

ASHFIELD DISTRICT COUNCIL



Council Offices,
Urban Road,
Kirkby in Ashfield
Nottingham
NG17 8DA

Agenda

Inward Focus Select Committee

Date: **Thursday, 20th July, 2023**

Time: **6.30 pm**

Venue: **Committee Room, Council Offices, Urban Road,
Kirkby-in-Ashfield**

For any further information please contact:

Lynn Cain

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Inward Focus Select Committee

Membership

Chairman: Councillor Oliver Hay
Vice-Chairman: Councillor David Walters

Councillors:
Ian Briggs Jodine Cronshaw
Andy Gascoyne Sarah Madigan
Cathy Mason

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SUMMONS

You are hereby requested to attend a meeting of the Inward Focus Select Committee to be held at the time/place and on the date mentioned above for the purpose of transacting the business set out below.



Theresa Hodgkinson
Chief Executive

AGENDA

Page

1. To receive apologies for absence, if any.
2. **Declarations of Disclosable Pecuniary or Personal Interests and/or Non-Registrable Interests.**
3. To receive the minutes of the meeting of the Panel held on 19 January 2023. 5 - 8
4. **Select Review: Damp and Mould.** 9 - 38

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SCRUTINY PANEL B

Meeting held in the Committee Room, Council Offices, Urban Road, Kirkby-in-Ashfield,
on Thursday, 19th January, 2023 at 7.00 pm

Present: Councillor Christian Chapman in the Chair;
Councillors Dale Grounds, Trevor Locke (Vice-Chair),
Warren Nuttall and David Walters.

Apology for Absence: Councillor Caroline Wilkinson.

Officers Present: Lynn Cain, Mike Joy and Shane Wright.

SB.8 Declarations of Disclosable Pecuniary or Personal Interests and/or Non-Registrable Interests

No declarations of interest were made.

SB.9 Minutes

RESOLVED

that the minutes of the meeting of the Panel held on 20 October 2022, be received and approved as a correct record.

SB.10 Scrutiny Review: Dog Fouling and Littering

The Scrutiny Research Officer introduced the report and reminded the Panel that the 'Dog Fouling and Littering' review had commenced in June 2022 with two meetings already being held to consider the topic. The last meeting had been particularly fruitful with Members having the opportunity to take part in a question and answer session with the Council's Director of Place and Communities, the Assistant Director for Neighbourhoods and Environment, the Executive Lead Member for Community Safety and the Executive Lead Member for Parks, Town Centres, and Environmental Services.

The question and answer session had raised many key lines of enquiry that the Panel could investigate further, but it was acknowledged that the March 2023 meeting of the Panel would be the last before the District Council Elections in May 2023 and Members might wish to consider finalising the review now based on the evidence already provided.

The Panel was aware that officers were currently working on options for providing a replacement environmental enforcement service following completion of the WISE pilot scheme and this evaluation was being carried out alongside service reviews of both the Waste and Community Protection Teams.

Members were presented with some statistics/data in respect of reported incidents of dog fouling and littering including various heatmaps outlining hotspot areas. The information also outlined the number of patrolling hours undertaken by WISE and the number of fixed penalty notices (FPNs) issued during the 12 month scheme.

The Panel then took the opportunity to reflect on some of the Council's initiatives already in place for tackling dog fouling and littering as follows:

- continuing to promote Keep Britain Tidy initiatives
- provision of an effective network of bins in known dog walking areas and dog fouling hot-spots including educational bin wraps
- educational stencilling on pavements
- provision of a 24-hour web portal to enable residents to easily report incidences of littering and dog fouling
- provision of dog bags within all the Council's parks and open spaces
- annual 'Spring Clean' campaigns across the District
- working with food outlets to keep their premises and curtilages free from litter
- facilitating regular litter picks with Council volunteers across the District
- provision of detailed information on the Council's website regarding the issue of fixed penalty notices for a number of offences, which include, amongst other things, dog fouling and littering.

A discussion followed and Members raised the following comments and suggestions:

- concerns surrounding some of the methods adopted by WISE employees (hiding behind bushes etc.) and its impact on the Council's reputation
- acknowledgement that although some tactics seemed harsh, the perpetrators of littering/dog fouling were still being caught and correctly fined
- a suggestion to inform Ashfield residents more regularly of times and whereabouts of the Council's street cleaning vehicles to raise awareness and visibility
- the pros and cons of commissioning external enforcement contractors to patrol the District and issue FPNs as required
- a reminder that Members had expressed concerns previously that the Council were issuing too few FPNs and to accept that the WISE pilot scheme had delivered both enforcement action and income as requested.

At this point in the meeting, the Chairman asked the Leader (in attendance at the meeting) if he could share his thoughts with Members in relation to the engagement of WISE by the Council.

The Leader advised that the external contractors were commissioned for a 12 month pilot scheme following an increase in complaints about dirty streets and rises in incidences of both littering and dog fouling. The Council's CPOs were at capacity with other duties and the Council needed to do something to address the issue without wasting valuable resources.

It had been a gamble and many facets of working with the contractor had been successful. Their enforcement work had brought in an additional £50,000 income to the authority via FPNs although some of their methods of catching perpetrators had proved to be somewhat heavy handed. The organisation was very much focussed on 'easy wins' via littering offences in town centres rather than catching the public allowing dog fouling offences to occur in parks and open spaces, which had proved harder to do.

As the year went on their methods for issuing fines had strayed somewhat from the Council's original standards and expectations and this had resulted in the organisation failing to be recommissioned following completion of the pilot scheme.

However, a lot had been learnt from the experience and the Council was currently considering options for providing the service going forward; one of which would involve the Council employing 2 or 3 officers to undertake the enforcement work with salaries being paid from the FPN income generated. Part of the duties could also include an educational element especially in relation to younger people caught littering or allowing their dogs to foul.

The Leader advised Members that very few of the fines issued were undone and this did indicate that most offenders had accepted responsibility for their actions and had paid the fines due. A significant advertising campaign had been undertaken prior to WISE commencing their duties around the District, including information regarding where officers would be patrolling and the powers available to them to undertake such enforcement measures.

To conclude, and to address some of the issues raised during the discussion, the Leader suggested that the reinvigoration of the Council's Neighbourhood Charter might be a suitable vehicle for raising awareness in relation to Ashfield's cleaner streets/open spaces and advising residents of what level of service they can expect including enforcement powers that can be utilised if required.

