



Preparing for Regulatory Change (Housing)

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Lead Member/Relevant Portfolio Holder	Councillor Pip Allnatt , Portfolio Holder for Housing and Landlord Services (Leader of the Council)
Corporate Priority:	Excellent homes and landlord services
Relevant Ward Member(s):	All
Date of consultation with Ward Member(s):	Not applicable
Exempt Information:	No

1 Summary

- 1.1 The Housing White Paper published in November 2017 suggested wide ranging changes to the way Social Housing is regulated, including moving from a reactive to a proactive regulatory approach. Work to develop and implement a new regulatory regime has taken place since, leading to the Social Housing (Regulation) Act 2023 receiving royal assent in July 2023.
- 1.2 The new regulation regime will apply to all social housing landlords with more than 1000 properties and will be enforced by the Regulator for Social Housing (RSH). With a stock of approximately 1800 homes, this applies to Melton Borough Council. This report provides information about the work being undertaken to prepare Melton Borough Council for the introduction of these new arrangements.

2 Recommendation(s)

That Scrutiny Committee:

- 2.1 **Consider and comment on the preparations being completed by Melton Borough Council Housing Service for the introduction of the new housing regulation regime from April 2024.**

3 Reason for Recommendations

- 3.1 To ensure that the Scrutiny Committee have the opportunity to consider and comment on the Councils preparations for the implementation of the new Social Housing Regulation regime.

4 Main Considerations

- 4.1 The previous housing regulatory arrangements for social landlords were created as part of the Housing and Regeneration Act 2008, and replaced the former Housing Inspection regime with a co-regulation environment where social landlords were expected to work with the Regulator of Social Housing (RSH) to address any compliance issues they identified. The new housing regulatory regime is being enacted through amendments to the existing legislation where possible, but also required changes to primary legislation in some areas. The White Paper from November 2017 that proposed these changes ultimately became the Social Housing (Regulation) Act 2023 which received royal assent on 20 July 2023 after a series of last-minute amendments were made.
- 4.2 Compliance with the new housing regulatory regime is a statutory requirement for all social housing landlords with more than 1000 properties. The new regime significantly amends the role of the regulator from being reactive to being proactive on regulatory and enforcement matters. Under the former arrangements the RSH would normally only become involved with a social landlord if there was a self-referral or complaints from tenants. It would then be a matter for the RSH to determine if the breach reported represented a “significant detriment” before they could take regulatory action. The changes in the role of the regulator have removed the serious detriment test, and now enable the RSH to carry out a programme of inspections and require social landlords to submit performance and tenant perception data to them, which will be used to determine the proposed 4-year inspection programme priorities based on a risk assessment.
- 4.3 The new arrangements are not prescriptive about how landlords should achieve the required standards, as the clear emphasis is that they should work with tenants to define the services and approaches that meet tenants needs and service expectations and agree them on a local level. When the RSH are assessing compliance, they will look to check performance against locally agreed service priorities, apart from the core areas of safety and quality of homes.

- 4.4 In 2019, Melton Borough Council took proactive action to identify and address long-standing issues within its housing service, adopting a comprehensive Housing Improvement Plan. At the time, the Council made a self-referral to the Regulator, having identified a number of challenges relating to landlord health and safety and compliance. Following a review and engagement with the Regulator, they found it would not be proportionate to find a breach of the Homes Standard, reflecting on the positive progress the council had made since the establishment of the Housing Improvement Plan and the commitment to continue taking positive action.
- 4.5 The Council has continued to progress the investment and improvements that were committed to at the time and significant work has been undertaken to strengthen and improve the Council's housing service, with a number of notable achievements including:
- a) Development and approval of 30-year HRA Business Plan
 - b) Stability of Housing Leadership Team
 - c) Development, approval and delivery of HRA Asset Management Plan, with clear process to carry out annual review to inform future investment planning and budget setting process
 - d) Landlord Health & Safety Audit positive assurance and outcomes
 - e) Substantial assurance audit – strategic management of the Housing Revenue Account
 - f) Data driven approach, informed by stock condition survey
 - g) IT system development and implementation
 - h) Policy and procedure development and implementation
 - i) Tenant Engagement Framework and introduction of revised tenant engagement arrangements
 - j) Proactive damp and mould response, assurance to scrutiny committee and regulator, data driven and customer focussed approach
 - k) Capital programme spend in line with budget, enabling investment and improvement to tenants homes
 - l) Introduction of new anti-social behaviour policy and case management system
 - m) Addressing backlog of void (vacant) council properties
 - n) Access to benchmarking information to support continued development and improvement
 - o) Appointment of regulatory assurance lead officer to support preparation for changes to regulatory regime
 - p) Improved right to buy processes and arrangements, leading to positive audit outcome
 - q) Revised customer feedback and complaints policy, aligned to Housing Ombudsman requirements
 - r) Proactive, honest and transparent approach to risk identification and management

