



<b>Committee</b>	Cabinet
<b>Date</b>	09/04/2024
<b>Subject</b>	Housing Regulation – Quarterly Update
<b>Cabinet Member</b>	Councillor David Beavan – Deputy Leader and Cabinet Member for Housing
<b>Report Author(s)</b>	<p>Heather Fisk Head of Housing <a href="mailto:Heather.fisk@eastsoffolk.gov.uk">Heather.fisk@eastsoffolk.gov.uk</a></p> <p>Lynne Thomas-Mead Strategic Lead – Housing Information and Governance <a href="mailto:Lynne.thomas-mead@eastsoffolk.gov.uk">Lynne.thomas-mead@eastsoffolk.gov.uk</a></p> <p>Stephanie Duff Strategic Lead – Property Services <a href="mailto:Stephanie.duff@eastsoffolk.gov.uk">Stephanie.duff@eastsoffolk.gov.uk</a></p>
<b>Head of Service</b>	<p>Heather Fisk Head of Housing <a href="mailto:Heather.fisk@eastsoffolk.gov.uk">Heather.fisk@eastsoffolk.gov.uk</a></p>
<b>Director</b>	<p>Andrew Jarvis Strategic Director <a href="mailto:Andrew.jarvis@eastsoffolk.gov.uk">Andrew.jarvis@eastsoffolk.gov.uk</a></p>

<b>Key Decision?</b>	No
<b>Is the report Open or Exempt?</b>	OPEN

<b>Category of Exempt Information and reason why it is <b>NOT</b> in the public interest to disclose the exempt information.</b>	Not applicable
--	----------------

## Purpose/Summary

To provide an update to Members on housing regulation matters, which led in May 2022 to a Regulatory Notice being published by the Regulator of Social Housing (RSH) for a breach of the Home and Rent Standards.

These quarterly updates are required, as set out in paper [ES/1432](#), which was presented to Full Council on 25<sup>th</sup> January 2023. At the meeting recommendation 6 stated “Members note that quarterly updates will be presented to Cabinet, detailing the progress against the Compliance and Rent Improvement Plans”.

This report follows [ES/1796](#) the previous quarterly update to Cabinet on 2nd January 2024. Section 2 of this report has been re-written to describe progress and status.

This report is provided for information purposes only. There is no requirement for Cabinet to make a decision.

## Recommendation(s)

That Cabinet:

1. Notes the information contained within this report and endorses the actions set out to ensure the Council is compliant with the Regulator of Social Housing Consumer ‘Home Standard’
2. Notes the information contained within this report and endorses the actions set out to ensure the Council is compliant with the Regulator of Social Housing ‘Rent Standard’
3. Notes that the next quarterly update will be presented to July 2024’s Cabinet Meeting.

## Strategic plan

How does this proposal support Our Direction 2028?

### Environmental Impact

This work will not affect the environmental impact of ESC social homes

### Sustainable Housing

This work will ensure that ESC is taking all reasonable and expected measures to ensure tenants living in social homes owned by East Suffolk Council are safe.

Improvements are being made to build capability and capacity for operational management of building and tenant safety. Key changes include:

- A new compliance team in Housing ‘Property Services’
- Improvements to housing data and information systems to underpin the programmes of cyclical inspections and servicing, and planned safety works and capital projects.

An asset review of the high-rise building ‘St Peter’s Court’ has concluded, and Cabinet has determined the building has reached the end of its viable life. Affected Tenants are being supported to move to alternative, sustainable social homes and the building is being emptied.

<p><b>Tackling Inequalities</b></p>	<p>This work will ensure that tenants living in social homes owned by East Suffolk Council are paying the correct rent and service charges, in accordance with the <a href="#">ESC Rent and Service Charges Policy</a>.</p> <p>Tenants who were incorrectly converted from social rent to more expensive affordable rent have been converted back to social rent and are being refunded the rent they have overpaid.</p> <p>Tenants who were incorrectly charged for maintenance of their heating system, via a service charge or de-pooled rental charge, are being refunded the service charge in full.</p>
<p><b>Thriving Economy</b></p>	<p>An asset review of the high-rise building ‘St Peter’s Court’ has concluded, and Cabinet has determined the building has reached the end of its viable life.</p> <p>The building is being decanted and tenants rehoused, and the site will become available for re-generation by East Suffolk Council.</p>
<p><b>Our Foundations / governance of the organisation</b></p>	<p>Arising from this work, a new Housing Health and Safety Board has oversight of all policies and activities that are necessary to ensure the safety of tenants living in social homes owned by East Suffolk Council</p> <p>A new <a href="#">Rent and Service Charges Policy</a> has been written. A new Rent Development Board has oversight of rent setting and service charges.</p>