RESOLVED

that the following interim recommendations be submitted to the Cabinet meeting in February 2023 for consideration:

Recommendations

- Review the status of the Council's Neighbourhood/Environmental Charter and proactively engage Scrutiny Members in the process.

- Continue to target future resources towards reducing dog fouling and littering across the District, including facilitating preventive education measures regarding responsible dog ownership and disposal of litter/waste management within primary and secondary schools as appropriate.
- Continue to explore all available options relating to environmental enforcement duties following the discontinuation of the previous Environmental Enforcement Contractor pilot scheme and proactively engage Scrutiny Members in the process.
- Explore the possibility of undertaking a light touch review of local businesses and organisations within the Ashfield District, to ascertain and ensure they continue to meet their obligations in respect of keeping sites/curtilages within their jurisdiction clean and free of litter.
- Continue gathering and utilising accurate locational data to identify hotspot areas in the District to enable effective targeted action to reduce dog fouling and littering offences in these areas.

Panel B Members Resolved

- Cabinet, and the wider Teams engaged in this work, be commended for the array of mitigation measures already being undertaken, to address the issue of dog fouling and littering within the District.

The meeting closed at 8.12 pm

Chairman.



Report To:	INWARD FOCUS SELECT COMMITTEE
Date:	20 JULY 2023
Heading:	SELECT REVIEW: DAMP AND MOULD
Executive Lead Member:	NOT APPLICABLE
Ward/s:	ALL
Key Decision:	NO
Subject to Call-In:	NO

Purpose of Report

The purpose of this report is to introduce the Select Review: Damp and Mould to the Inward Focus Select Committee. This report provides an overview of the increased responsibilities and spotlight placed upon the Council by the Regulator of Social Housing and the Social Housing Ombudsman as a landlord in relation to damp and mould in social housing.

Recommendation(s)

The Inward Focus Select Committee is recommended to:

- a. Note the information contained within this report
- b. Identify key lines of enquiry for the Select Review: Damp and Mould

Reasons for Recommendation(s)

Damp and Mould was added to the Select Committee Work Programme 2023/2024 by the Principal Select Committee in June 2023.

Alternative Options Considered

No alternative options have been considered at this stage of the review process.

Detailed Information

CONTEXT

Damp and mould in both private rented and social housing has been under the spotlight for some time, with mainstream media running campaigns highlighting and naming landlords in regular news bulletins on prime-time news slots.

As result of all this publicity, the Council have witnessed a significant increase in contact from customers requesting inspections and reporting damp and mould. An increase in disrepair claims against the Council that relate to damp and mould has also been noted.

This came to a head with the sad passing of 2-year-old Awaab Ishak in Rochdale. The coroner's report identified that mould present in his home was a contributing factor in his death and that he died from prolonged exposure to mould. The Government continues to block funding to Rochdale Boroughwide Housing to build new homes until it can prove it is a responsible landlord.

As a direct consequence of this case, the Government has tabled amendments to the Social Housing Regulation Bill to introduce 'Awaab's Law', which will require landlords to fix reported health hazards in homes within specified timeframes.

AWAAB'S LAW

On Thursday 9 February 2023, the Secretary of State for Levelling Up, Housing, and Communities announced amendments to the Social Housing Regulations Bill. The amendments are called Awaab's Law, named after Awaab Ishak. The amendment aims to confront the issues of poor housing by recognising the mistakes made by Awaab's death.

Awaab's Law will require all landlords to investigate and fix reported hazards in their homes within a specified time frame or rehouse tenants where a home cannot be made safe. The new rules will form part of the social housing tenancy agreement, so tenants can hold landlords to account through the courts if they fail to provide a decent home.

The aims of the law will be too:

- Crackdown on damp and mould under new legislation in memory of Awaab Ishak
- Landlords must investigate and fix serious problems within strict time limits
- New powers for the Housing Ombudsman to help landlords improve performance, in amendments to the Social Housing (Regulation) Bill.

The Government are planning to launch a consultation later this year to set the timeframes within which landlords will have to act to investigate hazards and make repairs. The intention is that this will help to make sure that the new requirements for landlords lead to the right outcomes for tenants.

The changes will be as amendments to the Social Housing (Regulation) Bill that aims to drive up standards in the sector and seeks to hold landlords to account over the service they provide to their tenants.

The Social Housing Bill will enshrine tenants' rights in law and strengthen the Housing Ombudsman and Regulator's powers so that poor social landlords will be exposed and made accountable.

The Government has already committed to a rapid review of existing guidance on the health impacts of damp and mould, followed by new guidance tailored to the housing sector, and is due to be published by Summer 2023.

Further powers will continue to bolster the Housing Ombudsman in ensuring landlords learn from past mistakes. The Ombudsman will be able to instruct landlords to measure their service against guidance on issues such as damp and mould, to help drive improvements following complaints from tenants.

In March 2023, the Department for Levelling up, Housing, and Communities launched a 1-month proactive campaign asking tenants to 'complain' to their social housing landlord where signs of damp and mould are present and/or the quality of service for repairs seem low. This was a national campaign using local radio, press, and targeted social media.

REGULATORS REQUEST FOR ASSURANCE IN HANDLING OF DAMP AND MOULD

In November 2022, the Regulator wrote to all social landlords requiring them to submit a response to 10 questions by 19 December 2022 to provide assurance that they have 'clear understanding and strong grip on damp and mould issues in their homes' and were addressing risks to tenants.

The initial findings of the report were published early February with an expectation that all providers will look at how they can continue to improve the way they identify and address damp and mould.

The findings were also critical of providers that submitted incomplete responses or responses lacking detail through use of data. Stating most providers could improve their knowledge of their homes and in particular must focus on collecting, analysing and reporting against the data held.

The Regulator intends to be in contact with those providers that did not submit detailed responses or submitted poor quality and data light responses.

It advised that the poorer responses relied more heavily on reactive approaches to identifying problems than proactively looking for evidence of damp and mould through surveys and analytical data of their homes.

Providers that had less data or refreshed their data less frequently, had weaker evidence about their assurance, oversight and understanding of the condition of homes.

The Regulator advised "A poor-quality response does not necessarily mean the provider has a poor approach but does mean that we will need to look more closely at what they are doing to tackle damp and mould effectively".