- 4.6 Maintaining progress and momentum is requiring continued officer time in improving services whilst simultaneously dealing with a reactive service environment to meet the needs of tenants, and proactive preparation for regulatory change and long-term strategic planning for the Council's housing function and services.
- 4.7 The Council is still on a journey of improvement and is not complacent. There remain areas of challenge and risk, including some areas of service delivery which have been reported to members through performance, audit, risk and financial management arrangements.
- 4.8 The completion of a comprehensive diagnostic self-assessment against the existing Consumer Regulations required by the current regulations is also being completed to identify any areas of risk or concern. This process is still ongoing and has proved very insightful in confirming that we are already fully compliant in most areas of the existing requirements, with further work is being undertaken in a small number of areas of uncertainty to ensure full compliance is being achieved.
- 4.9 This work identified a need to review configuration of the Northgate / NEC system regarding decent homes data. A plan to review the way in which data is being reported has been agreed and is being implemented, leading to the ability to report improved decent homes performance. This programme of work has identified that the council was reporting based on accurate data but had not added into its system configuration process some automation of reporting, leading to reporting being limited to 'age' of component (eg, kitchen) rather than 'age and condition' of component. An action plan is being worked through methodically, and decent homes reporting is showing an improved position to approx. 90% decency with further work still to do, which is expected to further improve this position. This will be reflected in the Q3 performance report and will enable a decent homes trajectory to be included within the asset management plan annual refresh currently underway.
- 4.10 There are a number of core elements of the **new** regulatory environment as detailed in sections below, and an Easy Read overview guide is available on the following link: [Standards for social housing tenants: Read our ideas and tell us what you think \(publishing.service.gov.uk\)](https://publishing.service.gov.uk)
- 4.11 **Housing Consumer Standards** – these standards have existed for some time under the existing regulatory arrangements, and it is proposed to amend and update them.
The new draft Consumer Standards are broken down into four areas -
- The Safety and Quality Standard.
 - The Transparency Influence and Accountability Standard.
 - The Neighbourhood and Community Standard.
 - The Tenancy Standard.
- 4.12 At the heart of the new arrangements are the principles of landlords needing to be transparent about their performance and treat their tenants with respect. This is through understanding the quality of homes and having appropriate plans to keep them safe (compliant) and in a good standard or repair and improvement, and understanding their

tenants, though holding and using appropriate levels of tenant profile data to enable services to be shaped to meet tenants needs.