## Justification for recommendations

### 1. Background

- 1.1. East Suffolk Council (ESC) owns and is the social landlord for approximately 4,500 properties, which are managed through the Housing Revenue Account (HRA). The stock consists of a mixture of bungalows, flats and houses, and includes 13 Retired Living Schemes, one block over 18m tall and a number of properties used as Temporary Accommodation for homelessness under s188 and s193(2) of the Housing Act 1996. There are also some commercial units and some units, which are leased to other providers.
- 1.2. 'Registered Providers' of social housing include both Councils and Housing Associations. They are governed by the Regulator of Social Housing (RSH) and the Housing and Regeneration Act 2008, sets out the role of the RSH.
- 1.3. The RSH has a set of standards, which Registered Provider (RP) landlords, must comply with. These include **4 consumer** standards and **3 economic** standards.
  - 1.3.1. The consumer standards are applicable to all RP's, including Councils.
  - 1.3.2. Local authority registered providers were not subject to any of the economic standards set by the RSH until they became subject to the Rent Standard with effect from 1<sup>st</sup> April 202.
- 1.4. The RSH Consumer Standards include the **Home Standard**, which focusses on quality of accommodation and repairs and maintenance. This includes compliance with the 'Big 6' areas: Fire, Gas Safety, Electrical Safety, Water Safety (Legionella), Asbestos and Lifting Equipment (Lifts and Stairlifts). The key outcomes of the Home Standard are:
  - 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.
- 1.5. The RSH Economic **Rent Standard** applies to 'low-cost rental accommodation', as defined by section 69 of the Housing and Regeneration Act 2008, with some limited exceptions (not relevant to this paper). Registered providers must comply in full, with all the requirements and expectations set out in the Rent Standard. They must additionally comply with all the requirements and expectations of the Rent Policy Statement on the setting, increase and decrease of rents and service charges.
- 1.6. The RSH has a 'co-regulatory' approach to supporting the regulation of social housing. There is an expectation that RPs are open and transparent and will make a self-referral to the RSH if there is reason to believe that there may be a breach of one or more of the Regulatory Standards.

### 2. Introduction

- 2.1. During late 2021 and early 2022 the Council undertook a high-level review of the Council's landlord service. This identified some areas which may have breached the Regulatory Standards, and in February and March 2022 ESC engaged with the RSH, outlining potential breaches of the Homes Standard and Consumer Standard.
- 2.2. On 25th May 2022, the RSH published a [Regulatory Notice](#) confirming these breaches.

- 2.3. Since then a substantial programme of correction and improvement has been undertaken, as set out in detail in the Report [ES/1432](#), which was presented to Council in January 2023
- 2.4. This report provides a quarterly update on the progress of this work programme.

**3. Progress Update**

- 3.1. At 29<sup>th</sup> February 2024 the compliance levels were:

Aspect of Compliance	Level of Compliance
Asbestos Safety- communal areas	100%
Electrical Safety-domestic	99.1%
Electrical Safety- communal	100%
Fire Risk Assessments in date	100%
Gas Safety	99.98%
Passenger Lift Safety	100%
Water Safety	100%