As a result, the Regulator will follow up directly with those landlords, as well as those reporting high numbers of cases of damp and mould and will take regulatory action where needed.

ASHFIELD DISTRICT COUNCIL'S APPROACH TO DAMP AND MOULD

- All reports of occurrences of damp and mould follow a clearly defined procedure whether reported by the tenant and/or identified by our employees or contractors.
- Property data has been utilised over many years to eliminate sequential and systemic damp and mould issues within certain property types.
- Regular cross-department meetings are held to discuss damp and mould cases, complaints and sector wide information and judgements to identify any emerging trends, identify best practice and inform the capital programme.
- The Council provides ongoing damp and mould advice to all tenants via the lettings pack, hard copy leaflet, tenant magazine and website and during face-to-face inspections.

Customer reports are logged as damp and mould specific job types, with any HHSRS category 1 hazards identified logged as such, in the housing management database.

The reported issue is inspected, with the primary aim to identify the source of the damp and/or mould, in order to rectify any issues as quickly and efficiently as possible, to minimise the impact on the residents.

Where defects are identified, rectification works are logged, actioned and monitored. Depending on the severity of the presence of mould and the tenant's circumstances, the Council may undertake treatments to remove the mould. Where it is not deemed necessary to undertake specialist mould washing, advice will be given to the tenant on what steps they can take to remove the mould. In severe cases the tenant may need to be decanted to another property.

Where there are no identified defects leading to the presence of damp/mould, the tenant is provided with advice and information on how to minimise the moisture content within the property, with the view to minimising the risk of the presence of condensation within the home. Again, depending on the severity of the presence of mould and the tenant's circumstances, we may undertake treatments to remove the mould. This is then followed up within 3 months with a further inspection (this allows time to identify if the problem reoccurs/resolved, it is also clear that reports of damp and mould increase in the colder months).

Officers from all Housing Departments act as 'eyes and ears'. When undertaking duties within the housing stock, Officers will monitor for signs of damp and mould, reporting any concerns to the Repairs and Maintenance Department for further investigation and will be logged as Category 1 hazards under HHSRS, where considered appropriate.

Officers have received bespoke HHSRS, Damp/Mould and ventilation training to assist them with identifying the signs, causes and most effective solutions of damp and mould issues.

GAPS AND CHALLENGES

Although the Council has a number of measures in place and consider that there are no systemic issues with damp and mould in its social housing stock, the increase in reports of damp, mould and disrepair cases are significantly impacting on the wider service delivery.

Currently, resources are getting redirected away from primary services to meet the demand of the new and coming requirements. Furthermore, the Council is not yet privy to the further legal requirements in terms of the strict time scales to respond to damp and mould reports that will be imposed as social housing providers. It is expected that these requirements will be very challenging.

It was acknowledged in the recent Housing Peer review that there is a huge spotlight on all social housing providers with regards to damp and mould and many providers are actively reviewing resources to meet the current demand and the new regulatory requirements going forward.

A communications plan will be required to promote the reporting of damp and mould. Advice and guidance need to be readily accessible to assist tenants in not only the measures they can take to treat small areas of mould and control the levels of moisture produced, but to also assist with money management advice if the use of heating and ventilation systems and the payment of services is a contributing factor to the issues they are experiencing.

CONSUMER REGULATION REVIEW 2022-2023

The Regulator of Social Housing has recently published the *Consumer Regulation Review 2022-2023*. The paper sets out the key learning points from consumer regulation casework and is intended to help stakeholders generally, and, in particular, Councillors and housing association Board members, to learn from the experience of others so that they can strengthen approaches to meeting the requirements of the consumer standards.¹

The *Consumer Regulation Review 2022-2023* is appended to this report as Appendix A for further information.

Implications

Corporate Plan:

The Select Review: Damp and Mould aligns with many of the Council's Corporate Priorities set out within the Corporate Plan. These relate to:

- Providing good quality, value for money services
- People focused – putting people at the heart of what we do
- Protecting the Council from costly disrepair claims that could bring the Council into disrepute

Legal:

There are no direct legal implications resulting from the recommendations within this report. The Inward Focus Select Committee will be mindful of the legislation relating to the topic of Damp and Mould and factor any relating implications into a final report to Cabinet.

Finance:

There are no direct financial implications resulting from the recommendations within this report.

Budget Area	Implication
General Fund – Revenue Budget	Not applicable.

¹ Regulator of Social Housing, *Consumer Regulation Review 2022-2023*, July 2023.

General Fund – Capital Programme	
Housing Revenue Account – Revenue Budget	
Housing Revenue Account – Capital Programme	

Risk:

No risks have been identified at this introductory stage of the Select Review: Damp and Mould.

Human Resources:

There are no direct human resources implications resulting from the recommendations within this report.

Environmental/Sustainability:

There are no direct environmental or sustainability implications resulting from the recommendations within this report.

Equalities:

There are no direct equalities implications resulting from the recommendations within this report.

Other Implications:

There are no other implications resulting from the recommendations within this report.

Reason(s) for Urgency

None.

Reason(s) for Exemption

None.

Background Papers

None.

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Regulator of
Social Housing

Consumer Regulation Review 2022-23

July 2023

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1. Foreword

- 1.1. This report sets out the key learning points from our consumer regulation casework over the last year. It is intended to help stakeholders generally and, in particular, Councillors and housing association Board members, to learn from the experience of others so that they can strengthen their organisations' approaches to meeting the requirements of the consumer standards. Given the changes to consumer regulation that will be implemented from April 2024, including the proactive consumer assessments of large landlords (over 1,000 homes), and that all providers will have to collect Tenant Satisfaction Measures, it is vital that social housing providers act now to ensure compliance.
- 1.2. At the heart of our review is the need to treat social housing tenants with fairness and respect. We know that for too long, some tenants have not received the level of service that they deserve. This must change. We expect all social housing providers to be respectful, transparent and responsive to their tenants' needs and we will hold them to account where we find that this is not the case.
- 1.3. This review includes our findings in the tragic case of Awaab Ishak, a two-year-old boy who died due to exposure to environmental mould in his home. The sector must learn from this tragedy. Providers must be receptive to concerns raised by tenants and they must ensure that they hear their tenants' voices, including from the most vulnerable. Thorough and timely investigations into the causes of problems in tenants' homes, including damp and mould, must be carried out to ensure that underlying and more widespread issues are identified and quickly remedied.
- 1.4. Following our request to all large social housing providers to submit evidence to us about the extent of damp and mould in tenants' homes, we reported our initial findings in February 2023¹ and published a further report in June 2023². We found that most providers demonstrated that they:
 - are taking damp and mould seriously
 - identify and address cases of damp and mould in tenants' homes
 - have made improvements in how they handle damp and mould cases over the last year.
- 1.5. Nevertheless, a minority of registered providers' responses lacked the detail we needed and so we have investigated further to understand what they are doing to tackle damp and mould in their homes.

