



Joint Audit and Governance Committee
23 March 2023

ADUR & WORTHING COUNCILS

Key Decision No
Ward(s) Affected: All

Adur Homes Compliance with Housing Regulator Standards

Report by the Director for Communities and the Monitoring Officer

Officer Contact Details

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Executive Summary

Purpose

1.1 The purpose of the report is to inform members that the Director for Communities has undertaken a diagnostic review of the Council's housing stock (Adur Homes) and its compliance with the Regulator of Social Housing's standards. A number of gaps in compliance have been identified and the council has as a result referred itself to the Regulator.

1.2 The report identifies the areas that require improvement and sets out the process Adur District Council will undertake, in partnership with the Regulator, to improve performance and meet the required standards.

1.3 The report also identifies other audit issues related to Adur Homes including slow progress against internal audit actions and problems with the way in which we are responding to complaints and Freedom of Information Act requests.

1.4 This report also fulfils the Monitoring Officer's duty to report to Members under section 5 and section 5A of the Local Government and Housing Act 1989.

1.5 Members are asked to support the proposed changes to the Adur Homes Management Board membership, a new set of interim policies and procedures for Adur Homes for comment and agreement, and details concerning the development of an improvement plan to address the identified issues.

Recommendations

In relation to Adur Homes compliance issues, Members are asked to:

2.1 Note areas of non compliance with social housing standards and endorse the decision to refer Adur Homes to the Regulator of Social Housing.

2.2 To also note the slow progress being made against internal audit actions and problems with the way in which we are responding to complaints and Freedom of Information Act requests.

2.3 Approve the timescales for bringing an improvement plan to the Joint Audit and Governance Committee and require further updates on progress from the Director for Communities.

2.4 Provide comment on the interim operational policies and procedures for Adur Homes attached in Appendix 1 and to refer any comments in relation to those policies to the Adur Homes Management Board.

2.5 Approve changes to the Adur Homes Management Board membership and require the Board to provide progress updates to the Joint Audit and Governance Committee on a quarterly basis.

2.6 To note the matters referred to the Committee by the Monitoring Officer at paragraph 4.4, 4.5 and 4.6.

3. Context

3.1 In April 2015 the Regulator of Social Housing published seven Housing Standards against which housing organisations are required to ensure compliance. These standards are:

The Economic Standards

- Governance and Financial Viability Standard
- Value for Money Standard
- Rent Standard

The Consumer Standards:

- The **Home Standard** sets expectations for registered providers of social housing to provide tenants with quality accommodation. Key elements include the provision of decent homes and cost-effective repairs and maintenance.
- The **Tenancy Standard** sets expectations for registered providers of social housing to let their homes to tenants in a fair, transparent and efficient way.
- The **Neighbourhood and Community Standard** sets expectations for registered providers of social housing to keep the neighbourhood and communal areas associated with the homes they own clean and safe, co-operate with relevant partners to promote the wellbeing of the local area and help prevent and tackle antisocial behaviour.
- The **Tenant Involvement and Empowerment Standard** sets expectations for registered providers of social housing to provide choices, information and communication that is appropriate to the diverse needs of their tenants, a clear approach to complaints and a wide range of opportunities for them to have influence and be involved.

Two of these standards, the Governance and Financial Viability and Value for Money Standard relate only to Registered Providers/Housing Associations and do not relate to local authority landlords.

Self referral to the Regulator of Social Housing

- 3.2 The Regulator, in a letter dated 22 November 2022 to all registered providers following the tragic death of Awaab Ishak in Rochdale, stated that “Should you identify that your homes do not meet the relevant standards, you should self-refer immediately”.

Though the letter from the Regulator was prompted by the damp and mould issue, the presence of or failure to deal with damp and mould itself is not a reason to refer to the Regulator. As stated in the RSH’s letter, self-referral should be made if the landlord identifies that their homes do not meet the relevant standards, even if it is only a part of their homes that do not meet any of the the consumer standards.

