

Report subject	Housing and Property Compliance Update (Housing Revenue Account)
Meeting date	10 December 2024
Status	Public Report
Executive summary	<p>This report provides performance information setting out 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 also provides details of the annual self-assessment carried out against the Housing Ombudsman's Complaint Handling Code.</p> <p>Over the last 12 months significant progress has been made in aligning approach to compliance specifically around gas and electrical safety which is now all driven from a single system with the work undertaken by the councils in house team of engineers.</p> <p>The Housing Quality Network, (HQN) will shortly be undertaking an independent inspection of our services in line with the Consumer Standards which will help to support areas of improvement and provide wider assurance in areas where enhancements to the service have been made.</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). Cabinet agrees to continue to receive annual performance reporting on Compliance, Complaints Performance and Service Improvement.</p> <p>(c). Cabinet agrees that the recommendations into the review of the Housing Ombudsman Case are overseen by the BCP Homes Advisory Board and a further update provided to Cabinet.</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 Safety and Quality 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>
Portfolio Holder(s):	Councillor Kieron Wilson – Housing and Regulatory Services
Corporate Director	Glynn Barton – Chief operations Officer
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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 across Bournemouth and Poole is managed. There is no HRA housing stock in the Christchurch neighbourhood of BCP Council because it was transferred to a housing association several years ago.
2. Responsibility for property compliance work rests with the Facilities Management team, part of the Customer and Business Delivery Directorate.
3. The total rented stock for BCP Homes as of 31 March 2024 was 9,545 for which the council is responsible for compliance work. There were also 1,139 leasehold homes as well as 39 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.
4. 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.
5. 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 (RSH) new regulatory consumer standard, the Safety and Quality Standard. As a registered provider of social housing the council is expected to adhere to the standard.
6. Paragraph 1.3.1 of the standard states:

“When acting as landlords, registered providers must take all reasonable steps to ensure the health and safety of tenants in their homes and associated communal areas.”

7. The RSH will use inspections of landlords to determine how well a landlord is delivering the outcomes of all the regulatory consumer standards and will provide a regulatory grading setting out the level of compliance against the standards.
8. The RSH also expects landlords to refer to it where there is a potential issue which may be material to the landlord's delivery of the outcomes of the standards. This is an important part of the co-regulatory approach. If there is a failure to meet the standards, the RSH will expect to be provided with evidence that a landlord is making sufficient progress and improvements to address the failures.
9. Where a landlord is failing to deliver against the outcomes of the consumer standards then the RSH may revisit any published regulatory judgements and gradings.
10. There are other enforcement powers available to the RSH, but they are unlikely to use these where both:
 - the landlord is prepared to fix the problems and their underlying causes
 - it concludes that the landlord has the capacity, capability and resources it needs to do so.

Referral to Regulator of Social Housing

11. The council is required to submit data to the Regulator on an annual basis against the Tenants Satisfaction Measures which includes building safety performance.
12. Data submitted to the end of March 2024 identified that there were fire and water risk assessments overdue. Further investigation was undertaken to understand the most up to date situation and on the 6 June 2024, the council contacted the RSH to report that it had failed to meet the outcomes of the Safety and Quality Standard. A full update was provided to the RSH on the 19 June setting out:
 - 173 Fire Risk Assessments were outstanding
 - 11 electrical safety tests were over 10 years old
 - 101 water risk assessments were outstanding.
13. The update also set out how the issues were to be resolved and confirmed that the outstanding water risk assessments had been completed. Fire risk assessments had been prioritised and 25 of the highest priority had been completed.
14. On 19 November, confirmation was received from the RSH, considering the information provided and the issues initially identified had all been resolved, that it would not be proportionate to take any further regulatory action at this time.
15. 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.

