



Housing Select Committee

Report title:
**Preparing for the introduction of the Social
Housing (Regulation) Act 2023**

Date: 4 January 2024

Key decision: No

Class: Part 1

Ward(s) affected: All

Contributors: Fenella Beckman, Director of Housing Strategy

Outline and recommendations

Housing Select Committee are asked to note the briefing and the work taking place to prepare for the introduction of the Social Housing (Regulation) Act 2023.

Timeline of engagement and decision-making

23 rd October 2023	Social Housing (Regulation) Act 2023, informal briefing session for Housing Select Committee members
4 th January 2024	Formal report to Housing Select Committee

1. Summary

- 1.1. The Social Housing (Regulation) Act 2023 represents a key milestone in the Government's response to the Grenfell Tower Tragedy and represents the biggest change to the regulation of social housing in over a decade.
- 1.2. The Social Housing (Regulation) Act 2023 became law on 20th July 2023. It introduces new regulatory standards for social landlords and will come into force in April 2024.

- 1.3. The Social Housing (Regulation) Act 2023 gives broader powers to the Regulator of Social Housing ('RSH'). This Act has significant implications for social housing providers and this report brings together our current arrangements to prepare for the implementation of the Act.

In summary the Act requires Lewisham to

- Be ready for short notice inspections to demonstrate compliance with the Consumer Standards. Ensure systems and documentation is in order to provide relevant documentation and evidence.
- Ensure repairs for damp, mould, and other hazards are completed in a timely manner, as RSH will have the power to conduct a survey on a property with only 48 hrs notice and to carry out emergency remedial works (via an authorised person) with only 24 hrs notice.
- Be aware of the potential of receiving more complaints as the threshold for the RSH to intervene in consumer issues is reached more quickly.
- Ensure senior housing managers hold housing management qualification from the Chartered institute of housing or are working towards a qualification.

2. Recommendations

- 2.1. Housing Select Committee are asked to note the briefing and the work taking place to prepare for the introduction of the Social Housing (Regulation) Act.

3. Policy Context

- 3.1. The contents of this report are consistent with the Council's policy framework. It supports the achievements of the Corporate Strategy objectives:
 - Tackling the housing crisis – Everyone has a decent home that is secure and affordable.
- 3.2. The contents of this report support the achievement of the following Housing Strategy 2020-26 objectives:
 - Delivering the homes that Lewisham needs;
 - Preventing Homelessness and meeting housing need;
 - Improving the quality, standard and safety of housing;
 - Supporting our residents to live safe, independent and active lives;
 - Strengthening communities and embracing diversity.

4. Background

- 4.1. Following the tragedy of the Grenfell Tower fire in 2017, the Government published the [Social Housing Green Paper - 'New Deal for Social Housing'](#) and the [Social Housing White Paper](#). This signalled an increased government focus on social housing, in particular with regards to building safety and ensuring greater transparency for residents, enabling them to scrutinise performance and have a voice in how their homes are managed.
- 4.2. These papers laid the basis for the Social Housing (Regulation) Act 2023. At the heart of the new law is the intention that failing Social Housing landlords (Registered Providers) (RPs) should be challenged and required to meet higher standards, that the tenants deserve better, their rights should be respected and

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higher standards set.

- 4.3. In 2022, the Social Housing (Regulation) Bill was laid in parliament to deliver the reforms that were outlined in Social Housing White paper. In February 2023, the government tabled amendments to the Bill to introduce Awaab's Law, which requires landlords to fix reported health hazards within specified timeframes. The Bill received Royal Assent to become law on Thursday, 20th July 2023.
- 4.4. The Social Housing (Regulation) Act 2023 (the Act) brings forward a stronger and more proactive regulatory regime to improve standards in the sector and hold landlords to account for the service they provide to their tenants. This is to ensure tenants receive a high level of service and are given a stronger voice.
- 4.5. The new Act is both stringent and proactive and the Regulator of Social Housing (RSH) has been clear that their approach will be resident, and outcome focused, with enhanced powers to issue unlimited fines and order performance improvement plans.
- 4.6. Prior to the Social Housing (Regulation) Act 2023, the government also introduced the Building Safety Act 2022 and the Fire Safety Act 2022 in order to ensure buildings, particularly high-rise blocks over 18m are safe and fit for purpose. The council has worked closely to ensure all existing commitments under these acts are met and preparations are underway to meet all upcoming milestones.