- 3.3 In coming to post, the new Director for Communities has undertaken a diagnostic review of compliance within Adur Homes housing stock and brought in experienced external individuals to assist the Council with this. Despite the work undertaken as part of the Housing Strategy and

Transformation Plan, this diagnostic process has identified a number of areas where Adur Homes is not compliant with the required standards.

- 3.4 The Council takes residents' safety and statutory and regulatory responsibilities very seriously and therefore on becoming aware of the outcome of the compliance diagnostic, in consultation with the Leader of the Council and the Cabinet Member for Adur Homes and Customer Services, Adur District Council self-referred to the Regulator on 24th February 2023.

Under what standards has the Council been referred to the Regulator?

- 3.5 We recognise the need to provide good homes and a strong service for our tenants and leaseholders. Adur Homes is highlighting concerns with the Regulator in relation to the Decent Homes Standard and the following specific standards:

- **The Home Standard**
- **Tenant Involvement and Empowerment Standard**
- **Tenancy Standard**

What are the specific issues of non compliance?

- 3.6 The referral is being made with regard to the following specific areas of concern:
- **Decent Homes:** - Currently the Council does not have sufficient evidence to identify the number of homes it manages which meet the government's Decent Homes Standard.
 - **Home Standard, Cost-effective repairs and maintenance:** - Adur Homes does not currently have a cost-effective repairs service. There are significant issues around performance, customer experience and cost efficiency.
 - **Home Standard, Meets all Health and Safety Requirements:** - Currently the authority cannot be confident that all work is undertaken in a timely manner and therefore actions may remain outstanding for longer than prescribed.
 - **Home Standard, Electrical Installation Condition Reports (EICRs):** - The Council is not assured that all its homes have been EICR tested within the last 5 years and there are delays with emergency light testing.

- **Home Standard, Fire Safety:** - Currently not all areas of fire safety have been addressed and further assurance work is required around the completion of risk assessments and the timely implementation of necessary works.
- **Tenancy Standard:** - Our policies and processes require updating and we need to ensure that they meet our tenancy standards.
- **Tenancy Involvement and Empowerment Standard:** - The number of tenants engaged with the service is very low and a cross-section of tenants are not being engaged by the service to seek their views on 'housing management' activities. In addition, Adur Homes does not currently meet the standards required for complaints handling.

Issues for Consideration

4. Regulator of Social Housing

- 4.1 The Regulator has been sent our referral and has responded with the requirements for further and more detailed information. The Council is preparing this information which will be used to agree an improvement plan (see below) to support Adur Homes returning to compliance against the above housing standards.

Improvement Plans

- 4.2 A comprehensive and robust improvement plan is currently being compiled by Adur District Council. External support has been sought from a local authority that has been through the referral process to help ensure maximum effectiveness of the approach proposed.

A new internal Adur Homes Asset and Compliance Board has also been established, chaired by the Director for Communities and including senior officers to drive forward an improvement plan. Following consultation with the Regulator it is anticipated that a draft headline plan will be presented to the Joint Audit and Governance Committee in June 2023.

- 4.3 This draft plan will set out a clear set of actions that will be developed for the coming year for the service with a clear set of performance indicators that will be used to monitor progress and enable scrutiny of this work.

Internal Audit, Maladministration and Freedom of Information Request

- 4.4 **Outstanding Internal Audit Actions** - The Director for Communities is meeting with the Internal Auditor to review progress against 30 overdue actions identified between 2017/18 to 2020/21 for Housing Services (3) and Adur Homes (27). Whilst work against these actions is underway progress needs to be accelerated and the Director for Communities is prioritising the

timely competition of these actions. Many of these outstanding actions are linked to housing standards and will therefore be reviewed and, where appropriate, integrated into the improvement plan work described above with the Regulator.

