



**Committee Name: Cabinet**

**Committee Date: 12/11/2021**

**Report Title: Health, Safety and Compliance in Council Homes**

<b>Portfolio:</b>	Councillor Harris, Deputy leader and cabinet member for social housing
<b>Report from:</b>	Executive director of community services
<b>Wards:</b>	All Wards
<b>Report OPEN PUBLIC ITEM</b>	
<b>Exempt Annex NOT FOR PUBLICATION by virtue of Paragraphs 1 and 3 of Part 1 of Schedule 12A of the Local Government Act 1972</b>	

### **Purpose**

To provide information and recommendations to Members about health, safety and compliance management and improvement in council homes.

### **Recommendation:**

1. Members endorse the information in this report and the action proposed to secure compliance with the Homes Standard
2. Approve the utilisation of HRA revenue repairs and maintenance budget to fund revenue works relating to the Compliance Improvement Plan.
3. Members note the technical virement approved by the Section 151 Officer, as referenced in the table shown in paragraph 46 to enable water safety works relating to the Compliance Improvement Plan to commence immediately.
4. Approve the proposed virement of HRA revenue budgets set out in the table shown in paragraph 44 to support delivery of revenue works relating to the Compliance Improvement Plan.
5. Recommend to November Council that the HRA capital programme is increased by £1m in 2021/22 and £1m in 2022/23 to support delivery of capital upgrade works relating to the Compliance Improvement Plan as set out in paragraph 48.

6. Approve the creation of a new HRA Compliance earmarked reserve to enable any HRA amounts established to support the Compliance Improvement Plan, unspent at year end, to be utilised in future years in relation to compliance works to HRA properties.
7. Approve extending the remit of the existing General Fund Commercial Property Reserve and General Fund Repairs Reserve to cover the costs of compliance works to General Fund properties as detailed in paragraph 48.
8. Members note that quarterly progress reports against the Compliance Improvement Plan will be presented to Cabinet.

## **Policy Framework**

The Council has three corporate priorities, which are:

- People living well
- Great neighbourhoods, housing and environment
- Inclusive economy

This report addresses the following strategic actions in the Corporate Plan:

- People living well and great neighbourhoods, housing and environment.

The Council's Housing Strategy '*Fit for the Future*' *A Council Housing Strategy for Norwich* sets priorities for the Council's homes and estates for the period 2020 to 2026. It identifies four primary goals, these are:

- Meeting Housing need - delivering new homes.
- Maintaining and improving condition of existing housing
- Improving the use and management of our existing housing stock
- Improving our neighbourhoods

## **Report Context**

1. Norwich City Council (NCC) is landlord of approximately 14,500 council homes and the freeholder for the buildings in which approximately 3,000 leaseholder homes are situated.
2. These homes consist of a mixture of houses, flats, bungalows community centres and recreational buildings.
3. Many of the houses and bungalows are situated on estates with gardens, with flats and further bungalows in sheltered housing schemes, tower blocks and medium and low-rise blocks.
4. The homes span a building period of approximately 100 years, from approximately 1920.
5. Registered providers of social housing (including council's and housing associations) are governed by the Regulator of Social Housing (RSH). The objectives of the RSH are set out in the Housing and Regeneration Act

2008. At the core of the RSH regulation is a set of standards which registered providers landlords must comply with. These include 3 economic standards and 4 consumer standards. The consumer standards are applicable to registered providers, including Councils. The economic standards do not apply to Councils because the RSH has no power to set economic standards for Councils (except rents).

6. In relation to the consumer standards the RSH role is reactive in response to referrals or other information received. The RSH will therefore only use its regulatory and enforcement powers where it judges that there has been a breach of the standards which has caused or could cause serious detriment to tenants.
7. The consumer standards are:
  - The tenant involvement and empowerment standard - customer service, choice, and complaints; involvement and empowerment; understanding and responding to the diverse needs of tenants
  - **The home standard** - quality of accommodation; repairs and maintenance
  - The tenancy standard - allocations and mutual exchanges; tenancy management
  - The neighbourhood and community standard - neighbourhood management; local area co-operation; anti-social behaviour
8. The required outcomes of the **Home Standard** are summarised below:
  - Ensure council homes meet the Decent Home Standard and are maintained to this standard
  - Provide a cost-effective repairs and maintenance service to homes and communal areas that responds to the needs of, and offers choice to tenants, and has the objective of completing repairs and improvements right first time
  - **Meet all applicable statutory requirements that provide for the health and safety of occupants in their homes**
9. NCC's repairs and maintenance services are currently delivered by Norwich Norse Building Ltd (NNBL), and strategic property services are delivered by Norfolk Property Services Norwich Ltd (NPSN). Both are joint ventures and are owned jointly by NPSN and NCC.
10. In June 2020 Members approved a business case to establish its own wholly owned company called Norwich City Services Ltd (NCSL). Environmental services transferred to the company in April 2021. It was further approved that repairs and maintenance services would transfer to NCSL in April 2022 and strategic property services would return to NCC directly at the same time. A summary of the benefits identified in the business case included:
  - Greater direct influence and control over how services are provided
  - Removing a layer of middle management processes between the council and the building maintenance service
  - Simpler governance arrangements enabling more direct oversight and management of performance

- Greater accountability and better communication which should improve employee and customer experience.
11. The transfer of repairs and maintenance and property services is progressing in line with key milestones and will report to Cabinet in December 2021.