¹ <https://www.gov.uk/government/publications/damp-and-mould-in-social-housing-initial-findings>

² <https://www.gov.uk/government/publications/damp-and-mould-in-social-housing-learning-the-lessons>

- 1.6. Ensuring that effective processes are in place to quickly identify and deal with damp and mould is one element of the broader requirement that boards and councillors have an up to date and accurate understanding of the quality of the homes for which they are responsible. It is important that registered providers' systems are comprehensive and encompass all of the aspects that contribute to maintaining homes in a safe condition.
- 1.7. We welcome the important changes that the Social Housing (Regulation) Bill, when enacted, will make to our remit. From April 2024, the existing serious detriment test will be removed and there will be a new focus on proactive consumer regulation. As part of this, we will be carrying out regulatory inspections of housing associations and local authorities with more than 1,000 homes. The inspections, together with other changes, such as the introduction of the Tenant Satisfaction Measures, will help us to proactively monitor registered providers to ensure they are meeting the consumer standards.
- 1.8. In advance of the changes to our remit, we began to pilot our new consumer regulation inspections during the latter half of 2022/23. We would like to thank all the registered providers and tenants that have taken part in these pilots. The testing has provided invaluable information to help us design and implement the new inspection programme from April 2024.
- 1.9. We continue to receive increasing numbers of reactive referrals. During 2022-23 we received 940 referrals from tenants, registered providers and other sources; an increase of 44% from the previous year. We investigated 438 referrals and found a breach of the consumer standards in 13 cases (further details are set out in Annex B).
- 1.10. The report underlines the importance of working effectively with the regulator to resolve non-compliance and for the first time we outline some of the features that characterise those providers that respond successfully to breaches. The case summaries illustrate the four key lessons that emerged from our casework last year:
- Landlords must maintain a tight grip on the quality of the homes they manage
 - Local authorities must act now to ensure compliance with the consumer standards
 - Effective tenant engagement is fundamental to meeting the requirements of the consumer standards
 - Meeting statutory health and safety requirements, including landlord gas safety requirements, remains an area of regulatory concern
- 1.11. The report highlights that some registered providers are not getting the basics right and failing to ensure that tenants are safe within their homes; where that is the case, this must change.

Fiona MacGregor
Chief Executive

2. Key lessons for providers

Through our consumer regulation work, we continue to identify lessons and learning which we consider to be useful to all providers. Social housing providers should take account of these lessons and act in advance of the changes to consumer regulation to ensure that they are compliant with the requirements.³

Landlords must maintain a tight grip on the quality of the homes they manage

Too many breaches were the result of an incomplete understanding of the condition of housing stock.

Landlords must:

- ensure tenants' homes meet the criteria set out in the government's Decent Homes Standard (DHS). This includes assessing Category 1 hazards, i.e. those that present a serious and immediate risk to a person's health and safety under the Housing Health and Safety Rating System.
- have an accurate and up to date understanding of the quality of the homes that they manage, underpinned by reliable stock condition survey data.
- take appropriate action when they are alerted, for instance through tenant referrals, of new issues.

Local authorities must act now to ensure compliance with the consumer standards

In 2022/23, 10 of 13 registered providers who had breached the consumer standards were local authorities. In each case, the councils self-referred, having assessed themselves against regulatory requirements.

It is vital that councillors and other senior leaders within local authorities understand their core landlord responsibilities as accountability sits with them. Regardless of management arrangements they must have a clear line of sight and ensure effective mechanisms are in place to quickly identify and tackle under-performance.

We received 33 self-referrals from local authorities during 2022-23 and concluded that our standards had been breached in ten cases. This transparency and willingness to self-refer is a cornerstone of effective regulation and is welcomed. We found that in all instances, local authorities worked effectively with us following a breach.

³ A summary of our previous lessons learned reports is available on our website: Consumer regulation review - GOV.UK

Effective tenant engagement is fundamental to meeting the requirements of the consumer standards

Landlords must treat tenants with fairness and respect and communicate with them in a way that takes account of diverse needs.

We expect landlords to be receptive to the issues that tenants raise. This year we found that:

- a landlord had failed to respond appropriately to concerns raised by tenants about the quality of the repairs service that they were receiving.
- in the case of Rochdale Boroughwide Housing, the landlord failed to hear from tenants when they were telling their landlord about the condition of their homes.

Meeting statutory health and safety requirements, including landlord gas safety requirements, is non-negotiable

Complying with statutory health and safety requirements is a fundamental responsibility for all registered providers.

For the first time in a number of years, we have found landlords who have not met gas safety requirements. This is disappointing as the regulations have been in place for over 20 years.

Causes for the failures included:

- failing to schedule the checks; and
- failing to have a robust 'no access' policy in place.

Given the inherent risk in this area, landlords must ensure that they take all reasonable steps to complete gas safety checks on time.

3. Working effectively with the regulator to resolve non-compliance

- 3.1. Returning to compliance with the consumer standards is not simply about completing, for example, overdue statutory health and safety checks. Whilst this should clearly be a focus for providers to ensure the immediate safety of their tenants, we often find that there are underlying issues that have led to regulatory breaches which also need to be resolved.
- 3.2. We find that those providers which have successfully returned to compliance have swiftly taken steps to understand the root causes of the problems they are trying to fix. Having a full understanding of the issues that led to the breach allows for the development of a coherent and robust action plan that addresses these causes.
- 3.3. We also see that the most effective responses show good levels of engagement from senior leadership during our non-compliant engagement work, typically at chief executive level. This provides us with assurance that there is a recognition at a senior level of the seriousness of the regulatory breach and provides direct and visible support to those delivering the required strategic and operational changes.
- 3.4. In the last year, three registered providers successfully delivered improvements and we withdrew their regulatory notices. Each provider engaged constructively with us and put effective arrangements in place to understand why the non-compliance had arisen and to put in place robust processes that help to ensure better outcomes for tenants. The example below sets out how one of those providers resolved the issues and returned to compliance, but it is illustrative of the way that each of these providers worked in tandem with the regulator to resolve their non-compliance.