- 4.5 **Housing Ombudsman Maladministration** - In December 2022 the Housing Ombudsman (HO) wrote to Adur District Council regarding its annual complaints performance report and highlighted a high maladministration rate of 66% for the Council during 2021- 22. This maladministration rate is higher than the average for the sector with the Ombudsman upholding at least one part of the complaint in cases reviewed. However the number of cases in which the HO made a determination was only 2 and the details of which are set out below. A report is only created if there have been more than 5 cases.

Case 1

Tenant was unhappy with the Council's response to her reports of damp and mould at her address and the handling of her complaint. The HO found fault with the Council in its handling of the reported complaint about condensation and mould at the property. £100 compensation was awarded for this and a further £75 for the handling of the complaint. The Council was also ordered to, if not done already, carry out the rendering and plastering needed to make good around the windows that was identified as required; to install a humidistat fan in the bathroom and to inspect the guttering and downpipe during rainfall.

Remedy: Apology, financial redress of £175 for the service failures identified and works to be completed.

Case 2

Tenant was unhappy with the Council's handling of her reports concerning antisocial behaviour, the installation of soundproofing and the handling of the complaint.

Remedy: The Council is to pay Ms C £50 for the delay in progressing the complaint and the failure to keep her reasonably updated with regards to its progress.

The Council is being proactive in addressing the maladministration and all complaints through two main approaches:

- **Reducing the number of complaints** - In addressing problems with Housing Standards and as part of this, the quality and responsiveness of the repairs and maintenance service, the number of complaints should reduce in number. This process of improvement however may take time as the Council will need to prioritise, in the first instance, health and safety-related issues.

- **Improving the way we handle and respond to complaints** - The Director for Communities is actively reviewing our complaints handling arrangements and identifying with staff and tenants how the service can be best improved. For example when Adur Homes receives a complaint the Council is now working on the development of a new approach which aims to understand the nature of the tenant enquiry to better understand their concerns, the situation and organise the right response first time. The new Complaints Policy and Procedure appended to this report supports and informs the overall improvement work. Note that this process review is underway and additional resources to support this work are being sought. Whilst these changes are underway it should be recognized that demand is high and therefore there are ongoing delays to responding to complaints. This will improve.

4.6 **Outstanding Freedom of Information Act Requests in Housing**

Under the Freedom of Information Act 2000 there is a statutory process for dealing with Freedom of Information Act requests within a statutory timeframe, which is 20 working days from receipt of the request. In relation to Housing, the Council currently has 32 requests outstanding, ranging from 1-day overdue to 630 days overdue.

There are 11 requests which are up to a month overdue, 18 requests between one month and up to a year old and 3 requests which are between one year and two years old.

Whilst progress is being made to respond to outstanding requests, we are unable to respond to some of these requests, for example, because the contact details are now out of date. There is no legal ability to write-off an historic Freedom of Information Act request and it is proposed that the Council's Information Governance and Data Protection Officer writes to the Information Commissioner for advice on guidance on how to deal with the historic requests which have gone into abeyance.

Policy Framework

- 4.7 As part of the improvement plan preparations, a set of revised interim and operational policies and procedures were presented to the Joint Strategic Sub-Committee on 7th March, as set out in Appendix 1. These policies will be further refined and updated in the coming months through engagement with the Adur Homes Management Board (and tenants). The Joint Audit and Governance Committee is asked to review the Policies and refer any comments on those Policies to the Board for revision and review.

Adur Homes Management Board

4.8 The Adur Homes Management Board is made up of:

- Director for Communities (Chair)
- Cabinet Member for Adur Homes and Customer Services
- The chairperson of the Adur Homes General Housing Tenants Representative Group
- The chairperson of the Sheltered Housing Tenants Residents Representative Group
- The chairperson of the Leaseholders Representative Group
- Young persons' group
- Chief Financial Officer
- Head of Housing

4.9 The purpose and objectives of the Adur Homes Management Board are set out in Adur District Council's Constitution and are summarised as follows:

- Operate collectively and concentrate on advising on strategic and operational issues affecting performance;
- Scrutinise and challenge policies and procedures with a view to the long-term health and success of the business;
- Direct, supervise and make recommendations on the operations of Adur Homes on behalf of the tenants, stakeholders, employees and community at large.