## **Report Detail**

### **Health, Safety and Compliance – background information and initial findings**

12. This is the first in a series of reports to Members, which will provide information, updates, and recommendations in relation to health, safety, and compliance in council homes.
13. NCC is responsible for ensuring all statutory requirements for health, safety, and compliance in relation to its homes and its operation as a business undertaking are met. This includes making sure that regular checks, inspections and risk assessments take place within required timescales and that any remedial works or other actions arising as a result of those inspections and risk assessments, are completed in a timescale consistent with the level of risk.
14. Compliance management is delivered for NCC by NPSN. It is NCC's understanding that NPSN were retained to manage the programme and are responsible for completing fire risk assessments, water hygiene and asbestos inspections, they also commission a range of contractors to undertake specialised inspections and remedial works including gas and electrical inspections and the remedial works required resulting from those inspections.
15. A summary of the six main areas in the management of health, safety and compliance which apply to social housing landlords is set out below:

#### **Electrical Safety**

##### **Communal Areas**

NCC is classified as a Building Network Operator (BNO) and is responsible for the power supplies from the intake position to properties (flats) within a building. These power supplies are typically referred to as riser and lateral mains and distribute power to individual flats in the building. There is a statutory requirement to ensure that the risers and laterals are maintained safely. It is recommended that a communal Electrical Inspection Condition Report (EICR) is undertaken every 5 years.

##### **Domestic Installations**

Under the 'Landlord and Tenants Act (1985), NCC as a landlord, must ensure that the fixed electrical installation in a rented property is maintained safely throughout a tenancy. To ensure this, BS7671 recommends a domestic EICR test at change of tenancy or at least every 5 years.

These inspections identify faults and recommendations, and it is NCC's responsibility to ensure that these are correctly completed, and all follow up actions are carried out.

## **Gas Safety**

Primary legislation is Gas Safety (Installation and Use) Regulations (GSIUR) 1998) and the Health & Safety at Work etc. Act 1974.

Each dwelling that has a gas fuel supply must undergo an annual inspection, commonly referred to as a Landlord Gas Safety Record (LGSR). Inspections must be undertaken by suitably qualified gas engineers, who will be registered on the Gas Safe Register. The LGSR checks can be undertaken from 10 months following the last inspection, which allows for access issues.

There is a similar requirement to ensure that communal gas boiler installations are safe to use, and certification has to be issued accordingly.

## **Water Hygiene**

Primary legislation is the Health and Safety at Work etc. Act 1974 (HSWA), Control of Substances Hazardous to Health Regulations 2002 (COSHH) ACoP L8, and The Management of Health and Safety at Work Regulations 1999 (MHSWR).

The control of Legionella bacteria in water systems, Approved Code of Practice, and guidance (ACoP) L8, provides specific guidance on the requirements of the HSWA and COSHH. In addition, HSG 274 provides technical guidance on how to control legionella in hot and cold-water systems. Although guidelines only, L8 is adhered to, the Council will be able to show and evidence compliance with the primary legislation (HSWA and COSHH).

An employer or person in control of a premises has a legal duty to ensure the safety of staff, residents, visitors, and people in the vicinity of their property. Properties will have Legionella Risk Assessments (LRA) undertaken and these will identify remedial works and management actions arising from the LRA to ensure that the systems are managed and maintained in a safe condition.

Ideally each property should have a schematic layout completed that identifies all known pipe runs and this should be updated to reflect remedial works. The frequency of follow up LRA's will be determined by the condition of the installations and what follow on works and management procedures are required.

## **Fire Safety**

The relevant primary legislation is the Regulatory Reform (Fire Safety) Order 2005 (the RRFSO), which has been supplemented and extended by the Fire Safety Act 2021 (the Act). The Act extends the provisions of the

RRFSO to include the following parts of multi-occupied residential buildings:

1. Structure, external walls and any common parts (including doors, windows, balconies, cladding); and
2. All doors between domestic premises and common parts.

NCC as a is responsible for ensuring that its properties that are accessed via communal areas are safe for residents. This is primarily limited to the communal areas of these buildings, unless circumstances warrant further investigations that also capture dwelling internals.

To help ensure this, NCC will undertake Fire Risk Assessments (FRA's) on all of its buildings that fall within this category. The frequency of the Fire Risk Assessments will be determined by the outcome of the original risk assessment.

The exception to this are High Risk Residential Buildings (HRRB's) which have a top storey height above 18 metres. FRA's in HRRBs should be undertaken annually.

### **Asbestos**

The relevant legislation is the Control of Asbestos Regulations 2012 incorporating the ACoP. Regulation 4 places a duty to 'manage the risk and prevent harm to anyone who works on the building or to building occupants. NCC must have an up-to-date Asbestos Management Plan and an Asbestos Register, which records the location and category of all known asbestos containing materials (ACM) in the common areas of its properties.

NCC must ensure that where asbestos containing materials are left in situ, the condition is regularly assessed through reinspection to ensure that there is no deterioration. The reinspection intervals are determined by the condition, category, and location of the identified asbestos and should be adequately recorded. The surveying of all asbestos should be undertaken in accordance with HSG 264.

### **Passenger Lifts**

Primarily governed by Lifting Operations and Lifting Equipment Regulations (LOLER) 1998 and Approved Code of Practice and Guidance L113 (LOLER ACoP). Other relevant legislation is the Provision and Use of Work Equipment Regulations 1998 (PUWER) and the Health & Safety at Work etc. Act 1974.

The Current requirement is for passenger lifts be comprehensively tested every 6 months. This should be carried out in conjunction with a comprehensive servicing and maintenance programme, to rectify faults as these arise.

NCC has twice yearly independent inspections undertaken by their insurers, Zurich.