- 4.13 The Tenant Satisfaction Measures (or TSMs as they are commonly known) form an additional standard in this suite of requirements. Full details of the consultation document on the new consumer standards can be found on this link: [Consumer standards consultation \(publishing.service.gov.uk\)](https://publishing.service.gov.uk). This document includes the 7 prescribed questions that landlords are invited to respond to as part of the consultation process which closes on 17 October 2023.
- 4.14 **Housing Consumer Standards Code of Practice** – this document is designed to support the new consumer standards and provide examples of the intentions of the new requirements, to guide landlords to ensure they comply. They are not a prescriptive list of specific requirements though, as the very ethos of the new arrangements is that landlords need to agree with their tenants how they are going to comply in a way that is appropriate for local circumstances and priorities. The full draft code of practice for consultation document can be found using this link: [Annex 2 - Proposed consumer standards Code of Practice \(accessible version\) - GOV.UK \(www.gov.uk\)](https://www.gov.uk)
- 4.15 **Economic and Governance Standards** – it is important to recognise that these standards exist within the wider housing regulatory framework, but they do not currently apply to Councils, as separate arrangements are considered to already be in place through the existing Local Government Audit oversight requirements. Housing Associations are required to be inspected periodically by the RSH with respect to this area and a poor outcome can have a significant impact upon their credit score when seeking to access market funding for developments.
- 4.16 **Tenant Satisfaction Measures (TSM)** – these are a series of 22 indicators that have been designed to provide a cross section of information about both the performance of the landlord and the perception of the service from tenants. Details of these are included as an appendix to this report. There are 10 service specific performance indicators, and 12 “tenant perception” indicators, assessing the views of tenants about the services they receive. We are already gathering the data that needs to be supplied for the performance indicators, and the perception indicator responses will be collected as part of a survey to be undertaken in September/October, working with Housemark. The survey must ask a series of set questions using a prescribed methodology to ensure the results are a representative sample of the tenants of the Council. Once completed the survey results must be submitted to the Regulator by April 2024. The frequency with which the surveys must be conducted is not specified, but the expectation is that it should be at least annual. Further details of the TSM Standard requirements were published on 30 March 2023 and can be found on the following link: [TSM Standard \(publishing.service.gov.uk\)](https://publishing.service.gov.uk)
- 4.17 **Inspection process** – the new regulation regime will see the reintroduction of the concept of a Housing Inspection, where officers from the Regulator will visit landlords to assess the service they provide against the requirements of the new regulatory regime. It is anticipated that these inspections will be of the “short notice” type, with as little as 48 hours’ notice of an on-site arrival. Current suggestions are that the regulator will operate a 4-year rolling inspection programme, which will be prioritised using a risk based

methodology, using information submitted as part of the TSM process and other data sources, such as analysis of complaints from the Ombudsman and direct approaches from tenants.

- 4.18 As part of the preparations for an inspection it is anticipated that landlords will need to submit an **In-Depth Assessment (IDA)** pro forma, to provide additional information to the regulator before their inspection takes place. The regulator is currently carrying out a series of pilot inspections to determine how the process will operate going forward. Following feedback from these initial inspections, a further series of pilots has been proposed. Inspections under the former regime were a very resource intensive process, and the draft guidance on this aspect of the new regulations is eagerly anticipated to see how the balance can be struck between resourcing service improvements and supporting the inspection process. Consultation is anticipated later this year after the outcomes from the latest round of pilots has been considered.
- 4.19 **Interventions** – another significant difference between the former arrangements and the new environment is the range of interventions available to the regulator. These are much more robust and include the power to work with landlords to resolve issues where there is a genuine desire to do so from the landlord through to the removal of the senior management of a landlord and their replacement with the regulators nominees if circumstances justify it. This gives the regulator real “teeth” when dealing with non-compliant landlords who are not prepared to work with the regulator. Consultation on the use of these new powers is awaited.
- 4.20 **Grading of regulatory assessment** – it is anticipated that some form of grading system will be used to “score” the service provided by a landlord. The grading system to be used is not yet known. This may follow the OFSTED model of a single word outcome, or the current arrangements used for Economic and Governance assessments of Housing Associations, on a scale of 1 to 4. Consultation on this aspect of the new arrangements is expected in the coming months.
- 4.21 **Fees for regulation** – as the role of the Regulator has changed significantly, so has its staffing requirement to meet the new requirements and therefore the cost. These costs are recouped through charges to landlords based on number of properties, and consultation launched on 5 September proposes a charge to Melton Borough Council of circa £15k per annum for the new arrangements. This consultation is still being examined in detail by officers and closes on 31 October. Fees for proactive regulation will need to be built into the council’s budget (HRA).
- 4.22 **Professional Qualifications for Housing Managers** – as one of a number of late amendments to the legislation, the Secretary of State included a requirement that all Housing Managers should be professionally qualified. The sector is currently still digesting this announcement and awaiting further guidance for consultation about this requirement, as becoming a fully qualified Housing Manager requires a period of study, so some transitional arrangements are likely to be required. In preparation, a review of qualifications held by housing staff has been undertaken to allow for a check against the new requirements when this information becomes available. Subject to the outcome of this process, an increased training budget may be required, however, a proactive approach to staff training and qualifications has been underway with a number of staff achieving qualifications over the last 2 years, and others underway.
- 4.23 **New statutory roles** – the creations of roles within landlords to be champions of two key areas is also part of the new arrangements. The roles have been created to ensure that