4.10 Currently tenant and leaseholder representation, the work programme and member representation require review and improvement if the Board is to effectively support the required improvements in Adur Homes. To adequately improve representation, oversight and accelerate improvement against the required housing standards the following actions are recommended:

- Work is undertaken as a priority to improve adequate tenant and leaseholder representation on the Adur Homes Housing Board.
- Oversight on the improvement plan is strengthened by increasing representatives on the Housing Board from both the Joint Overview and Scrutiny Committee and the Joint Audit and Governance Committee.
- The Housing Board provides progress updates on work with the Regulator to the Joint Audit and Governance Committee on a quarterly basis. Additional updates to be provided every six months to the Adur Joint Strategic Sub Committee.

Additional Support from Cabinet

4.11 To further increase support for the improvement work required, the Leader of the Council has asked the Cabinet Member for Communities and Wellbeing,

who is also a member of the Joint Audit and Governance Committee, to lead the improvement works with the Regulator. This additional support will enable the Cabinet for Adur Homes and Customer Service to continue their focus on day to day service delivery of Adur Homes. As part of these arrangements it is proposed the Cabinet Member for Communities and Wellbeing will attend future Adur Homes Housing Board meetings and will work with the Director for Communities on matters relating to the forthcoming Improvement plan and regulatory notice.

The Director for Communities shall consult with the Cabinet Member for Communities and Wellbeing when preparing the updating reports on progress with the referral process for the Joint Audit and Governance Committee.

A Challenging Financial Context

- 4.12 It should be noted that this work takes place in the context of a challenging Housing Revenue Account (HRA) budget (as reported to Cabinet in February 2023) and unprecedented housing demands.

Members will be aware that the rent limitation measure announced by the Chancellor in 2015 had a profound impact on the HRA and still continues to impact on the HRA's future financial sustainability. Over the period of the reduction, the Council has lost and continues to lose a substantial amount of annual rental income of around £2m per year. This lost income has compromised the financial stability of the HRA, and more importantly, affected the amount that can be invested both in existing homes and in the development of new homes. Our impaired ability to invest in the current stock has significant implications for the Council's ability to meet condition surveys and health and safety requirements.

Rent setting for the HRA is now governed by the Regulator of Social Housing and the Council has the ability to increase rents by CPI (Sept) + 1% under normal circumstances. The Government has made the commitment for Councils to retain the flexibility for at least 5 years. For 2023/24 the government has capped this increase at 7% for the majority of tenants due to the cost of living crisis which sees the September 2022 inflation rate at 10.1%. Looking ahead to 2023/24, the overall position will gradually improve as rental levels continue to increase faster than other inflationary pressures.

Over the longer term, the HRA remains in a financially viable position, able to invest in its stock to address backlog maintenance and to maintain a development programme. However, caution will need to be exercised over the coming years as the financial position will be difficult for at least another 3 years until the HRA has become financially sustainable with an adequate level of reserves to manage future risks.

New Charter for Social Housing and Revised Consumer Standards

- 4.13 The housing standards that Adur Homes are required to meet are in the process of being reviewed, changed and improved. The Government published 'The Charter for Social Housing Residents' white paper in November 2020 and this paper seeks to improve housing standards for those who rent, leaseholders and shared owners in social housing. It sets out a new charter outlining what every social housing resident should expect from their landlord:
- **To be safe in your home:** Landlords will be required to ensure every home is safe and secure.
 - **To know how your landlord is performing:** Landlords will be held to account regarding repairs, complaints, safety, and how they spend their money.
 - **To have your complaints dealt with promptly and fairly:** The Ombudsman will be strengthened giving swift and fair redress when needed.
 - **To be treated with respect:** The Regulator of Social Housing will be strengthened and there will be improved consumer standards.
 - **To have your voice heard by your landlord:** Tenant voice will be increased for example through regular meetings, scrutiny panels or being on housing boards.
 - **To have a good quality home and neighbourhood to live:** Landlords will be required to keep homes in good repair and the Decent Homes Standard will be reviewed.
 - **To be supported to take your first step to ownership:** Increasing the supply of good quality social homes, and working to give as many residents as possible the right to purchase their own home.
- 4.14 Many of these changes will be implemented by the Regulator of Social Housing but most of these changes can only be made when parliament has passed legislation to change the Regulator's objectives and legal powers. The Government has said that it will introduce the legislation needed to implement the white paper as soon as practicable. While this means new consumer standards cannot be implemented yet, boards and councillors responsible for social housing are advised not to wait for new consumer regulation to look at how they can improve their services and engagement with tenants.