16. In June 2021, an internal high-level review of health, safety and compliance management was instructed following appointment of the executive director of communities.
17. NCC interim consultants began working closely with NPSN colleagues to establish the baseline position with regard to the compliance functions.
18. To further support the internal review, NCC commissioned Calford Seaden, an independent expert, to carry out a desk top compliance report across the main compliance areas and Beacon Partnership, fire safety consultants, were asked to carry out an inspection of fire safety works to Normandie and Winchester Towers.
19. The summary findings of the Calford Seaden compliance report:
  - There are several policies and procedures which are either missing entirely or need review to ensure the responsibility and actions required are clearly defined.
  - There has been limited oversight of compliance performance and no clear accountability for undertaking health and safety compliance work.
  - There is no clear and consistent mechanism for logging remedial actions and closing them out across a number of disciplines.
20. Fortnightly meetings of key officers were set up to identify and undertake urgent actions arising, and to support gathering data. When it became clear, that it was going to take time to establish the full position, and that NCC may be in breach of the Home Standard. The decision was taken to write to the RSH, self-referring and setting out the position as understood at the date of writing.
21. The self-referral was made on the 28 July 2021. In summary, the letter, which is attached to this report at **Annex 1** described the level of outstanding checks and inspections at that time, actions taken and the plans for improvement going forward. NCC committed to working with the RSH in a full and transparent way to rectify matters as swiftly as possible.
22. During August and September 2021 NCC worked with the RSH to provide further information and report progress. During this time the RSH considered whether a breach of the Home Standard had occurred which had caused, or would cause, a serious detriment to residents.
23. In October 2021 the RSH found that NCC had breached the Homes Standard and has published a Regulatory Notice. A copy of the Regulatory Notice is attached to this report at **Annex 2**.
24. The RSH has not felt it necessary to take any enforcement action against NCC. This is because the RSH has confidence in NCC's plans to improve services and return to full compliance. The RSH will work closely with NCC to monitor progress against a Compliance Improvement Plan.

## **Health, Safety and Compliance – current position and plans for improvement**

25. New governance arrangements, comprehensive plans and proposals are being developed to return NCC homes to full compliance. It is expected that this will take 12 months to achieve, and a further 6 to 12 months to complete and fully embed improvements in processes and systems.
26. A new task and finish Health and Safety Compliance Board has been established to oversee this process. The Board is chaired by the executive director of community services and attended by the chief executive, the portfolio holder for social housing, the portfolio holder resources and the executive director of development and citywide services. It is proposed that membership of the Board will be extended to the head of finance audit and risk, the HRA senior finance business partner, the communications manager, the monitoring officer and the head of property and economic development. This will be agreed by the Board at its next meeting.
27. This report focuses on council homes however the recommendations in the Calford Seaden report contain recommendations relating to the NCC operational property estate. These recommendations will be incorporated into the CIP and monitored at the Board which has an overview over both housing and non-housing property compliance issues and reported to Cabinet, quarterly.
28. A Compliance Improvement Plan (CIP) has been developed. It is a 'live' document which will be continually updated in response to emerging information, completed actions, ongoing checks and inspections. The CIP is routinely monitored by the Health & Safety Compliance Board and will be reviewed against agreed milestones. A key aspect of the CIP is that each action has an "owner" who is responsible for its completion.
29. Actions identified within the CIP are based on currently available data, the Calford Seaden review, actions identified in the fire safety report, statutory requirements and best practice.
30. The Compliance Improvement Plan is a structured programme of projects and activities designed to address all of the matters that have been identified and shared with the regulator. The final programme will be agreed with the RSH. Projects and activities will be prioritised and scheduled for delivery. As set out in paragraph 25, it is anticipated that the programme will take 12 months to deliver and a further 6 to 12 months to embed processes and procedures and return NCC to full compliance.
31. There are approximately 40 projects being developed. The CIP is being further developed to reflect work required in preparation for the Building Safety Act. The key projects are summarised below with a commentary on progress.



<b>Project/Activity</b>	<b>Progress</b>
Commission an in-depth audit of all compliance areas	Complete – Findings used to further inform the Compliance Improvement Plan activity
Undertake a compliance audit on all contractors working on Council Homes	Work has been commissioned.
Undertake a competency and capacity review of all employees involved in Compliance-related functions	To be commenced
Establish a H & S Compliance Governance Board.	Completed and in place and meeting fortnightly monitoring progress with the delivery of the CIP.
Establish a H & S KPI Dashboard for Governance Board	In development. To report progress across all key performance measures relating to the compliance functions
Review of all Compliance Policies and Procedures	To be commenced
Implement trackers for all remedial actions for all compliance functions	Trackers have been developed and implemented for Fire Safety and Water Hygiene. The trackers for Electrical Safety will be in place by the end of November
Review all his historical MHCLG (Ministry of Housing, Communities and Local Government) guidance and instruction notes issued to social landlords dating back to June 2017 (the Grenfell Tragedy) to ensure that the Council is fully compliant	NPS undertaking the review and scheduled for completion January 2022.
Undertake a quality review of all Fire Safety Improvement works undertaken in the last 5 years to ensure compliance with Fire Safety Standards	To commence
Commission and implement a programme of Communal EICR's	Progressing – scheduled for commencement December 2021
Appoint appropriately accredited asbestos surveyors and contractors to undertake re-inspection and remedial works	Progressing

32. In addition to the CIP, NCC have created a Compliance Tracker (CT) which tracks progress against each of the compliance categories.

33. The CIP and tracker will be constantly reviewed to ensure priority actions are identified and actioned. The actions will be rag rated and will be resourced accordingly.

