency alarm systems. This provides information on activations and can help raise awareness of issues with individual tenants. Information can also be used to help the decision-making process regarding repairs.
61. Regular inspections are carried out of communal areas to identify any issues that would impact on fire safety or remedial work that needs to be completed. Fire alarms and emergency lighting systems are tested regularly, and programmes of work are put in place to improve fire safety for example the provision of new fire safety doors to individual flats.
62. BCP Homes has opportunities to raise awareness of fire safety with residents through newsletters, websites, general correspondence and residents' groups.
63. Under the Building safety Act 2022 there is a requirement to register all building over 18 metres high with the Building Safety Regulator. BCP Homes has six of these buildings listed below all of which have been registered:

Property	Registration Reference
Nelson Court	HRB 04805D9Y2
Rodney Court	HRB 04082Q4F2
Sterte Court 1 – 57	HRB 02409T9W7
Sterte Court 58 - 114	HRB 02410H6H1
Drake Court	HRB 06313F4L1
Grenville Court	HRB 0631ST6C7

Lift safety

64. The Councils duties for managing lifts are contained within the LOLER (Lifting Operations Lifting Equipment Regulations 1998 and PUWER (Provision and Use of Work Equipment Regulations 1998).
65. Non-domestic (communal) lifts are subject to two thorough inspections each year alongside monthly servicing schedules. This work is carried out by contractors. Lifts are also subject to one annual inspection from our insurer. Domestic stairlifts are subject to an annual servicing inspection and one annual inspection by our insurer. Any unsatisfactory or worn items are reported alongside a quote for repair and undertaken.

Damp and Mould

66. Although not a legislative requirement the guidance from government is very clear in that damp and mould must be treated with the upmost seriousness and acted on promptly to protect the health of residents.
67. BCP Homes have set up a triage system when residents call in to report damp and mould so that serious cases can be acted on swiftly.

68. BCP Homes will endeavour to get out to a report of mould within 5 working days or sooner with the aim to treat the mould then treat the cause be that at the time or through additional work.
69. All residents that have reported damp and mould and where action has been taken are contacted 6 weeks after the final action to check whether the problem remains, and if required, works or support is provided as appropriate.
70. Support and advice on preventing damp and mould is provided and if required residents are signposted to financial support if needed.
71. BCP Homes have provided training and will continue to train all staff involved with damp and mould to ensure clarity on the subject.
72. BCP Homes have developed a Damp and Mould Policy which is based on the guidance issues by the government and the ombudsman. The policy has been presented to the BCP Homes Advisory Board and resident's panels for comment.
73. A scorecard is in place to capture performance around damp and mould cases which is reviewed regularly and reported at the BCP Homes Advisory Board meetings.

Summary of financial implications

74. There is a cost associated with the delivery of inspection, remedial works and improvement programmes associated with these policies, however the duties are mandatory, and the cyclical programmes associated with such have been factored into the respective HRA Business Plan
75. This report does not contain a request for a decision on spend as this is already within agreed budgets that are set out in the annual Housing Revenue Account Budget Report

Summary of legal implications

76. Policies and procedures assist the Council in discharging its statutory duties associated with landlord compliance. It is important that there is full compliance with good practice standards, regulatory standards and the relevant legislation.
77. Failure to comply with these duties could result in formal prosecution being brought against the council as a landlord e.g., potential of a corporate manslaughter case for the most serious of breaches. Failure can also result in a breach of the Regulator's Home Standard and a regulatory notice if there was actual or potential serious detriment to council tenants.

Summary of human resources implications

78. There are no immediate implications on staffing levels. However, compliance is seen as an increasingly important area of work through work that is undertaken to monitor and report on performance. The Building Safety Act will place greater responsibilities on the council and additional resources may be required in the future to ensure quality of information and reporting.

Summary of sustainability impact

79. Adherence to appropriate and consistent standards for compliance protects both the interest of our tenants and the council as a landlord. The correct functioning of gas and electrical systems reduce the impact of the systems on the environment through

efficient operation. Having good knowledge of the condition of our systems allows planning for their replacement when appropriate times with more efficient upgrades that benefit the environment and our tenants.

Summary of public health implications

80. Complying with policies, procedures and statutory duties ensures the wellbeing of our tenants and provides safe and well-maintained homes. Our compliance work protects tenants from hazards that might otherwise exist.

Summary of equality implications

81. None. There are no changes to the way in which services are provided because of this report.

Summary of risk assessment

82. Failure to comply with duties to maintain the health and safety of residents could result in formal prosecution being brought against the council as a landlord e.g., potential of a corporate manslaughter case for the most serious of breaches.
83. If there is breach of the Home Standard, then the Regulator might serve a regulatory notice on the council which would have a detrimental impact on its reputation. The Regulator expects councillors to ensure that they have proper oversight of all health and safety issues to ensure compliance with the Home Standard

Background papers

Published works:

[The Charter for Social Housing Residents – Social Housing White Paper](#)

[Building Safety Act](#)

[The Regulator of Social Housing – Home Standard](#)

[Tenant Satisfaction Measures](#)

Appendices

Appendix 1 – Health and safety reporting dashboard quarter 2, 2023-24