The improvement plan and the housing strategy updates described in this paper will need to take into account these forthcoming changes and will assist

the Council in its readiness to respond to these changes once they become legislation.

5 Engagement and Communication

- 5.1 In undertaking this referral the Director for Communities has briefed the Adur Homes Management Board, which is made up of members, officers and tenant representatives as set out above.
- 5.2 A communication and engagement plan is being developed and tenants and leaseholders have been contacted to update them on the decision to refer to the Regulator, the reasons for this referral and an outline of the next steps.
- 5.3 We are also recruiting a new Tenant Participation Officer and we will, when appointed, undertake the work necessary to improve our communication and engagement with tenants and leaseholders. Improvements in this area are required and will be undertaken as part of the improvement plan. This work will be supported by the Council's wider commitments and investment around the Corporate Plan's (Our Plan) principle of participation.

6. Financial Implications

- 6.1 The resources to ensure compliance with the Regulator's Standards must be found within the Adur HRA which is a ring-fenced account. Overall, the HRA has a significant budget available to it (£14.8m) and every endeavour will be made regarding best use of this existing resource to deliver the improvement plan.
- 6.2 However, to improve financial capacity to deliver any additional requirements arising which cannot be accommodated with the existing revenue budget, a capitalisation direction will be sought to enable the council to access the Major Repairs Allowance which stood at £9.4m as at 31/3/2022. This reserve can currently only be used to fund capital expenditure and the repayment of any debt under legislation. Members are reminded that there is no guarantee that a direction will be given and that there will be revenue consequences in utilising this reserve as it was planned to be used to finance the capital programme. Any resources used to support the revenue budget would need to be replaced by borrowing at an estimated revenue impact of £45,000 per £1m additional borrowing in a full year.
- 6.3 A review of the Housing Revenue Account Business Plan will be undertaken shortly to enable the service to track the management of resources to deliver against the government's Decent Homes Standard and to ensure compliance in all other service areas.

7. Legal Implications

- 7.1 Under Section 111 of the Local Government Act 1972, the Council has the power to do anything that is calculated to facilitate, or which is conducive or incidental to, the discharge of any of their functions.
- 7.2 s1 of the Localism Act 2011 empowers the Council to do anything an individual can do apart from that which is specifically prohibited by pre-existing legislation
- 7.3 Section 3(1) of the Local Government Act 1999 (LGA 1999) contains a general duty on a best value authority to make arrangements to secure continuous improvement in the way in which its functions are exercised, having regard to a combination of economy, efficiency and effectiveness.
- 7.4 Section 8 of the Housing Act 1985 continues to place a duty on every local housing authority to consider housing conditions in their district and the needs of the district with respect to the provision of further housing accommodation.
- 7.5 There is a statutory duty on a Monitoring Officer under s5 and s5A of the Local Government and Housing Act 1989, to report to the Authority on any threatened or actual breaches of law and/or maladministration.