34. The Board will monitor progress against the Compliance Improvement Plan and Compliance Tracker and approved resources as required. The Health and Safety Compliance Board will report to Cabinet quarterly on progress with delivering the CIP.
35. Temporary resources are required to provide the required skills and expertise to return NCC homes to full compliance within the timescales expected. Recruitment to key roles has been completed within existing HRA contingency budgets and delegations. Further recruitment will need to be undertaken and existing contracts extended to provide sufficient capacity and expertise.
36. In addition to securing sufficient internal resources, it is necessary to increase contractor capacity. Discussions are underway with contractors to identify support for the compliance improvement programme. Appointment of appropriate contractors will be undertaken as swiftly as possible to meet the needs of the CIP whilst meeting all required procurement processes.
37. In order to ensure sufficient resource is available to take forward actions identified in the Calford Seadon report regarding the non-housing estate it is proposed to extend the purpose of two existing earmarked reserves (the commercial property reserve and the general property reserve) to cover any costs associated with ensuring regulatory compliance. Further detail is provided in paragraph 48 below.
38. To ensure that tenants and leaseholders are fully apprised of the situation NCC has written to all tenants and leaseholders. The letters advise of the self-referral and subsequent Regulatory Notice. The Portfolio Holder for Social Housing attends the Tenant Improvement Panel (TIP) meetings at their invitation. A full briefing will be provided to TIP in November. Officers and Members will continue to work with TIP to provide regular updates on progress and receive comments over the next 12 months.
39. **Table 2** below provides a summary position for each compliance area. The summary position is based on the data and information available at the date of writing this report. NCC has been working with the RSH, updating them on progress and new information. Where gaining access to homes or communal areas has delayed to complete inspections/assessments these actions have been allocated to the housing management team.

**Table 2.**

Compliance Area	Current Position	Position at point of self – referral	RAG
Gas Safety Domestic and communal (LGSRs)	Compliant		
Electrical Safety (EICRs)	806 Domestic EICRS and 105 Communal EICR's outstanding	Domestic EICRs have reduced from 892 and communal EICRs have reduced from 188 since	

	and overdue Number of historical EICR Category 2 remedial actions to be confirmed	self-referral	
Water Hygiene	Up to 500 water hygiene surveys required	Contractor appointed to undertake all surveys  Additional Contractor appointed to undertake all LRA remedial works	
Fire Safety	All Fire Risk Assessments for Tower Blocks completed 2 FRA's outstanding and overdue to sheltered housing schemes 626 FRA's required to low rise blocks with communal areas	There were 10 FRA's to sheltered schemes outstanding when NCC self- referred. The number of communal FRAs was unknown at the time of self-referral.	
Asbestos	68 inspections required for communal areas	Number unknown at the time of self-referral	
Lifts	Compliant	Compliant	
All areas	There was no formal process to monitor and track remedial actions resulting from assessments and inspections across all areas	Tracker is now in place to monitor and track the completion of all remedial actions resulting from inspections, and risk assessments across fire and Water safety. Other areas to follow.	

40. Whilst the table demonstrates some progress has been achieved to refine the extent of the non-compliance and make steps towards achieving further compliance, to achieve the shift in the pace of change the Council seeks, we now need to allocate the financial and non-financial resources required.

## Implications

### Financial and Resources

Any decision to reduce or increase resources or alternatively increase income must be made within the context of the council's stated priorities, as set out in its Corporate Plan 2019-22 and Budget.

41. The approved 2021/22 HRA revenue budgets do not include specific budgets for compliance works. Provision is made for revenue compliance works within the general repairs and maintenance budget and a water service testing budget. Capital works relating to compliance are included in various project budgets within the HRA capital programme.
42. Budgeting assumptions for delivery of the CIP have been made to secure funding to commence work immediately. Further work to assess costs more accurately against the CIP, will be undertaken.
43. To commence delivery of the CIP and meet the timescales set out, dedicated revenue and capital funding is required as detailed in the following paragraphs.
44. Additional HRA revenue budget requirement is set out in the table below:

<b>Cost</b>	<b>Required Funding (£)</b>
Additional Specialist Resource	671,800
Compliance Remedial works	600,000
<b>Total</b>	<b>1,271,800</b>

45. It is proposed to fund the additional HRA revenue budget requirement as set out in the table below:

<b>Area</b>	<b>Approved 21/22 Budget (£)</b>	<b>Proposed Virement (£)</b>	<b>Revised Budget (£)</b>	<b>Comment</b>
Existing designated HRA Tenancy Services Budget	58,213	(58,213)	0	Existing budget for specialist compliance resource
HRA Repairs Exterior Painting (underspend)	700,000	(232,000)	468,000	Technical virement approved by S151 Officer
HRA Contingency	197,400	(197,400)	0	Approved by S151 Officer (Fin Proc 2(d))
Estates Management Improvements (underspend)	250,000	(40,205)	209,795	Approval for virement sought from Cabinet
Head of Neighbourhood Housing Professional Advice (underspend)	100,000	(22,000)	78,000	Approval for virement sought from Cabinet
Neighbourhood Housing Events (underspend)	10,000	(7,500)	2,500	Approval for virement sought from Cabinet
Collection Team Legal Expenses (underspend)	125,000	(100,000)	25,000	Approval for virement sought from Cabinet
HRA Repairs Major and Minor Repairs	3,000,000	(176,681)	2,823,319	Approval for virement sought from Cabinet
HRA Repairs Central Heating Reps & Srvng (underspend)	2,000,000	(150,000)	1,850,000	Approval for virement sought from Cabinet
HRA Repairs Estate Properties (underspend)	16,025	(14,574)	1,451	Approval for virement sought from Cabinet
HRA Repairs Exterior Painting (underspend)	468,000	(16,227)	451,773	Approval for virement sought from Cabinet
HRA Repairs Fire Alarms (underspend)	107,000	(57,000)	50,000	Approval for virement sought from Cabinet
HRA Void Upgrades	2,750,000	(200,000)	2,550,000	Approval for virement sought from Cabinet
<b>Total</b>	<b>9,781,638</b>	<b>(1,271,800)</b>	<b>8,509,838</b>	