tenants are clear who is responsible for these key areas, as in many large organisations it can be unclear who to contact directly to voice concerns. The Council confirmed designation to these statutory requirements in July 2023 as part of the approval of the HRA business plan (see [Agenda for Council on Thursday, 28th July, 2022, 6.30 pm - Melton Borough Council](#))

- 4.24 The statutory Health and Safety role has been allocated to the role of Director for Housing and Communities (Deputy Chief Executive) as this complements the Council wide role in this area. Performance relating to health and safety is monitored on a monthly basis, in addition to annual spot checks through internal audit.
- 4.25 The role of Assistant Director of Housing has been appointed to the statutory role as Consumer Standards Champion, to oversee the delivery of the new requirements. The work of the Regulatory Assurance Lead is an important part of supporting the Assistant Director in this remit.
- 4.26 As part of Melton Borough Council's preparations for the new regulatory regime, a programme of high-level housing service / function reviews is underway to identify any areas of concern. This is systematically looking across the whole range of services provided to tenants, and identifying areas where further deep dive activity is required. Areas requiring improvement or corrective action are being dealt with on an ongoing basis. The following reviews have been undertaken so far by the Regulatory Assurance Lead, leading to a 'red / amber / green' rating and recommendations:
- a) Statistical returns and data submissions – green.
 - b) Landlord health and safety – green.
 - c) Allocations – green.
 - d) Tenant engagement – amber / further action to embed required.
 - e) Income collection rent arrears – red / in need of corrective action.
 - f) Decent homes – amber / further work on data configuration required.
- 4.27 Recommendations made by the regulatory assurance lead have been considered by SLT and where necessary, by cabinet. Details are provided below:
- 4.28 **Recommendation 1:** To consider whether the council can sustain capacity to deliver and improve, whilst also preparing for the future regulatory regime. Actions include changes to staffing structure, additional temporary resources to boost income collection performance, development of a service plan to support prioritisation. Ongoing consideration of future structure requirements.
- 4.29 **Recommendation 2:** Action required to improve and stabilise rent arrears performance, to support the team to 'go further, faster' to recover the current position. Actions include a detailed diagnostic of performance, implementation of improvements to procedures and processes and increased staffing capacity. Further additional staffing capacity proposed to accelerate progress in addressing arrears backlog, in addition to changes to reporting arrangements to SLT and Cabinet – work to prioritise resources and budgets to enable additional capacity in this area is underway.
- 4.30 **Recommendation 3:** To ensure we know how we are performing. Actions: to join and engage with Housemark benchmarking process, and to strengthen reporting on income collection performance.