5. The Social Housing (Regulation) Act 2023

- 5.1. The key changes to be brought in with the Act are:
 - More proactive regulation with the power to impose unlimited fines for non-compliance
 - New Consumer Standards
 - New Decent Homes Standard
 - New Tenant Satisfaction Measures
 - New professional qualification requirements
 - Enhanced powers for the Housing Ombudsman
- 5.2. The Housing Ombudsman Service and the Regulator of Social Housing each have a role in dealing with social housing landlords. The organisations work closely together but have different roles. These roles are intended to be complementary, ensuring landlords meet expected levels of service delivery to tenants, and organisational levels respectively.
- 5.3. The Act intends to strengthen the powers of the Housing Ombudsman (HO) and the Regulator of Social Housing.
- 5.4. The Act also provides for the RSH, HO and the Building Safety Executive to share information on failings landlords.

More proactive regulation

- 5.5. The Regulator of Social Housing is an independent body, responsible for setting standards that all registered providers of social housing must meet and holds landlords to account for compliance with these standards. Its remit covers both local authorities and Registered Providers (RPs, housing associations).

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- 5.6. The RSH works alongside other regulatory bodies, particularly, the Housing Ombudsman. The Ombudsman is a separate entity and specifically investigates complaints and resolves disputes. The Social Housing (Regulation) Act 2023 focuses on creating an expanded role for the Regulator of Social Housing and the Housing Ombudsman.
- 5.7. The RSH is moving to a much more proactive approach. Currently, they can usually only intervene on a consumer issue where a 'serious detriment' test is passed. This restricts investigations to those landlords who are believed to be in breach of the standards. The new Act removes this test and the RSH will be able to intervene in more resident complaint cases.
- 5.8. The RSH has said it will inspect every large social landlord, including local authorities against the new consumer standards on a rolling four-year basis and will have the power to issue unlimited fines to social landlords who do not comply with the Consumer Standards. The Regulator will take a risk-based approach in prioritising inspections.
- 5.9. From 2024, the new prescribed Tenant Satisfaction Measures will be used along with evidence from tenants, previous monitoring, and the Housing Ombudsman to target inspections for each landlord on areas of potential concern. Inspections may also take place on a reactive basis if the need arises.
- 5.10. The Act will enable the RSH to set standards relating to information and transparency, requiring social landlords to provide residents with information on how they can make a complaint against them.
- 5.11. The RSH will also issue social landlords with performance improvement plan notices in the following instances:
 - If they fail to meet a regulatory standard (or there is a risk it will fail to do so if no action is taken)
 - If they fail to comply with directions around the Tenant Satisfaction Measures
 - If the interests of tenants of social housing require protection
- 5.12. The RSH will have powers to set strict time limits (yet to be set) for social landlords to address Awaab's Law – requiring social landlords to respond to and investigate hazards such as damp, mould and unsafe homes as well as rehouse tenants to safe alternative accommodation within those time limits. The RSH will have the power to order emergency repairs and access homes at 48 hours' notice. A consultation on the timescales is expected imminently.
- 5.13. All social housing providers, including private registered providers and local authority landlords, will need to pay for regulation costs. This will cover expenses related to the new consumer standards and inspections.

New Consumer Standards

- 5.14. The RSH published a consultation on the proposed new consumer standards over the summer, to which Lewisham submitted a response. The new regulations are due to be finalised in early 2024 and will be in place from April 2024.
- 5.15. The newly proposed standards set out increased expectations of landlords, with a particular focus on safety and transparency. The proposed standards are summarised below and full details are included in appendix 2:
 - Safety and Quality Standard – provide safe and good quality homes and

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services to tenants

- Transparency, Influence and Accountability Standard – to be open with tenants, treat tenants fairly and ensure tenants can access services, make complaints and influence decision making
- Neighbourhood and Community Standard – to ensure tenants can live in safe and well maintained neighbourhoods
- Tenancy Standard – requires fair allocation and management of homes and tenancies