46. The additional revenue resource requirements detailed in the preceding paragraphs relate to costs predicted to arise within the 2021/22 financial year only. Any requirement for revenue budgets in 2022/23 or beyond will be addressed through the 2022/23 budget setting process.
47. As is referenced in the table above, in line with the authority given in the constitution, the s.151 Officer has approved a technical virement from the underspend on the exterior painting budget to fund the appointment of a contractor to undertake the required legionella testing.
48. It is estimated that a capital provision of £2million will be required to provide capacity for capital works arising from inspections, checks and risk assessments. It is proposed that this is funded from existing budgets that are forecast to underspend within the 2021/22 HRA Capital Programme. Although the value of the HRA capital programme will not change, the proposed virement does represent a change to the purpose for which the budget was originally approved, Cabinet is therefore asked to recommend to Council, the approval of the following virement and re-profiling of capital budgets:

Area	Approved 21/22 Budget (£)	Proposed Virement (£)	Proposed 21/22 Budget (£)	Proposed 22/23 Budget (£)
HRA Major Compliance Upgrades	0	2,000,000	1,000,000	1,000,000
HRA Upgrades - Communal Boilers	5,064,000	(1,400,000)		
HRA Upgrades - Windows	2,900,000	(600,000)		
<b>Total</b>	<b>7,964,000</b>	<b>0</b>	<b>1,000,000</b>	<b>1,000,000</b>

49. Any revenue budgets formed to support the CIP that remain unspent at the end of the 2021/22 financial year may be held in a new HRA Compliance earmarked reserve to enable them to be carried forward and utilised in 2022/23. For capital budgets, approval will be sought for 2021/22 underspend to be carried forward through the usual capital carry-forward process for utilisation in 2022/23
50. The General Fund Commercial Property Reserve was previously established to reduce the risks associated with holding commercial property by providing funding for any future void and rent-free periods as well as repairs and upgrades to the investment portfolio. The General Fund Repairs Reserve exists to provide future funding for required maintenance on general fund properties. It is proposed that the remit of both these reserves is extended to enable the funding of any necessary compliance works to General Fund properties.

## Legal

51. Given the concerns emerging regarding housing compliance, Norwich City Council commissioned specialist advice from Devonshires LLP regarding the compliance matters, and Trowers and Hamblins LLP regarding contractual matters. The advice of Trowers and Hamblins has been incorporated into the exempt Annex 1. Devonshires have reviewed this report and stated the

following. We will continue to engage with Devonshires and Trowers and Hamlins throughout the work to ensure compliance.

#### **Advice from Devonshires for the purpose of this report:**

52. NCC has received legal advice from Devonshires solicitors throughout this process and continue to liaise with them. Devonshires' initial advice was that a breach of the Home Standard was likely to have occurred. That advice informed NCC's decision to make a self-referral to the RSH in July 2021. Devonshires assisted in drafting the self-referral and subsequent correspondence with the RSH.
53. Devonshires has also provided advice on the process that will be followed by the RSH. If the RSH finds that a breach of the Home Standard has led to, or could lead to, serious detriment to residents, it will likely lead to the RSH issuing a Regulatory Notice (essentially a public notice of their findings). This is what has occurred here and the Regulatory Notice was formally published on 27<sup>th</sup> October 2021.
54. On publishing a Regulatory Notice, the RSH does not automatically have to use its enforcement powers. This is the case here, as has been explained above, because the RSH is confident that NCC will be able to reach full compliance if it follows the CIP and meets the agreed milestones.
55. NCC will want to avoid any enforcement action being taken by the RSH. NCC's priority therefore must be to proceed in line with the milestones set out in the CIP, which has been reviewed and agreed by the RSH. If any milestones are affected it will be important for NCC to be transparent with the RSH. This is NCC's intention.
56. In reviewing progress against the CIP, NCC should continually review how its providers are performing. This is important because if NCC delegates services to sub-contractors (as it does and is explained above in this report), the RSH will regulate NCC based upon the services provided by the sub-contractors. In short, if NCC's providers are not performing and that means that the Consumer Standards are not met, the RSH will find NCC in breach. Therefore, NCC must continue to have control over its providers until the services are brought in-house in line with the planned business case.
57. NCC continues to work with its legal advisors, if there are any material updates to the information in this report Members will be advised at the meeting.

#### **Opinion of the Monitoring Officer**

58. The Monitoring Officer has considered the information in this report and has set out their opinion below.
59. As Monitoring Officer, I would usually have a duty, under s.5A of the Local Government and Housing Act 1989, to report to Cabinet where there has been a failure to comply with the Council's statutory obligations. Should my duty be triggered, no further action can be taken with respect the contravention until the Cabinet has considered my report at that meeting,

and then the executive must agree what action it is taking with respect to the report.

60. As this report sets out, the Housing Regulator has identified the Council has failed in its statutory duties as a provider of social housing. Given the notice issued by the Housing Regulator, which highlighted the serious risk of detriment to residents, I would normally consider my duty as Monitoring Officer is triggered.

61. However, I have not considered it necessary to report myself to a specially convened meeting of Cabinet given that firstly, the Leader, Portfolio Holder and Corporate Leadership team confirmed their intention to hold this special meeting; and secondly, triggering my duty would stop the Council taking further action to resolve the identified problems until my report was considered, which would not be in the public interest.