- 4.31 Review of the following service strands / functions are scheduled:
- a) Planned / cyclical maintenance
 - b) Responsive repairs
 - c) Void repairs
 - d) Accuracy of data / stock condition information
 - e) Compliance record keeping and reporting
 - f) Arrears recovery processes
 - g) Antisocial behaviour management
 - h) Housing management services (tenancy, mutual exchange, tenancy changes, permissions, support etc)
- 4.32 The Council has been preparing for the new regulatory arrangements for some time and has engaged the support of an experienced housing professional to act as Housing Regulation Lead officer. Chris Lambert is the former Head of Housing with North-West Leicestershire District Council and was previously a member of the Housing Improvement Project Board as a “critical friend” which delivered Melton Borough Councils response to the self-referral to the Regulator. Chris has been working closely with the Housing Leadership Team, and reporting progress to Senior Leadership Team and Portfolio Holder.
- 4.33 As another element of these preparations the Council has joined **Housemark**, the social housing sectors leading cost and performance benchmarking organisation. Through this process, the Council will submit an annual cost and performance portfolio of information, which is then validated by Housemark and an annual bespoke feedback report produced. Through agreeing a comparable peer group of organisations who are also Housemark members to undertake benchmarking with, trends in performance and cost data will be able to be identified, enabling the Council to focus attention on the areas of greatest concern, and celebrate successes performance is strong. In addition to the annual comprehensive benchmarking report, a monthly “Pulse report” was introduced by Housemark during Covid to allow landlords to track changes in key service metrics on a more frequent basis. The Council has already commenced submission of key data to this process, which will enable access to the sector wide monthly summary performance reports going forward. Further information about Housemark is available from the website www.housemark.co.uk
- 4.34 The new arrangements currently being implemented to the way social housing is regulated represent a very significant change in the approach to overseeing social housing landlords by the Government. This will require social landlords to adopt new approaches and change the way they work with tenants to ensure it is transparent and inclusive. Melton Borough Council are rising to the challenge of the new requirements, as detailed in this report.

5 Options Considered

- 5.1 To not prepare for the new regulations – this was rejected, as failure to prepare for and meet the new regulatory requirements would result in a poor assessment of the Council, and would negatively impact tenants. The Council takes its responsibilities to tenants and as a landlord seriously.
- 5.2 To not report the matter to Scrutiny – this was rejected, as it does not reflect the transparency required to ensure all Members are aware of the new regulations and the Council's plans to ensure we comply. Transparency and oversight of the preparations being undertaken are key, including reporting to scrutiny committee on this. The inclusion of Housing Regulation on the Scrutiny Committee work programme is welcome.
- 5.3 To provide Scrutiny with a full report and assessment of the councils' position and preparations is considered to be the most appropriate way forward to ensure that Scrutiny members can provide Scrutiny and Oversight of the Council's preparations for the new arrangements, to ask questions of officers and offer any comments to Cabinet regarding the approach being taken or areas of concern or necessitating further action.

6 Consultation

- 6.1 The Tenants Engagement Group (Your Choice) considered this matter at their meeting on 12 September 2023. Any views or comments expressed which are relevant to the discussions at Scrutiny Committee will be reported verbally to the meeting.
- 6.2 The new regulatory regime has been covered by articles in the tenant newsletter and will also feature in the forthcoming Annual Report to tenants. Updates have also been provided to Councillors through the members' bulletin.
- 6.3 Further work will be required with tenants as the requirements are confirmed following the issuing of final guidance expected in the new year.

7 Next Steps

- 7.1 The Council will continue to respond to consultations from the RSH as they are issued to ensure the views of Melton Borough Council and our tenants are shared with the regulator to help shape the new arrangements.
- 7.2 Analysis of the outcome of the Housemark Benchmarking process in November 2023 will enable the Council to see areas of strength and in need of improvement in terms of both cost and performance, to produce an action plan to address any issues requiring attention.
- 7.3 Following the completion of the Tenant Satisfaction Measures survey in September/October and a review of the final report due in November 2023 will also allow an appropriate action plan to be developed to address any areas of concern identified.
- 7.4 Officers will continue to undertake the comprehensive housing service review programme to identify service strengths and areas for improvement. The Housing Service Plan will be updated to incorporate any required actions to improve services following completion of these reviews.
- 7.5 Preparation for an inspection and the submission of required pro forma information will be undertaken as soon as the new arrangements are confirmed, which is expected to be early in 2024.

- 7.6 A meeting of Leicestershire stock holding councils is due to take place in November 2023 to enable discussion and shared learning on readiness for regulatory change. This meeting is taking place at Director and Chief Executive level, representing commitment and collaboration between councils, in addition to operational relationships and collaboration that takes place, including through the Chief Housing Officer Group (CHOG).