New Decent Homes Standard

- 5.16. A relaunched review of the existing Decent Homes Standard began in June 2023. The review looked at:
- An updated list of items which must be kept in a reasonable state of repair for a home to be considered 'decent'.
 - An updated list of services and facilities that every property must have to better reflect modern expectations for a 'decent' home.
 - Whether the current Decent Homes Standard sets the right standard on damp and mould to keep residents safe.
 - Updates to how the condition of building components, such as roofs and walls, are measured - to make sure that buildings which are not fit for use cannot pass the standard.
 - The introduction of a Minimum Energy Efficiency Standard for the social rented sector.
- 5.17. A consultation on the new Decent Homes Standard, reflecting the outcome of the review is expected. Meeting the Decent Homes Standard is specifically referenced as part of the revised Consumer Standards and is therefore required in order to be compliant.

New Tenant Satisfaction Measures

- 5.18. The RSH requires social landlords to collect information about their performance against new Tenant Satisfaction Measures (TSMs).
- 5.19. From April 2023, landlords have been responsible for collecting feedback on performance from tenants and to publish their Tenant Satisfaction Measures (TSMs) annually. The aim is to improve transparency in the sector.
- 5.20. There are 12 tenant perception measures which need to be collected via surveys and ten management information measures which also need to be reported. Full detail is provided in appendix 3.
- 5.21. Collection, via surveys, for this information is underway. Tenants within the homes directly managed by the council and the TMOs will be surveyed via telephone. Tenants within the PFI area are being surveyed via online survey and telephone. The results will be compiled and reported jointly in June 2024.

New professional qualification requirements

- 5.22. The Act will set qualification requirements for social housing managers to bring social housing more closely into line with other front-line services, including social work, teaching and, health and care services.

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- 5.23. The implementation of the new legislation mandates that all senior housing executives and social housing managers must have, or be working towards, an appropriate level housing management qualification regulated by Ofqual equivalent to:
- a Level 4 Certificate or Diploma in Housing for social housing managers
 - a Level 5 Certificate or Diploma in Housing or a foundation degree from the Chartered Institute of Housing for senior housing executives.
- 5.24. This requirement covers existing employees who are senior housing and property managers and those who have responsibility for the day-to-day management of the provision of services connected with the management of social housing.

Enhanced powers for the Housing Ombudsman

- 5.25. The Housing Ombudsman (HO) investigates complaints and resolve disputes involving tenants and leaseholds of social landlords (housing associations and local authorities) as well as for voluntary members.
- 5.26. The HO investigates complaints that it receives by requesting evidence from the resident and landlord and determines what is fair in all the circumstances of the case.
- 5.27. The Act will provide the HO with powers to publish statutory best practice guidance to landlords following investigations into tenant complaints and require a landlord to self-assess against HO concerns. The HO plans to engage with landlords and produce a good practice guidance in 2024.
- 5.28. The HO will have the power to issue a new type of order if shortcomings give rise to further complaints and allow the HO to remedy beyond the individual complaint. Some remedies which had previously been recommendations will now become orders, with landlords required to provide evidence of compliance.
- 5.29. The Complaint Handling Code is now on statutory footing and introduces a new legal duty on landlords to comply with the Code. This is included as appendix 4.

6. Preparations in Lewisham

- 6.1. A summary of the work underway to prepare for the implementation of the Act is attached as appendix 1. In summary, Lewisham Council will need to:
- Carry out a gap analysis of current service provision arrangements against the new Consumer Standards.
 - Be ready for short notice inspections to demonstrate compliance with the Consumer Standards. Ensure systems and documentation is in order to provide relevant documentation and evidence. This includes any documentation published by the Council, to ensure it is up to date, clearly accessible for residents and meets regulatory requirements. The Regulator has indicated it will review all publicly available documentation in advance of an inspection and potentially as part of their process for determining risk of service failure.
 - Ensure repairs for damp, mould, and other hazards are completed in a timely manner, as RSH will have the power to conduct a survey on a property with only 48 hrs notice and to carry out emergency remedial works (via an authorised person) with only 24 hrs notice.
 - Develop a new Resident Engagement Strategy, in consultation with residents,

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to ensure the way in which the Council involves residents is accessible and suited to the needs and preferences of residents, and that residents have the best possible opportunity to scrutinise and monitor performance and service delivery, across those areas of the service which are most important to them. The Council has produced a fully consulted Building Safety Resident Engagement Strategy as required under Building Safety legislation. The Building Safety Team is taking measures to increase the representation of residents who live in high rise buildings.