62. Council officers have provided me with the compliance plan, the desktop audit report produced by Calford Seadon and information detailing the number of properties impacted by the issues as is reflected in table 2 of this report. The report also details the Council's statutory responsibilities in respect of housing compliance, and when combined with the information in table 2, gives an understanding can be gained on the extent to which the Council has failed to comply with its statutory responsibilities.

63. As such, the report itself fulfils the requirements of my duty to you. Were I to have reported on a formal basis, it would be the duty of Cabinet to determine whether they are satisfied with the procedures being put in place to secure future compliance with the Council's statutory obligations, taking into account the advice received from its legal advisors as set out above, and the action being taken to address the historic contraventions, which is a recommendation of this report.

### Statutory Considerations

<b>Consideration:</b>	<b>Details of any implications and proposed measures to address:</b>
Equality and Diversity	No direct implications.
Health, Social and Economic Impact	The breach is the standards could cause serious detriment to tenants' health but in some cases this has already been rectified. The remaining breaches will be mitigated by the proposals set out in the report and the CIP.
Crime and Disorder	No direct implications.
Children and Adults Safeguarding	All persons involved in the remedial works must adhere to the councils Safeguarding Policy statement
Environmental Impact	The proposals set out in the report and the CIP will mitigate against any direct environmental

impacts which could occur as a result of the breach of standards.

## Risk Management

A detailed project risk register is being developed which will identify and mitigate risks to delivery of the improvement programme. In the table below are the overarching and most critical risks to the CIP.

Risk	Consequence	Mitigations
Inadequate systems to record and manage data	Inaccurate information resulting in insufficient progress in key areas and ineffective management of Health and Safety Compliance.  Serious detriment to tenants/ leaseholders	Risk based programme in place  Compliance Tracker  NEC system implementation  Skilled additional capacity
Lack of contractor supply chain capacity	The CIP cannot be delivered swiftly, and tenants remain at risk for an extended period	Widen the pool of contractors being used  Work with EPL to identify potential contractors
Skills and expertise not sufficient to manage the program	Delayed decision making and inability to progress the work required  Tenants remain at risk for an extended period	Recruit skilled temporary resources to oversee the programs of works

## Other Options Considered

64. Not applicable

## Reasons for the decision/recommendation

65. The information in this report provides a comprehensive update to Members. NCC is committed to working with the RSH to return its council homes to full compliance within the timescales set out in this report. Endorsement of the plans to achieve this, and approval of the funding and resources as set out in the recommendations in this report is required to support recovery and improvement across all compliance functions.



**Background papers:** None

**Appendices:**       **Annexe 1 – Letter from RSH to NCC**  
                              **Annexe 2 – RSH Regulatory Notice**  
                              **Exempt Annexe 1**

**Contact Officer:**

Name: Louise Rawsthorne

Email address: [louiserawsthorne@norwich.gov.uk](mailto:louiserawsthorne@norwich.gov.uk)



Norwich City Council  
City Hall  
Norwich  
NR2 1NH

Regulator of Social Housing

29 July 2021

[enquiries@rsh.gov.uk](mailto:enquiries@rsh.gov.uk)

Dear Sir/Madam

### **Property Compliance Issues**

We write to inform the Regulator of Social Housing (“RSH”) of matters that have recently come to our attention regarding legionella, electrical and fire safety. Although no injury or risk has been caused, or will be caused, to our residents as a result of this matter, we are notifying you because we believe in the principles of co-regulation; one of its cornerstones being openness and transparency.

Norwich City Council (the “Council”) is implementing a project to insource its Repairs and Maintenance and Asset Management Service. The services are currently provided through two separate Joint Ventures between the Council and (i) Norwich Norse Building Ltd, and (ii) NPS Norwich Ltd. In June 2020 the Council confirmed its decision to transfer services back to its own operations from April 2022 at the end of the existing contracts. Repairs and maintenance services will be transferred to a new wholly owned company, and asset management services will be transferred directly back to the Council.

In April 2021 I was permanently recruited to the role of Executive Director of community services. As soon as I was appointed, I commenced a high level review of property compliance as would be usual for an incoming director. The review commenced in April 2021.

In June 2021 the internal review highlighted some potential concerns with areas of property compliance including legionella, electrical and fire safety. I will deal with each area in turn below.

The Leader and the Portfolio Holder for Social Housing were advised of these issues in June 2021. They were supportive of the requirement to carry out an external audit of all areas of property compliance, including our internal policies, systems and processes. Accordingly I have appointed Calford Seaden to undertake a full forensic investigation, which will include a final report with recommended actions. The audit is due to be completed by mid-August 2021 with the report and action plan to follow. The RSH should note that at a meeting of the Leader of the Council and Portfolio Holders, approval has been given for the Council to implement any recommended actions as Calford Seaden progress through the audit and therefore any high risk concerns are being addressed as an urgent priority. Updates are being provided and

members are satisfied that all steps necessary have been taken to limit any risk to residents.

As the RSH will appreciate, the council does not yet have the results of the audit and therefore I look, in this letter, to give you an overview only. However, I felt it was prudent to inform the RSH of these issues as soon as possible, rather than wait until receipt of the final audit report.

### **Water Safety (Legionella)**

Our internal review identified that risk assessments have not been carried out in accordance with identified risks, or more frequently when changes to the property occur. We have also found that remediation works to the water systems identified by risk assessments and inspections are not always followed to completion and marked as complete on our systems. This is an area being fully investigated by Calford Seaden and we will action any recommendations made in their audit report.

In addition, we have subsequently identified 490 properties that require a Legionella Risk Assessment (LRA) to be completed and we are implementing a programme to undertake these LRA's as a priority (commencing in mid-August) and to address any risk items identified as a result of the LRA's. The Procurement Team will ensure that any procurement processes will be expedited to ensure that we can fast track these and utilise existing consultant and contractor frameworks as required, to meet our requirements.