Regulatory and legal changes

16. As stated above the new regulatory consumer standard, the Safety and Quality Standard has been in place since April 2024.
17. The Building Safety Act 2022 also sets out new requirements when designing and constructing new high-rise residential buildings to improve safety. These are buildings over 18 metres tall of which have seven stories. The Act sets out obligations in respect of these buildings that are occupied. These include:
 - Registration of high-rise buildings
 - Completion and submission of a building safety case every five years
 - Appointment of a Building Safety Manager
 - Development of a resident engagement strategy for residential high-rise buildings.
18. The increased awareness of the impact of damp and mould on the physical health and well-being of residents has led to the development of guidance and good practice on responding to issues and proactively reducing the risk of occurrence.
19. Following a review of its casework and discussions with residents and landlords, the Housing Ombudsman published a [spotlight report on damp and mould](#) in 2021. This sets out good practice in dealing with the issue and the Ombudsman expects landlords to undertake a self-assessment against the recommendations set out in the report.
20. The government has also published new guidance on [understanding and addressing the health risks of damp and mould in the home](#). This sets out how landlords should be responding to reports of damp and mould and how they should proactively reduce the risk of it occurring.
21. The Social Housing (Regulation) Act 2023 introduced Awaab's Law which will require landlords to investigate and fix reported health hazards within specified timeframes. This follows the tragic death of Awaab Ishak aged two in December 2020 as a direct result of exposure to mould in his social rented home. His parents had raised concerns about their living conditions, but their landlord had repeatedly failed to act blaming the family for the hazardous mould. [Consultation](#) on regulations to implement Awaab's Law closed earlier this year.

Summary of performance

22. 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
23. Over the last few years there has been increased awareness of the significant health implications for tenants whose homes suffer from damp and mould. Responding to

reports of damp and mould and taking a proactive approach to reduce the risk of occurrence should be managed in the same way as other areas of compliance

24. We now are in a position that every home will be visited at least once a year from a compliance perspective, (depending on how the home is heated) either through the annual gas servicing or smoke detection programmes. This is also an opportunity to identify issues such as damp and mould, welfare problems i.e. hoarding and any other obvious concerns from a safety perspective within the home.
25. The BCP Homes compliance scorecard for end of October 2024 is provided in appendix 1.
26. Since 2023/24 social housing landlords have been required by the RSH to report against the national Tenant Satisfaction Measures. Some of these measures are based on perception surveys that must be completed by landlords as well as other measures based on management information. A summary of the relevant measures in relation to building safety and property compliance is set out below.

Proportion of respondents who report that they are satisfied that their home is safe.	82%
Proportion of homes for which all required gas safety tests have been carried out.	100%
Proportion of homes for which all required fire risk assessments have been carried out.	69.6%
Proportion of homes for which all required asbestos management surveys or re-inspections have been carried out.	99.5%
Proportion of homes for which all required legionella risk assessments have been carried out.	87.8%
Proportion of homes for which all required communal passenger lift safety checks have been carried out.	100%

27. Performance against the Tenant Satisfaction Measures (TSM's) has been provided to the RSH for 23/24 who will publish the results shortly.
28. In the absence of any published TSM's, a report published by Housemark in June 2024 looked at data that 118 Housing Associations and 103 Local Authorities had shared. The results of which have been included within each area of compliance below to give some context as to how the council is performing in each of these areas. (No information was provided with regards electrical safety within the Housemark report so will have to wait for the published TSM's)

Fire safety

29. 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'.
30. The programme for undertaking Fire Risk Assessments (FRA's) have been aligned. Full FRA's for high rise buildings are completed annually. For general needs the

frequency is every five years and three for sheltered housing, however fire risk assessment reviews are carried out annually. All FRA's are up to date. FRA's look at a range of measures, including facades, compartmentalisation, doors and closers and obstructions in communal areas.

31. As set out above the council made a referral to the RSH which included the outstanding FRA's. Completion of these FRA's were prioritised according to the type of building, level of risk and time since the last FRA was undertaken. All outstanding FRA's as reported to the RSH were completed by the target date of the 6 September 2024.
32. 9 FRA's due during September affecting 125 properties were delayed but completed during October. All FRA's were up to date at the end of October.
33. Remedial actions are often identified from the FRA's that are completed e.g. replacement of fire doors. These are prioritised and monitored to ensure that they are completed within the target date. There are 100 remedial actions awaiting completion but all within their target date.
34. The HouseMark report of June 2024 states that 72.7 per cent of those landlords who submitted data are 100 per cent compliant. The council reported performance at end of October 2024 is 100 per cent

Gas safety

35. 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.
36. There were no tests outstanding at the end of October but 9 were completed late. Completion of gas safety tests is reliant on gaining access to properties. There are procedures in place to ensure that the council can gain access to properties where the tenant denies access.