Welwyn Hatfield Borough Council

In 2021, Welwyn Hatfield Borough Council (the Council) notified us of issues it had identified in meeting its legal health and safety responsibilities. We found a breach of the Home Standard as the Council had failed to meet legal requirements for fire, electrical, asbestos and water safety.

Over the course of the next 12 months, we engaged intensively with the Council as it completed the necessary works, appropriately managed and mitigated risks to tenants, and embedded improvements to strengthen its housing delivery service. The Council engaged positively and constructively with us, and its team, led by the Chief Executive, moved quickly to understand why the problems had arisen and to address the presenting issues.

The Council was transparent with us around the challenges it faced within its housing service. It ensured that the necessary support and resources were available to the housing department to aid its return to compliance and, importantly, to quickly mitigate risks to tenants.

Central to the Council's return to compliance was its identification of the root causes of what went wrong. The Council obtained external expertise to support this work which was completed early in the process and allowed it to put in place a robust plan, linked to the root causes, which had clearly defined actions and timescales. This plan provided a coherent framework for the Council, and the regulator, to effectively monitor progress. At the end of the process, the Council sought external assurance regarding its compliance.

As a result of the clear plans the Council had put in place to address the root causes, the senior level support provided to the team, and the Council's effective use of the external expertise it had obtained, the Council was quickly able to demonstrate its return to compliance. Just over 12 months after the initial publication, we removed the Regulatory Notice.

4. The Home Standard

- 4.1. The Home Standard requires registered providers to provide homes of a decent quality, and to have an effective repairs and maintenance service which responds to the needs of tenants. It also requires registered providers to meet statutory requirements to provide for the health and safety of tenants within their homes.
- 4.2. In all the cases summarised below, we found breaches of the Home Standard that had risked serious harm to tenants.

Decent Homes Standard, repairs and stock condition

- 4.3. There have been several examples this year of registered providers failing to meet the requirements set out in the Home Standard. The case summaries below set out the details of two cases where a local authority and a private registered provider failed to provide decent quality homes for their tenants and to ensure that they had access to effective and efficient repairs services. In both cases, we concluded that the providers had breached the Home Standard and risked serious harm to tenants.

Case summary 1

Compliance with the stock condition and repairs requirements

We received referrals from the London Borough of Haringey (LBH) and the Industrial Dwellings Society (IDS) regarding concerns about their stock. We found that LBH had failed to maintain its homes to the minimum standards required, and that IDS had failed to provide an effective repairs service.

IDS manages about 1,200 social housing units. Following concerns raised by residents living on the Evelyn Court estate, IDS carried out an investigation and identified issues relating to damp, mould, condensation and flooding. A root cause analysis identified failures both at the estate and across the organisation, including difficulty in tenants being able to report repairs and a lack of planned maintenance. IDS could not provide us with assurance that it understood the full condition of its homes or the extent of the works required to address the issues. We found a breach of the Home Standard and concluded that, as a consequence, there was potential for serious detriment to tenants. We published a Regulatory Notice in relation to IDS's management of its planned repairs and maintenance programme.

LBH told us about issues in relation to both landlord health and safety and compliance with the DHS. It was reporting that 30% of its 15,000 homes did not meet the standard and had identified, as part of recent stock condition survey work, more than 100 Category 1 Housing Health and Safety Rating System failings.

(Category 1 failings are serious hazards that pose an immediate risk to a person's health and safety). Providing good quality homes is a fundamental responsibility of housing providers due to the potential for serious harm to residents. We found that the Council's stock did not meet the minimum quality standards required. We published a Regulatory Notice in relation to compliance with the DHS, along with identified health and safety failings, including fire safety, and concluded that there was a risk of serious detriment to tenants.

Both LBH and IDS have demonstrated that they understand the work needed to resolve the failings and have put plans in place to address the immediate issues and underlying causes. We are continuing to engage intensively with both providers as they implement their plans.

Gas safety

- 4.4. The risk of not completing regular gas safety checks on tenants' homes is considerable. The underpinning regulations in this area (The Gas Safety (Installation and Use) Regulations 1998) have been in place for over 20 years and so are well known across the sector. However, this year we have found that two local authorities had breached the Home Standard for failing to ensure the safety of residents in relation to gas safety. In total, this related to almost 2,000 homes where tenants were exposed to potential harm. Some of the gas safety checks had not been completed for over five years.
- 4.5. The case summary below highlights the importance of ensuring access is obtained to tenants' properties to complete vital health and safety checks, as well as the need to ensure robust scheduling of the required inspections.

Case summary 2

Gas safety

Newark and Sherwood District Council (NSDC) and Sheffield City Council (SCC) both made self-referrals to us after they had identified issues with their gas safety compliance. Both organisations had large volumes of properties where there had been a failure to complete an annual gas safety inspection within the last 12 months, as required by law.

NSDC told us that over 1,000 of its properties had not received a gas safety inspection within the statutory timeframe. Although most of the inspections were typically overdue for only a relatively short period of time, almost 20% of the Council's homes were affected.

In the case of SCC, it told us that more than 800 properties had not received a gas safety inspection within the statutory timeframe. In this case, a significant number of the properties were overdue inspections by more than 12 months and some had not been carried out for almost five years. We found a breach of the Home Standard in both cases and published regulatory notices for both providers.

Both NSDC and SCC have demonstrated that they understand the work needed to rectify the failures, including to complete the checks as a priority to mitigate any risk to tenants. They are also working with us as they make improvements to address the underlying causes.

Maintaining clear and accurate records of health and safety testing

- 4.6. It is essential that landlords have good quality data in order to manage and monitor compliance with statutory health and safety requirements, and where necessary, put in place steps to mitigate risks to their tenants.
- 4.7. The case summary below highlights three local authorities which did not have clear and reliable data that could provide them with assurance that they were keeping tenants safe. We concluded that all three providers had breached the Home Standard and risked serious harm to their tenants.