8 Financial Implications

- 8.1 The Council will need to fund the additional costs in line with the requirements of the Social Housing Regulation Act 2023, for example – regulation and inspection fees, tenants satisfaction measure reporting, staff training and qualifications, changes to decent homes criteria. The outcome of the various consultations is awaited and will be built into the council's budget setting and budget management processes when the information and implications become available.
- 8.2 The Council's decision to engage with Housemark will further support transparency and performance management and monitoring. Finance and housing colleagues are working together to ensure proactive engagement with benchmarking opportunities.
- 8.3 Finance and housing colleagues continue to work closely to manage and monitor budgets, capital programme spend and income generation. Specific action is being taken to improve income collection performance as it is important income streams are maximised to help fund the additional burdens.
- 8.4 The financial headroom remains tight with the HRA with the average annual surplus reducing since the business plan was approved due to increasing costs and resource pressures which continue to be lower than the national average meaning it is likely to be a financial challenge to meeting the new requirements without making savings and efficiencies.

Financial Implications reviewed by: **Assistant Director for Resources (Deputy S151 Officer)**

9 Legal and Governance Implications

- 9.1 The Council must demonstrate preparation for and compliance with the requirements of the Social Housing Act 2023, in addition to compliance with existing requirements. Risks, gaps or areas of concern must be brought to the attention of the Senior Leadership Team, Councillors and if applicable at any stage, the Regulator for Social Housing. Preparations so far are considered robust, and the report is clear that there are areas of continued development and improvement.
- 9.2 There are a number of ways in which the Council can demonstrate good governance and oversight relating to Housing Regulation. These include:
- a) Inclusion in the Council's Annual Governance Statement 2023/24 as a core focus
 - b) Inclusion in the Internal Audit Programme, with a number of audits undertaken, underway or scheduled, and being reported to the Audit Committee
 - c) Regular monitoring of performance and risk via Senior Leadership Team and Cabinet

- d) Reporting to SLT on Regulatory Readiness assessment and recommendations for improvement or action
- e) Reporting to Scrutiny and Regulator on Damp and Mould response
- f) Proactive implementation of revised tenant engagement arrangements
- g) Portfolio Holder meetings, specific portfolio for Housing and Landlord Services

Legal Implications reviewed by: Interim Assistant Director for Governance and Democracy (Monitoring Officer)

10 Equality and Safeguarding Implications

- 10.1 Equality Impact Assessments form a key supporting document linked to each of the consultation processes.

11 Data Protection Implications (Mandatory)

- 11.1 No new requirements identified.

12 Community Safety Implications

- 12.1 Requirements regarding Anti-Social Behaviour and the management of communal areas contained within the proposed Housing Consumer Standards will need to be fully embedded within the Councils approach to ASB once the final standards have been issued.

13 Environmental and Climate Change Implications

- 13.1 No direct implications identified.

14 Risk & Mitigation

14.1 Key risks and mitigations are detailed in the table below.

Risk No	Risk Description	Likelihood	Impact	Risk
1	MBC have not prepared adequately for the new regulations being implemented	2	3	Low
2	MBC cannot afford any costs arising from the new arrangements / changing regulatory context	2	2	Low
3	Negative outcomes from an inspection process cause reputational damage and results in significant intervention from the regulator	3	3	Medium

		Impact / Consequences			
		Negligible	Marginal	Critical	Catastrophic
Likelihood	Score/ definition	1	2	3	4
	6 Very High				
	5 High				
	4 Significant				
	3 Low			3	
	2 Very Low		2	1	
	1 Almost impossible		2		

Risk No	Mitigation
1	Detailed preparation underway, responding to consultations and undertaking comprehensive service review programme, plus diagnostic review of compliance with current arrangements.
2.	Provision for process support and payment of fees to be incorporated into the HRA budget for 23/24 and beyond. Will also be included in the HRA Business Plan review process.
3	Extensive and well-resourced preparations underway, together with a service improvement plan which will minimise the probability of a negative outcome.

15 Appendices

15.1 None

16 Background Papers

16.1 Social Housing Regulation Act 2023

16.2 HRA Business Plan 2022 - 2052

16.3 HRA Asset Management Plan

16.4 Audit Committee Reports (Landlord Health and Safety, Strategic Management of the HRA, Voids, Right to Buy)

16.5 Scrutiny Report, Damp and Mould response