The HouseMark report of June 2024 states that 39.4 per cent of those landlords who submitted data are 100 per cent compliant. The council reported performance at end of October 2024 is 100 per cent

Lift safety

37. The Council's 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).
38. 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 monthly inspections and one annual inspection by our insurer. Any unsatisfactory or worn items are reported alongside a quote for repair and undertaken.
39. Performance reporting is against the percentage of lifts that have had their annual LOLER test in line with the requirements of the Tenant Satisfaction Measures.
40. There were no tests outstanding at the end of October.

41. The HouseMark report of June 2024 states that 80.8 per cent of those landlords who submitted data are 100 per cent compliant. The council reported performance at end of October 2024 is 100 per cent.

Water safety

42. 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.
43. 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. Remedial actions are identified from risk assessments and testing, and the necessary work orders raised to rectify these.
44. In addition, regular safety inspections measure temperature and ensure tanks are clean or covered. In some circumstances water samples may be taken. The frequency and type of testing undertaken varies according to the nature of the water system. Tests are carried out monthly or annually.
45. At the end of October 2024 all risk assessments had been completed and there were no remedial actions outstanding.
46. The HouseMark report of June 2024 states that 80.0 per cent of those landlords who submitted data are 100 per cent compliant. The council reported performance at end of October 2024 is 100 per cent.

Electrical safety

47. 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.
48. 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 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.
49. The council is aligning its electrical safety programme so that testing is carried out every five years. Tests are carried out to both communal and domestic supplies.

There are procedures in place to ensure access to homes to complete the tests. Because these tests require access to all parts of a property issues such as hoarding can make it impossible to complete the test. The council will work with residents to resolve any issues.

50. The number of tests over 10 years old at the end of October was 7 and 71 were over five years old.
51. A breakdown of overdue electrical safety tests is shown below:

Expiry of last Electrical Safety Inspection	Number of properties
Over 10 years old	7
Over 9 years old	14
Over 8 years old	7
Over 7 years old	5
Over 6 years old	7
Over 5 years old	38
Total	78

52. All the above outstanding tests are as a result of residents refusing access and now sit within the no access procedure which ranges from actively seeking another appointment to housing officer to taking legal action to gain possession.
53. The Council has powers under the tenancy agreement to gain access to tenants' homes where this has not been provided, this includes applications for injunctions through the courts. In the last the last two years 29 applications have been made to gain access to properties to undertake compliance checks
54. The Council also has powers through the tenancy agreement to force access without the need for an injunction in some circumstances. In the last two years 130 forced access appointments have been made, but on average only 1-2 per cent actually end up with access being forced as the tenant will at that point allow entry.

Asbestos

55. All communal areas within flat blocks have been surveyed to identify the presence of asbestos and these areas 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 inspections are conducted annually and undertaken as part of the flat block inspection programme. Asbestos can be present as asbestos insulation board (AIB) or as asbestos containing material (ACM), e.g., floor tiles and aertex ceilings.
56. 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 October or issues of concern.

57. The HouseMark report of June 2024 states that 65.3 per cent of those landlords who submitted data are 100 per cent compliant. BCP Homes reported performance at end of October 2024 is 100 per cent.

Emerging issues

58. Although the focus for compliance has been on the areas set out above there is an increasing awareness of other aspects of property maintenance that have an impact on the health and safety of residents. This includes window safety and pest control.
59. As set above in this report there are now greater expectations in how landlords respond to damp and mould.
60. Where residents are dissatisfied with their landlord's approach to damp and mould in their home, they can make a formal complaint. If they remain dissatisfied a resident can then refer to the Housing Ombudsman.
61. In April 2024, the Ombudsman provided a determination following a complaint to them from a council resident leaseholder. The leaseholder had first reported the emergence of damp in August 2021 and had been informed that the issue had been resolved.
62. The Ombudsman found that the council had failed to monitor the work that it had initially carried out to see if it had resolved the issues and relied on the resident to inform it. Once it did become aware in July 2022 that there were still problems, it failed to act quickly and took too long to arrange another damp survey. Several investigations and remedial work from then until December 2023 did not identify the precise cause or resolve the issues of damp and mould in the property.
63. The Ombudsman ordered that compensation of £1,450 be paid to the resident for distress and inconvenience caused by failings related to handling of damp and mould, requests for compensation and complaint handling.
64. The Ombudsman made several other orders which related specifically to the case but also included an order for the council to carry out a review of its approach to damp and mould by the 8 July 2024.
65. The Ombudsman also ordered that a copy of the final report be provided to the council's governing body. A copy of the report is attached in appendix 2.
66. Part of the determination also included the requirement to undertake a self-assessment against the Ombudsman's spotlight report on damp and mould.
67. The Ombudsman also ordered that the governing body needed to decide how it will provide oversight of the implementation of the recommendations of the review. It is recommended that this is overseen by the BCP Homes Advisory Board and a further update provided to Cabinet.
68. Damp and mould cases can be very complex. There are many reasons why it may present in a property and it can be difficult to understand the reason for its occurrence. Independent expert advice is often required.
69. An internal project group has been set up to implement improvements to the way in which damp and mould is managed considering the findings of the review and the self-assessment that has been undertaken. Initial work undertaken has resulted in:
- Implementation of a new Damp and Mould policy