This data is reviewed monthly by the Housing Health and Safety Board

- 3.2. **Asbestos Safety**

- 3.3. The procurement of a new asbestos removal contractor has been completed and they have successfully mobilised the contract. The new contractual arrangements include key performance indicators which the Contract Manager will monitor to ensure service standards are met.
- 3.4. Trade Supervisors and Repairs Inspectors have all received enhanced Asbestos Duty to Manage training. This course set out the legal duties as Landlord ESC has to its residents, contractors and staff.
- 3.5. A programme has been developed to re-inspect all homes over a 5 year period. The annual programme of c900 homes is targeting market towns first with 286 completed in Beccles in the first 4 months of the new programme.
- 3.6. Work has commenced to procure a new asbestos surveying contract to replace the current arrangements which come to an end on 31<sup>st</sup> August 2024.
- 3.7. The Contracts Manager Asbestos and Water Safety has been awarded the British Hygiene Certificate in Management of Asbestos in Buildings, following recent training

- 3.8. **Electrical Safety**

- 3.9. A Contracts Manager for Electrical Safety has been successfully appointed following a recruitment campaign. This role will co-ordinate all aspects of electrical safety across the HRA portfolio.
- 3.10. Periodic Inspections continue with 4,318 occupied properties having an electrical inspection in the last 5 years.
- 3.11. 37 dwellings have an electrical inspection over 5 years but less than 10 years old. Just 5 dwellings have an inspection over 10 years old. Each of these have had multiple visits and requests to gain access. There are limited legal routes to force access as electrical testing does not have the same legal standing as gas servicing access. Tenancy Services staff are following up with tenants to determine the root cause of denying access and agree specific access arrangements.
- 3.12. A review of 138 homes with the oldest electric storage heaters has commenced. Plans are being developed to upgrade with more efficient heating systems. Air source heat pumps will be installed where suitable.
- 3.13. Annual servicing and inspection of the lightening protection systems to St Peters Court, Plaisir Place and Spruce Court has been successfully completed.

- 3.14. **Fire Safety**

- 3.15. All 86 fire risk assessments (FRA) to blocks of flats are in date in accordance with the Regulatory Reform (Fire Safety) Order 2005.
- 3.16. A positive outcome from the fire compartmentation and fire door upgrade works has resulted in the recent FRA at Amy Court reducing the risk categorisation from substantial to moderate. There are no blocks which are rated with the 2 highest risk levels, the current portfolio wide risk level is:

Risk level	Number of blocks
Intolerable	0
Substantial	0
Moderate	46
Tolerable	40
Trivial	0

- 3.17. FRA remedial actions have reduced since the last update report. There remain 362 open actions (down from 408) of which 336 are overdue, details are set out below:
- 3.18. 160 (44%) of actions related to fire doors
- 3.19. 76 (21%) relate to compartmentation surveys or fire stopping
- 3.20. 19 fire detection systems require upgrading or replacement.
- 3.21. Premarket engagement was undertaken in December with regional contractors who specialise in fire safety works to address the compartmentation and fire doors actions. Preparation of tender documents has begun with procurement expected to begin in the next quarter.
- 3.22. Design work for fire detection and emergency lighting system upgrades has been completed for the next 9 blocks focusing on retired living schemes. Building Regulation Applications have been submitted for the works and is now in consultation stage. Procurement will begin upon receipt of Building Regulation Approval.
- 3.23. Works at Harry Chamberlain Court to upgrade both the fire detection system to the whole buildings and warden call system to the retired living accommodation is nearing completion.
- 3.24. Two buildings remain with active enforcement notices from Suffolk Fire and Rescue Service, Harry Chamberlain Court notice expires 9<sup>th</sup> May 2024 where work is nearing completion ahead of the expiry date. St Peters Court notice expires 4<sup>th</sup> September 2024. Work continues to decant the 90 flats from St Peters, with a target completion date of end August. Progress to date is shown below:

Vacant flats	53
Tenanted flats	37
Tenants with an accepted offer	13 of the 37 above
Tenants with an active application to move but with no accepted offer	24 of the 37 above