Case summary 3

Maintaining accurate and clear records of health and safety testing

London Borough of Ealing (LB Ealing), London Borough of Redbridge (LB Redbridge) and Great Yarmouth Borough Council (GYBC) self-referred to us after identifying issues with the accuracy of their records. None of the councils could determine whether all necessary health and safety compliance checks or remedial works had been carried out.

LB Ealing explained that a significant number of its properties lacked recorded in-date Fire Risk Assessments (FRAs), and that data validation was required to provide assurance that its properties had undergone the relevant fire safety inspections. An internal audit also found no evidence of monitoring of remedial works in relation to fire, electrical, asbestos and water safety actions.

GYBC referred to us after an internal audit found it did not have up to date records of health and safety compliance and that it lacked assurance that all required checks and remedial actions had been undertaken. A review had also found that FRAs carried out were neither suitable nor sufficient and reliance could not be placed upon them. The Council informed us that there were problems with the integrity of its property and compliance data, which was stored across a number of different systems and organisations.

Similarly, LB Redbridge told us it lacked complete records of whether health and safety compliance checks had been carried out in relation to electric, fire and water safety, including whether over 450 of its communal areas required asbestos surveys. We also identified that LB Redbridge lacked clear records on remedial actions in relation to fire door replacements and that it could not report on how long the actions had been overdue.

When taking into account the seriousness of the issues and the number of tenants potentially affected, we concluded that there had been a breach of the Home Standard in all three cases and that there was a risk of serious detriment.

We published regulatory notices for these three councils in 2022. They have all since put in place action plans to address the accuracy of their health and safety compliance records. These plans include moving away from manual spreadsheets, implementing clear data validation processes, and the introduction of new compliance software systems. We will continue to work with each of these councils as they resolve the issues which led to the breach of the standard.

Failure to meet legal health and safety requirements

- 4.8. Complying with statutory health and safety requirements is a fundamental responsibility of all registered providers because of the potential for serious harm to tenants. However, the majority of the breaches we found this year included elements of failing to meet legal health and safety requirements. The case summary below highlights five registered providers (four of which were local authorities) that had failed to ensure that they complied with their legal requirements, either by failing to complete the relevant inspections and assessments, or failing to complete follow-on remedial works. This left thousands of tenants at risk of serious harm.

Case summary 4

Failure to meet legal health and safety requirements

We received referrals from five housing providers regarding issues they had identified in meeting their legal health and safety responsibilities for various compliance matters including fire, gas, electrical, asbestos, and water safety, and issues with data quality.

East Suffolk Council had almost 100 overdue FRAs and did not have evidence that remedial actions had been completed, following previous assessments. The Council did not have data to provide assurance that it had completed tests and inspections within the relevant timescales in relation to electrical safety, water safety, asbestos safety, and lift safety.

We found that the London Borough of Greenwich had more than 400 outstanding FRAs along with hundreds of high-risk remedial fire actions that had not been completed. It had more than 1,000 communal areas and over 10,000 domestic properties that did not have a current electrical condition report. It also failed to ensure that hundreds of blocks had valid asbestos surveys. 80 residential blocks did not have a current water risk assessment.

Swan Housing Association (Swan) had initially identified over 200 overdue FRAs in October 2020 but did not inform us about this at that time. Whilst it completed the overdue risk assessments, almost 1,500 remedial actions arising from them (which included a significant number of high and medium risk actions) became overdue at which point it referred the matter to us. Additionally, more than half of Swan's communal areas did not have an asbestos management survey, and the association was not following guidance for an annual review of areas where asbestos was present. Swan also failed to record that the recommendations of water safety risk assessments had been completed. Swan's breach of the Home Standard and the lack of appropriate oversight of compliance risks was further evidence of the governance failings which we had set out in a non-compliant G3 judgement for the provider, published in December 2021.

We received a self-referral from Babergh District Council and Mid Suffolk District Council notifying us of issues they had identified in meeting their health and safety compliance responsibilities for gas, electrical and asbestos safety. Babergh District Council did not have valid communal asbestos surveys for all its communal blocks, with over 70% of re-inspection asbestos surveys overdue. There were also a number of overdue electrical and gas safety inspections. Mid Suffolk District Council similarly did not have communal asbestos surveys for all its communal blocks, and re-inspections were overdue for over half the total number required. There were also overdue electrical and gas safety inspections. In both cases we found a breach of the Home Standard as the councils were failing to meet legal health and safety requirements and had put their tenants at risk of serious harm.

Since publishing regulatory notices for all five providers, we have seen evidence that they understand the work required to put things right and have plans in place to achieve compliance with their legal health and safety responsibilities. These plans include prioritising work according to risk and the vulnerabilities of tenants, reconciling data, and reviewing and strengthening their health and safety monitoring systems and processes. We will continue to engage intensively with the providers as they address these issues until they can provide assurance that they now meet the consumer standards.

5. The Tenant Involvement and Empowerment Standard

- 5.1. Providers must be receptive to concerns raised by tenants and they must ensure that all tenants' voices are heard, including from the most vulnerable. The Tenant Involvement and Empowerment Standard requires registered providers to take account of the diverse needs of tenants, treat all tenants with fairness and respect, and to demonstrate they understand the different needs of their tenants.
- 5.2. This year we have introduced the Tenant Satisfaction Measures, which include measures relating to whether tenants consider their landlords listen to them and treat them with respect. Whilst this data will not be available until 2024, the example below highlights the importance that providers should place on listening to tenants and understanding their needs to ensure that they are treated fairly and equitably.

Case summary 5

Failing to treat tenants with fairness and respect or to demonstrate understanding of their diverse needs

We received information from Rochdale Boroughwide Housing (RBH) following the death of Awaab Ishak, which included information relating to the presence of damp and mould at the family's home. The link between the mould and Awaab's death had not been made at that stage and this was to be considered further as part of a coroner's inquest.

In November 2022, the coroner concluded that Awaab's death was attributable to the conditions in his home and that there was a lack of effective ventilation at the property. Despite the family having previously reported issues with damp and mould in their home, and informing RBH about Awaab's health condition, RBH did not take sufficient steps to address the problem.