### **Electrical Safety**

The Council's Fire Safety Policy states that an electrical inspection condition report (EICR) will be carried out to all homes every five years. There are currently 892 properties with an out of target EICR or where we currently hold no record of an EICR having been completed. Of the 892 properties, 774 homes have an EICR which is overdue and between 5 – 10 years old and 97 homes have an EICR which is more than 10 years old. In addition, there are 21 properties with no EICR Certificate on record. Although we accept that these properties do not have current up to date EICRs in line with our internal policy (5 year), this represents 6.2% of the Council's total managed stock of 14,494 tenanted properties.

Calford Seaden will be checking the processes behind these EICR checks as part of their audit, as well as providing assurance that the data is correct. Since identifying this issue in June 2021, we have programmed all properties into an action plan, prioritizing the most out of date first, for EICRs to be carried out and any works actioned. To date, we can confirm 156 properties have been completed from the original backlog identified in June.

### **Fire Safety**

The Council's Fire Safety Policy sets out the frequency that Fire Risk Assessments (FRA's) should be undertaken. The highest risk properties require a FRA to be undertaken every 12 months. We originally identified 26 blocks with overdue FRAs (as against our risk assessed policy). We prioritised the high risk residential buildings and we can confirm that all of these blocks now have up to date FRAs in place in line with the Fire Safety Policy.

There currently remains 10 community centers with overdue FRAs. All of these properties are in an action plan and will have FRAs completed by the end of September 2021.

The Fire Safety Policy also sets out the priority timescales for completing remediation actions that result from a FRA being completed. Unfortunately, we currently do not have sufficient data to confirm how many outstanding FRA actions there are and whether there are any that are overdue. As an immediate response to this issue, we have implemented a process and comprehensive system for fire management and reporting which will track all FRAs, FRA actions, their priorities, the “owner” of each action and whether it is complete (together with evidence of the completion). The data is currently being loaded into the new system which will “go live” in late July/early August 2021. Once that system is in place, we will be able to accurately identify and monitor the delivery of all FRA actions and their priority. We will be able to provide a further update on this data once the system is running, if that would be helpful for the RSH.

Since the Grenfell tragedy, the Council has invested more than £2 million in fire safety improvement works to ensure that we meet the highest standards of fire safety. However, we wish to inform you of an issue relating to fire safety works recently carried out in two high risk residential blocks, Winchester and Normandie Towers in 2018-2019. The works included replacement of dwelling entrance doors, upgrading works to shared ventilation ducts, removal of polystyrene ceiling tiles where fitted and the installation of hard wired smoke/heat detection in individual dwellings. The Council has appointed a highly respected Fire Safety Consultant employed by The Beacon Partnership and issued a brief to inspect a number of these properties, and in particular the fire safety works, as part of their audit. This is to ensure that works meet the Fire Safety Standards required. They have been asked to advise on any additional remedial works required. We have also obtained advice from the Beacon Partnership that these buildings are currently safe to occupy. We are currently advised that no temporary measures are required but we will monitor and keep this under review. We are due to receive their report in mid-August 2021.

### **Actions to date**

The Council is taking these issues very seriously and holds health & safety and property compliance as a key priority in its business. In order to deal with these issues, we have acted quickly and taken the following steps:

1. Appointed full time interim asset management expertise to support this work.
2. Appointed fire safety experts to inspect the fire safety works to Winchester and Normandie Towers, and to provide technical expertise to support the audit and future fire-related activities.
3. NPSN has appointed a Legionella specialist to support the management of this compliance area
4. Instructed NPSN to prepare a full programme of EICR's to ensure all homes have an electrical safety check and certificate in line with the Council's Fire Safety Policy. We have prioritised the properties with EICR more than 10

years old and plan to complete these EICR checks and any associated remediation works by the end of August. Properties with EICR checks that are between 5 – 10 years old, will be completed by December 2021.

5. The Council is commissioning a programme of Legionella Risk Assessments to our priority housing stock. The aim is to ensure that risk assessments and remedial measures and treatment programmes fully comply with ACOP L8 and HSG274. We are currently in the process of appointing suitable contractors who have requisite accreditations, such as UKAS and the Legionella Control Association, for risk assessment, water sampling and analytical works. The LRA's are due to commence in mid-August 2021.
6. The Council is meeting with the auditors on a weekly basis to review progress with the Audit, identify emerging issues and responding with immediate actions where it is considered necessary.
7. We have twice weekly meetings between the senior management of NPS and the Council to ensure complete transparency, scrutiny and monitoring of the work that NPS is doing.
8. We are prioritising any actions that are required to be implemented immediately and we are monitoring the delivery of all of those actions. As priorities are identified and recommendations are received, we are collating this information and allocating actions to the requisite parties using a risk-based approach.
9. We ensure that any required remedial works are undertaken by competent and approved contractors, and that records of works undertaken are correctly recorded on our IT systems.

Going forward, we plan to appoint senior officers, member representatives and independent consultants to a Compliance Board, to oversee our compliance programmes, action plans and to monitor all compliance KPIs through a performance framework. This will ensure that all required actions are correctly allocated and are being managed and monitored effectively. The Compliance Board will have control over this process and will review reports on progress and will be able to examine the data in detail to ensure all statutory requirements are being met and duties are being correctly discharged by the Council.

We also plan to recruit a new senior compliance officer to take responsibility for ensuring that the Council manages and discharges its duties in line with legislation and regulations, guidelines and best practice. They will also undertake a review of all existing policies and procedures and ensure that any improvements are implemented.