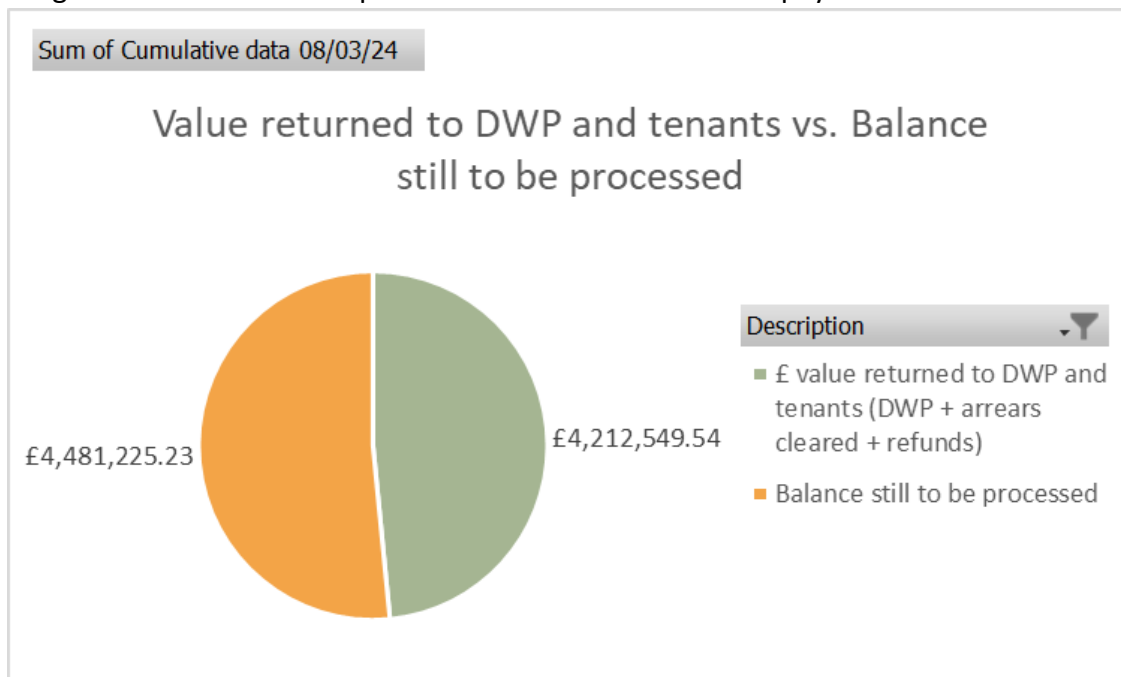
For the 24 tenants with no accepted offer we have tentative plans for 9 of these. During the next quarter Officers will monitor progress very closely and develop plans to ensure the building is vacated by end August. These plans will be reviewed and agreed with the St Peter's Court Project Board.

- 3.25. To reduce the risk of fire as a result of anti-social behaviour (ASB) overnight mobile guarding has been introduced to St Peters Court, early indications are this is having a positive impact on reducing ASB.
- 3.26. **Gas Safety**
- 3.27. Domestic gas safety compliance remains high with just 1 expired Landlord Gas Safety Record (LGSR) due to no access. There are 3604 occupied dwellings with in-date LGSRs, 33 dwelling's gas supply are 'capped' at the tenant's request.