At the time of the inquest, RBH acknowledged that almost 80% of tenants on the estate where Awaab lived had some signs of mould that it had not previously been aware of. We considered that this was indicative of tenants not being aware of how to report issues, or not considering that the issues would be resolved if they did report them. RBH also accepted that it made assumptions about the lifestyle of Awaab's parents and this affected how it responded to their reports of damp and mould. RBH did not speak to the family about the assumptions it had made, and as a consequence, it did not treat them with fairness and respect when making decisions about how to resolve the conditions in their home. The fact that similar conditions were faced by so many other families on the estate indicated that this was a more widespread failure.

In December 2022, we published a Regulatory Notice setting out the breach of the consumer standards. We concluded that Awaab and his family had suffered the most serious harm as a result of RBH's failings. Furthermore, other families had also experienced harm as a result of the quality of the accommodation provided by RBH, and we did not have assurance that other tenants had not been similarly put at risk as a result of the failings.

We also found failings in RBH's governance arrangements and published a non-compliant, G3 regulatory judgement.

Since then, we have engaged intensively with RBH as it works to understand the root causes of the issues and deliver its recovery plan; this includes short term and longer-term changes to its processes, systems and organisational culture. Significant changes have already been made, including, but not limited to, new appointments to the board and senior executive team. We will continue our intensive engagement with RBH until it has demonstrated that the issues leading to the tragic death of Awaab Ishak have been addressed and improvements embedded across the organisation.

6. The Neighbourhood and Community Standard

- 6.1. The Neighbourhood and Community Standard includes three specific expectations in relation to neighbourhood management, local area co-operation and anti-social behaviour. In relation to this standard, most commonly this year, we received several referrals from tenants reporting that they had been affected by anti-social behaviour.
- 6.2. Given the impact anti-social behaviour can have on peoples' lives, and the neighbourhoods where they live, it is vitally important that registered providers have effective policies and processes in place to work with others and seek to address these issues. Part of the specific expectations within this standard require registered providers to work in partnership with other agencies to prevent and tackle anti-social behaviour, and to provide support for victims and witnesses.
- 6.3. The case summary below is an example of how a registered provider worked effectively with other agencies to seek to resolve anti-social behaviour concerns and supported affected tenants during this process.

Case summary 6

Working with partner agencies to manage anti-social behaviour

A resident told us about safeguarding concerns and anti-social behaviour they were experiencing. In response to our enquiries, the provider sent us details of its partnership working and details of the support it was offering to the complainants and the alleged perpetrators. The provider explained its arrangements for reporting anti-social behaviour and safeguarding concerns. It also set out how it was taking account of the additional support needs and vulnerabilities of the tenants to enable them to report anti-social behaviour. The provider highlighted how it had worked collaboratively with other agencies including the police, social services, environmental health, education and with its local operational strategic partnership, in resolving the case.

The provider's response gave us assurance that it had the relevant systems, processes, and procedures in place to manage reports of anti-social behaviour and safeguarding. In this instance, the provider took reasonable steps to work with the tenant, including taking account of their additional support needs, and worked collaboratively with others to try and resolve the issues. Therefore, we did not find a breach of the Neighbourhood and Community Standard.

7. The Tenancy Standard

- 7.1. The Tenancy Standard requires providers to ensure that their homes are let in a fair, transparent and efficient way. They must demonstrate they offer tenancies or terms of occupation which are compatible with the purpose of the accommodation, the needs of individual households, the sustainability of the community, and the efficient use of their housing stock. Providers should also co-operate with local authorities to help them meet their strategic housing function. The Tenancy Standard also requires providers to enable their tenants to access opportunities to exchange their tenancy with that of another tenant.
- 7.2. We receive relatively few referrals about the Tenancy Standard, and we did not find any breaches of the standard in 2022-23. However, the case summary below demonstrates the importance of providers having robust processes in place to ensure that the tenancies they offer meet the needs of their tenants, and that they have effective systems to identify when things go wrong.

Case summary 7

Incorrect tenancies

We received a self-referral from a provider which identified that a number of its homes had been misclassified as intermediate rent rather than affordable rent. As a result, the affected tenants had been overcharged. The issue occurred in a legacy organisation which merged to become part of the referring provider. The provider told us a small number of tenants impacted by the mistake were evicted due to rent arrears, and that some had been wrongly placed on incorrect tenancies and served Section 21 Notices.⁴ As a result of the referral, we engaged with the provider which shared a summary of the cases.

The provider sought legal advice and each case was assessed individually by the provider to determine the impact on the tenant and whether a refund or compensation was due. Based on the circumstances of the cases, the provider told us it was likely the tenants would have been evicted due to the level of rent arrears and other tenancy breaches, even if the rent had been set correctly. However, the provider recognised that it had made mistakes in this case. As part of its investigation, it appointed external consultants to review all tenancies, in addition to a planned sampling of historical tenancy agreements. Given the assurances we received from the provider and this third-party review, we concluded that there had not been a breach of the Tenancy Standard.

⁴ A Section 21 Notice can be issued by a landlord serving to end an assured shorthold tenancy.

Annex A – Summary of our role and how we regulate

Our aim is to promote a well-governed, viable and efficient social housing sector that is able to deliver homes meeting a range of needs. As the regulator of social housing, Parliament has given us both an economic and a consumer regulation objective. The consumer regulation objective is to:

- support the provision of well-managed and appropriate quality housing
- ensure tenants are given an appropriate degree of choice and protection
- ensure tenants have the opportunity to be involved in the management of their homes and to hold their landlords to account
- encourage registered providers to contribute to the well-being of the areas in which their homes are situated.

To achieve this objective, we have set four consumer standards⁵ which each have required outcomes and expectations:

- Home
- Neighbourhood and Community
- Tenancy
- Tenant Involvement and Empowerment

We currently only have a mandate to regulate the four consumer standards reactively, and therefore do not proactively monitor the performance of providers or their compliance with the consumer standards. We consider information we receive from a range of sources, such as from tenants and self-referrals from providers, to determine whether there has been a breach of the consumer standards. In every case we consider if there are any equality and diversity issues. Further details on our regulatory approach are set out in 'Regulating the Standards'.⁶

From April 2024, our mandate will change and we will begin our proactive consumer inspection programme, focusing on large landlords (i.e. those with 1,000 or more homes) that are registered with us. These regulatory inspections will assess whether landlords are meeting our new consumer standards, which we will be consulting upon in the second half of 2023. We continue to encourage all registered providers to act now to ensure that are ready for the commencement of the new regulatory regime.