## **Conclusion**

As you can see from the above detail, the Council is prioritizing these issues to ensure that our residents are safe. The Council appreciates the importance of the need to ensure compliance with health & safety laws and regulations. The new leadership team had originally planned to undertake a full external audit of the Council's health & safety policies and procedures over the coming months due to a

zero tolerance approach to health and safety compliance. The internal review and the identification of these issues has simply brought this forward with the full support of the Leader and Portfolio Holders. Accordingly I have already appointed Calford Seaden as an external consultant to conduct a full detailed compliance health check of our approach to the key health & safety areas including but not limited to: (1) gas safety, (2) electrical safety, (3) fire safety, (4) asbestos management, (5) water hygiene (legionella) and (6) fire doors. Calford Seaden has been specifically asked to review all policies, procedures, and other relevant documentation and conduct an audit against statutory and best practice requirements to ensure compliance. They have also been asked to assess the Council's compliance reporting at management and governance levels and make recommendations for improvement. We are expecting to receive Calford Seaden's report in mid – August 2021.

As a result of our proactive approach to these concerns, we are confident that they have been or will be addressed as part of the overarching compliance action plan. This action plan will be updated to incorporate any recommendations made by Calford Seaden in their report.

I trust this is helpful for the RSH, but please let me know if you have any additional questions that I can assist you with, or if you require any further detail. I would welcome the opportunity to share our progress as we move towards full compliance.

Yours faithfully

A handwritten signature in black ink, appearing to read 'Louise Rawsthorne', is written over a light grey dotted rectangular background.

**Louise Rawsthorne**  
**Executive director of community services**



Regulator of  
Social Housing

## Regulatory Notice October 2021

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### Registered Provider

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Norwich City Council (33UG)

### Regulatory Finding

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The regulator has concluded that:

- a) Norwich City Council has breached part 1.2 of the Home Standard; and
- b) As a consequence of this breach, there was the potential for serious detriment to Norwich City Council's tenants.

The regulator will work with Norwich City Council as it seeks to remedy this breach and will continue to consider what further action should be taken.

### The Case

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As a local authority registered provider, Norwich City Council is required to comply with the consumer standards, including the Home Standard. The Home Standard requires registered providers to have a cost-effective repairs and maintenance service and to meet all applicable statutory requirements that provide for the health and safety of tenants in their homes.

Our assessment of the information received through a self-referral from Norwich City Council is that the Council has failed to meet statutory health and safety requirements in relation to fire, electrical, asbestos and water safety.

In respect of fire safety, Norwich City Council has a statutory duty<sup>1</sup> to regularly assess the risk of fire and to take precautions to prevent the risk of fire. In this regard the regulator has learned that a number fire risk assessments (FRAs) were overdue, including a small number of high-risk buildings and sheltered schemes. The Council reported they were unable to provide information on outstanding FRA remedial actions.

With regard to electrical safety, Norwich City Council is required to ensure that electrical installations are in working and safe condition both at the start of any tenancy and throughout that tenancy.<sup>2</sup> Norwich City Council reported that over one thousand electrical inspections were overdue including around two hundred communal tests. The Council were unable to provide information about the completion of electrical safety remedial actions.

For asbestos safety,<sup>3</sup> the Council were unable to provide data on either communal or domestic asbestos surveys, including whether any were overdue or had outstanding remedial actions. The evidence also showed that with regards to water safety,<sup>4</sup> hundreds of legionella risk assessments were overdue, including a small number of high-risk buildings and sheltered housing schemes.

Taking all of this information into account, the regulator concluded that Norwich City Council has breached the Home Standard, and as consequence, there was the potential for serious detriment to tenants.

Since identifying these issues, Norwich City Council has worked with an external consultant to develop and implement an action plan in order to strengthen its systems and return to compliance. A programme of work has commenced, and we have been assured by Norwich City Council that it has taken immediate and appropriate action to mitigate the risks to tenants while the programme is being delivered.

## The Regulator's Findings

The regulator considered the case as a potential breach of part 1.2 of the Home Standard and has concluded that Norwich City Council did not have an effective system in place to allow it to meet its statutory health and safety responsibilities across a range of areas.

Complying with statutory health and safety requirements is a fundamental responsibility of all registered providers because of the potential for serious harm to tenants. Norwich City Council has demonstrated to the regulator the progress it is making to ensure the required statutory checks, and relevant safety actions, are completed, and that appropriate mitigations are in place in the meantime. However, taking into account the seriousness of the issues, the durations for which tenants were potentially exposed to risk, and the number of tenants potentially

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<sup>1</sup> Regulatory Reform (Fire Safety) Order 2005

<sup>2</sup> Landlord and Tenant Act 1985

<sup>3</sup> Control of Asbestos Regulations 2012

<sup>4</sup> Health and Safety at Work Act (1974)



affected, the regulator has concluded that it is proportionate to find that Norwich City Council has breached the Home Standard and that there was a risk of serious detriment to tenants during this period.

Section 198A of the Housing and Regeneration Act 2008 (as amended) states that the regulator's regulatory and enforcement powers may be used if a registered provider has failed to meet a consumer standard. In order to use regulatory or enforcement powers, as well as the failure to meet the standard, there should also be reasonable grounds to suspect that the failure has resulted in a serious detriment to the provider's tenants (or potential tenants) or that there is a significant risk that, if no action is taken by the regulator, the failure will result in a serious detriment to the provider's tenants (or potential tenants).

Norwich City Council has put in place a programme to rectify these failures and the regulator will therefore not take statutory action at this stage, as it has assurance that the breach of the standard is being remedied. The regulator will work with the Council as it continues to address the issues which have led to this situation, including ongoing monitoring of how it delivers its programme.