- Be aware of the potential of receiving more complaints as the threshold for the RSH to intervene in consumer issues is reached more quickly.
- Ensure senior housing managers hold housing management qualification from the Chartered institute of housing or are working towards a qualification.
- Ensure performance management and governance arrangements are appropriate for the level of scrutiny required. This will provide assurance to the Regulator that Lead Members and residents are equipped to play their role in overseeing delivery of services and that Members are informed and able to deliver on the Regulator's expectation that they are ultimately accountable for the council's compliance with the new requirements.

6.2. It should be noted that the council took the decision to make a self-referral to the Regulator of Social Housing in December 2023. This was done in the interests of openness and transparency following a review of our performance data on repairs, decent homes and the timely delivery of fire safety actions. We have provided details of our actions to improve performance and have communicated with tenants, residents and key stakeholders on the matter. We await the decision of the Regulator in terms of whether a notice will be served on the council and how the Regulator will work with us to drive improvement.

7. Financial implications

- 7.1. This report requests that Housing Select Committee note the briefing and the work taking place to prepare for the introduction of the Social Housing (Regulation) Act 2023, as such there are no direct financial implications to this report.
- 7.2. The majority of any additional costs arising from the Social Housing (Regulation) Act 2023 or additional Fire, Building Safety regulations and Damp & Mould requirements will fall to the HRA management and Repairs allocations to fund.
- 7.3. This may require additional resources to be invested into these programmes. Whilst the full cost is yet to be established, discussions with both the Head of Housing Management and Repairs is ongoing.
- 7.4. The annual subscription the authority will pay to contribute towards funding the Register of Social Housing (RSH) will be in the region of £100k to £116k, depending on confirmation of the final per unit cost and actual stock numbers. It should also be noted that non-compliance with the Social Housing (Regulation) Act 2023 and standards carries higher penalties, with the previous maximum cap on awards now lifted.

8. Legal implications

- 8.1. This report sets out the requirements of the Social Housing (Regulation) Act 2023 and the steps the Council is taking to meet those requirements.

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9. Equalities implications

- 9.1. Lewisham residents represent a wide range of protected characteristics. The new Consumer Standards set out specific expectations for landlords on knowing their customers and how services should be delivered to them, based on their protected characteristics and any other identified need. Compliance with the requirement of the Act will deliver improved services to all protected groups.

10. Climate change and environmental implications

- 10.1. The quality of the home and the requirement to have informed asset investment plans is a key feature of the Act. Although this has been a requirement under previous legislation, the more vigorous enforcement of these requirements will promote the delivery of measures to make homes more thermally efficient and prepare for the Government's decarbonisation agenda. Further updates will be provided to Members once the specific requirements of the enhanced Decent Homes Standard is known.

11. Crime and disorder implications

- 11.1. There are no anticipated crime and disorder implications.

12. Health and wellbeing implications

- 12.1. Social housing is a tenure type reserved for those households who are often vulnerable, have disabilities and are on lower incomes. The health implications of poor-quality housing is well documented.
- 12.2. The Social Housing Act 2023 has arisen following the Grenfell and Awaab's Ishak tragedies. Any measures to strengthen regulation and ensure residents are living in safe and decent homes is very welcome. The council's concerns arise from the means in which these new requirements can be resourced, given the existing budgetary constraints faced by councils.

13. Appendices

- 13.1. Appendix 1 – preparations for implementation of the Social Housing Act
- 13.2. Appendix 2 – proposed Consumer Standards
- 13.3. Appendix 3 – TSM survey questions
- 13.4. Appendix 4 – Complaint handling code

14. Report author and contact

- 14.1. Fenella Beckman, Director of Housing, 020 8314 8632;
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- 14.2. Comments for and on behalf of the Executive Director for Corporate Resources:
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- 14.3. Comments for and on behalf of the Director of Law, Governance &HR
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