⁵ <https://www.gov.uk/guidance/regulatory-standards>

⁶ <https://www.gov.uk/government/publications/regulating-the-standards>

Annex B – Analysis of cases

Referrals by stage

Our consumer regulation process has three stages:

- Stage 1: an initial review by the Referrals and Regulatory Enquiries team who review all incoming enquiries
- Stage 2: a more detailed review by the Consumer Regulation Panel to determine whether there is evidence of a breach of the standards
- Stage 3: an investigation in cases where there could be a breach of the standards, or if there is a suggestion that tenants are at risk of serious harm.

We have provided a diagram on our website setting out this process in more detail.⁷

The table below shows the total number of consumer regulation referrals handed by us in 2022-23 at each stage. The 2021-22 figures are also given for comparison purposes.

	2022-23	2021-22
Stage 1 – All referrals	940	653
Stage 2 – Considered by Consumer Regulation Panel	438	298
Stage 3 – Investigation undertaken	195	146
Published findings of breach and serious detriment	13	8

In 2022-23 we received 940 referrals which was an increase of 44% on the previous year. The proportion of referrals moved to Stage 2 was consistent with last year (47% in 2022-23, compared with 46% in 2021-22). Similarly, the proportion of cases that required further investigation remained consistent (21% in 2022-23 compared with 22% in 2021-22). In 2022-23 we found a breach and serious detriment in 13 cases, five more than in the previous year. Where we do not find a breach of the standards, that can be for a range of reasons, including where referrals are found to relate to individual matters that should be raised through the registered provider's complaints process and the Housing Ombudsman; the referral is not within our remit; or the referral does not relate to our consumer standards.

⁷ Consumer regulation process - GOV.UK (www.gov.uk) Page 35

Sources of referrals

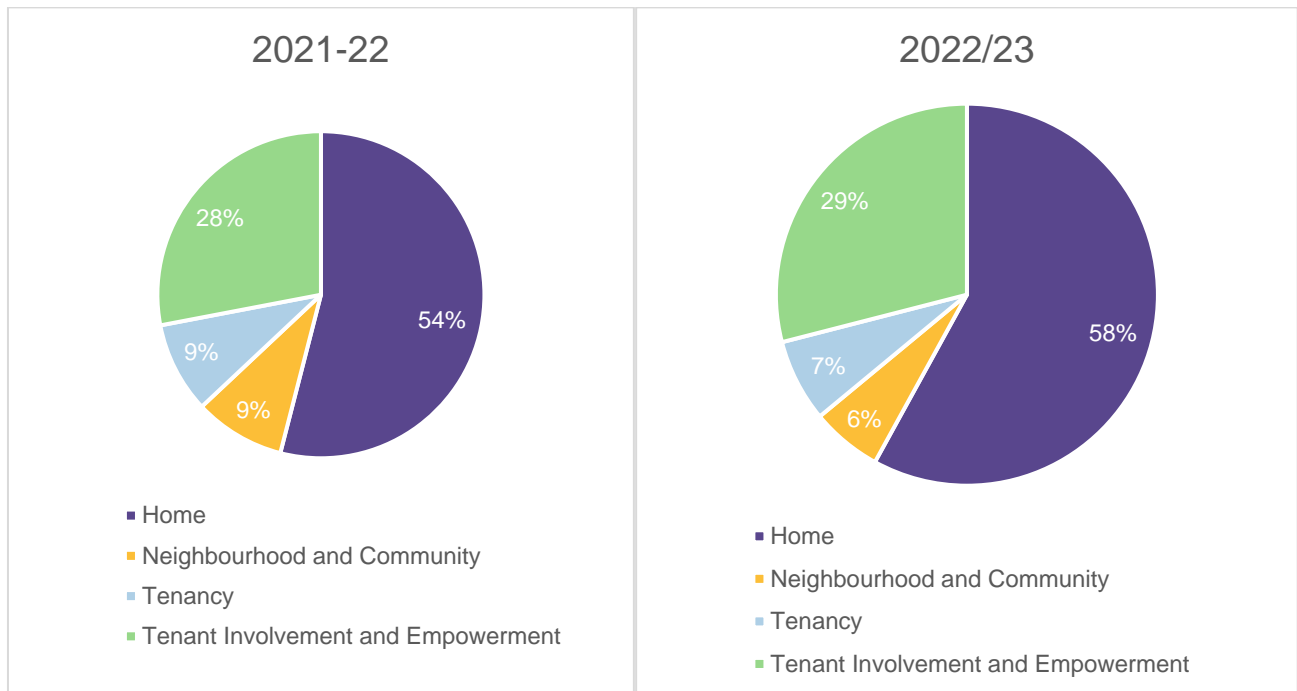
We receive referrals from a range of sources, most often from tenants and directly from registered providers. We also receive information from employees or contractors, which can include whistle blowing referrals⁸, and we identify referrals in the course of our planned regulatory engagement with providers. This year, we have also considered some cases arising from referrals associated with media reporting. The table below shows that for all referrals received, the source of these referrals was broadly consistent with the previous year.

	2022-23	2021-22
Referrals from individuals	61%	61%
Referrals from elected representatives	2%	5%
Referrals from contractors/employees	2%	3%
Self-referrals from private registered providers (housing associations)	18%	13%
Self-referrals from local authority registered providers	4%	2%
Referrals identified through regulatory engagement	3%	5%
Referrals following issues reported in the media	3%	4%
Other reports	7%	7%

⁸ <https://www.gov.uk/government/publications/whistle-blowing-report-2021-22>

Referrals by standards

The proportion of referrals relating to each of the consumer standards has remained consistent each year. As in previous years, the Home Standard continues to be the consumer standard that is most often cited in referrals, representing 58% of all referrals considered at Stages 2 and 3. The Tenant Involvement and Empowerment Standard is the next most frequently cited standard, accounting for 29% of cases in the year. Referrals which relate to the Neighbourhood and Community Standard and the Tenancy Standard continue to represent a smaller proportion of our work.





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RSH regulates private registered providers of social housing to promote a viable, efficient and well-governed social housing sector able to deliver and maintain homes of appropriate quality that meet a range of needs.