Background Papers

- [Regulatory Standards](#)
- [Decent Homes Standards](#)
- [Our Plan](#)
- [Housing Strategy: Enabling communities to thrive in their own home” 2020-2023;](#)
- [Temporary Accommodation Placement and Procurement Policy](#), and
- [Community Homelessness Strategy 2017-2022](#)
- [Housing Revenue Account 2023/24 Budget](#)
- [The Charter for Social Housing Residents - Social Housing White Paper](#)
- [Adur District Council Constitution](#)

Interim Policies and Procedures that will be updated and adjusted as required through review and the Regulator’s recommendations.

Leasehold Management Policy

Major works payment policy

H&S policy

Damp and mould policy and procedures

Asbestos Management Plan

Electrical safety policy

Gas policy

Lift equipment maintenance and servicing Policy

Water Safety and Hygiene (Legionella).

Complaints

Compensation Policy

All these policies can be viewed [here](#)

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Sustainability & Risk Assessment

1. Economic

- 1.1 Thriving Economy is one of the four Missions identified in Our Plan and will therefore become one of the key documents informing the direction and prioritisation of the council's work with regard to Adur Homes.

1.2 Providing a decent home that is secure, affordable, warm and modern, supports the wellbeing of our residents, enabling those who are able to work to enter and sustain employment and contribute to economic activity.

2. Social

2.1 Social Value

2.1.1 Residents and communities are central to Our Plan and 'Thriving People' is one of the four Missions identified in Our Plan. This mission aims to ensure people are healthy, resilient and resourceful, that they can access the right help when they need it and everyone has a safe, secure and sustainable home.

2.1.2 One of the three overarching Principles in Our Plan is Participative, which is based on the explicit intention to work more closely with citizens to involve them in deeper and more meaningful conversations about service design and delivery. Our work to meet decent homes and the other housing standards linked to tenant participation therefore forms a central part of the council's commitments.

2.2 Equality Issues

2.2.1 The council is subject to the general equality duty set out in section 149 of the Equality Act 2010. This duty covers the following protected characteristics: age, gender, gender reassignment, pregnancy and maternity, race, religion or belief, and sexual orientation.

2.2.2 In delivering housing services the council must have due regard to the need to:

- Eliminate unlawful discrimination, harassment and victimisation
- Advance equality of opportunity between different groups
- Foster good relations between different groups

2.2.3 The participative principle in Our Plan describes the council's commitment to providing truly inclusive services by listening to underrepresented voices, creating equal access and meeting our equality duties.

2.2.4 The council's legal duties (Equality Act 2010) will inform the

Development and delivery of the improvement plan, in relation to eliminating discrimination, advancing equality of opportunity and fostering good relations.

2.2.5 Decisions, actions and areas of investment relating to implementation of the improvement plan, may require Equality Impact Assessments.

2.3 Community Safety Issues (Section 17)

2.3.1 The council is committed to the promotion of communities as safe places. Our Plan seeks to progress delivery of the councils' community safety commitments by strengthening working partnerships with the Police, communities, businesses and multidisciplinary teams across the council.

2.3.2 As part of our ongoing work to meet the Neighbourhood and Community Housing Standard will see to keep the neighbourhood and communal areas associated with the Adur Homes clean and safe, co-operate with relevant partners to promote the wellbeing and help prevent and tackle anti-social behaviour.

2.4 Human Rights Issues

2.4.1 The actions set out in the report will enable the council to identify solutions that will enable our residents, communities and neighbourhoods to flourish.

3. Environmental

3.1 Thriving Environment is one of the four Missions identified in Our Plan and key actions include achieving net zero carbon, resilience to climate change and increased biodiversity by restoring natural habitats and minimising waste.

3.2 The improvement plan, as part of the wider work plan for Adur Homes, will as part of these commitments actively contribute to carbon reduction, waste minimisation and biodiversity improvement objectives.

4. Governance

4.1 In line with the constitution this report is being taken to the Joint Audit and Governance Committee to note and comment. Additional engagement has been undertaken with the Adur Joint Strategic Sub Committee and the Adur Homes Management Board.

4.2 Further updates, including the improvement plan will be brought to the Joint Audit and Governance Committee on a quarterly basis.