- Initial rapid response inspection now undertaken by `in house team` across all council homes, (previously another contract was involved).
- Improvement of operation performance and damp and mould monitoring
- Implementation of `case management` for complex cases.
- Mapping of the customer journey resulting in some initial service improvements.

Housing Ombudsman's Complaint Handling Code

70. The Social Housing (Regulation) Act 2023 empowered the Housing Ombudsman to issue a code of practice in relation to the handling of complaints.
71. The council is required to undertake an annual self-assessment against the code and publish this on its website. The assessment should also be submitted to the Housing Ombudsman who has confirmed that it is satisfied that we are compliant, however there are several actions that need to be completed prior to the end of March 2025. These relate to linking the handling of complaints to staff performance objectives and the requirement to provide an annual Complaints Performance Report, the first of which for BCP Homes will be presented to Cabinet in March 2025.
72. The council's self-assessment can be found on its website. [Housing Ombudsman code self-assessment](#).
73. The code also requires the council's governing body (or equivalent) to receive regular updates on complaint handling and an Annual Complaints Performance and Service Improvement report. It is proposed that an annual report is provided to Cabinet.

Summary of financial implications

74. There is a cost associated with the delivery of inspections, 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 annual HRA budget setting.
75. This report does not contain a recommendation for additional budget requirements. The budget for 2025/26 is reported to Cabinet in February 2025 in the annual HRA budget report. This will set out any financial implications of ensuring that compliance for council homes is managed effectively and in line with the increased expectations for landlords to keep homes safe. It is likely that additional staff will be required to monitor compliance programmes and to provide assurance that these programmes are meeting the council statutory and regulatory responsibilities.

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.

78. Failure can also result in a breach of the Regulator's Safety and Quality Standard and regulatory action for failure to meet the standard.

Summary of human resources implications

79. The council will require additional staff resources to effectively manage and provide assurance on all aspects of compliance. Whilst the focus for compliance has been on the six traditional areas, this is now shifting to include other areas as well particularly damp and mould. There are also other areas of compliance work that require management including for example emergency lighting tests and building safety.

Summary of sustainability impact

80. Adherence to appropriate and consistent standards for compliance protects both the interest of our residents 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

81. 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.
82. There has been an increased awareness over recent years regarding the impact of the safety of homes has on residents physical and mental wellbeing. Keeping homes safe, warm and comfortable is a requirement for all social landlords and in meeting this there are positive impacts on public health.

Summary of equality implications

83. None. There are no changes proposed to the way in which services are provided because of this report. However, there are policies and procedures linked to the compliance areas referred to and these will be consulted on, equality impact assessments completed and considered by the EIA panel.

Summary of risk assessment

84. There are no risks specifically associated with this update on compliance. However, there are significant risks associated with all areas of compliance. These include:
- Lack of understanding of the housing stock and the compliance checks that are required.
 - Inadequate processes to monitor the completion of compliance checks and any remedial works effectively to ensure that all legal and regulatory requirements are met.
 - Failure to act where compliance checks or remedial actions have not been completed.
 - Inaccurate performance information.

- Compliance checks not of the required standard to meet legal and regulatory requirements.

85. These risks can be addressed through improved and more accessible performance monitoring, internal and external auditing and accreditation.

Background papers

Published works:

[Safety and Quality Standard - GOV.UK \(www.gov.uk\)](https://www.gov.uk)

[Complaint Handling Code 2024 | Housing Ombudsman Service \(housing-ombudsman.org.uk\)](https://housing-ombudsman.org.uk)

Appendices

Appendix 1 - BCP Homes Compliance Scorecard – October 2024

Appendix 2 – Review on the determinations and recommendations from the Housing Ombudsman.