- 3.28. The new heating services contract was successfully mobilised on 8<sup>th</sup> January 2024. The new contract has enhanced performance measurement and third-party contract management support is provided by Eastern Procurement whose heating framework has been used to appoint Gasway Services Limited. The contract has been let for 3½ years with two timed break clauses.
- 3.29. Work is continuing with Housing Management and Financial Inclusion Teams to support the 33 tenants who have their gas supply ‘capped’. Support includes budgeting advice, utility provider tariff review and alternative heating sources.
- 3.30. **Lift Safety**
- 3.31. The 12 passenger carrying lifts maintained in HRA buildings remain compliant with the Lifting Operations and Lifting Equipment Regulations 1998 (LOLER) All lifts have 6 monthly inspection and servicing.
- 3.32. Water Risk Assessments are required for blocks which have communal water supplies. Currently ESC has 15 blocks which require assessment, all of which are in date. Additionally, there is a regular programme of flushing and temperature testing.
- 3.33. Legionella Awareness Training was delivered in February to relevant staff across the Housing Service.
- 3.34. To ensure members of the in-house trade team are compliant with current requirements Water By-Law training was delivered to the plumbing trade team.
- 3.35. **Rent Standard**
- 3.36. The total value of affordable rent and heating charges overpaid by Tenants during the period 2010 to 2023 was **£8,693,774**.
- 3.36.1. The Affordable Rent overpaid by Tenants was £4,181,963
- 3.36.2. The value of the incorrect heating charge overpaid by tenants was £4,511,810.
- 3.37. Tenants in receipt of Housing Benefit who have overpaid affordable rent and/or the heating service charge have been paid too much housing benefit. The figures in 3.8 include the Housing Benefit overpayment.
- 3.38. This HB overpayment was ‘clawed back’ from the HRA in January, and the full value of Housing Benefit repaid to the DWP is **£3,517,435.19**.
- 3.39. There are 830 HB records (associated with 743 tenancies) that failed the correction process and are being manually processed. 791 records have been corrected to date, and 39 are ongoing due to complications with current HB claims. Resolution of these 830 records errors will cause a very small adjustment to the total HB clawback figure.
- 3.40. It was agreed at Full Council in January 2023 that tenant arrears will be paid before any refunds arising from historical errors are paid out to tenants.
- 3.41. The value of tenant arrears owed to the Council on 12.11.23 was £1,554,343. Accordingly, we expect the HRA to receive receipts with a value in the region of £1,554,34 over the next few months as tenant arrears are cleared down. The arrears to be repaid will be the actual arrears at the time the rent account is credited with the over-payment. We are monitoring the actual value of arrears that are being repaid during this project (see 3.15).
- 3.42. Tenants are required to pay their rent one week in advance (low-cost rental accommodation) and this is a condition of their tenancy agreement. Over time, many tenants revert to paying in arrears. The refunds financial process will retain funds on the rent account so all affected tenants are ‘moved’ to a financial position of one week rent in advance.
- 3.43. The tables below summarise the financial outcomes arising from the historical errors in affordable rent charges and heating service charges, and progress to correct the errors:

<b><u>Over-payments</u></b>		£
Rent overpaid		£4,181,963.79
Charges for heating system maintenance overpaid		£4,511,810.98
<b>Total overpayments made by tenants</b>		<b>£8,693,774.77</b>
<b>Housing Benefit clawback</b>		<b>£3,517,435.19</b>
<b><u>HRA receipts</u></b>		
Recover current tenant arrears (estimate on 12.11.23)		£812,889.60
Recover former tenant arrears (estimate on 12.11.23)		£632,453.68
Recover debt written-off		£109,000.00
	<b>HRA receipts</b>	<b>£1,554,343.28</b>
<b><u>Credit Balance to be returned to tenants</u></b>		£
Total overpayments made by Tenants		<b>8,693,774.77</b>
Deduct Housing Benefit (HB) clawback		<b>£3,517,435.19</b>
Deduct HRA Receipts		<b>£1,554,343.28</b>
<b>Credit Balance due to Tenants</b>		<b>£3,621,996.30</b>

3.44. Progress with the financial processes to correct tenant overpayments is as follows:



	£	Progress % 08.03.2024
HB clawback re-paid to DWP (10.01.24)	<b>£3,517,435.19</b>	99%
HRA Receipts (arrears and debt write-off)	<b>£180,553.24</b>	11.6%
Refunds paid to tenants	<b>£514,561.11</b>	14.2%

3.45. An extensive piece of work had been undertaken to assure data quality and design data tools and business processes to ensure the refunds can be administered correctly and as quick as practicably possible.



- 3.46. The full business process is multi-stage and includes batch uploads of financial data, case management by a Rent Officer, bank account validation and the ESC financial refund transaction.
- 3.46.1. Case management is a comprehensive process that considers arrears, debt written-off, court action, bankruptcy orders, paying rent in advance, sole and joint tenants, and deceased tenants.
  - 3.46.2. Further complexity arises because many tenants have held multiple tenancies with East Suffolk, often with different 'joint' partners. This creates a complex web of inter-linked tenancies that must be managed carefully.
  - 3.46.3. ESC has recruited 3 additional full time Rents Officers, on a fixed term basis to support the increased workload of refunding monies to Tenants.
- 3.47. Based on time estimates for each stage in the multi-stage business process, this programme has been planned to process 300 tenancies a week. Experience over the last 12 weeks has shown this is an ambitious target.
- 3.47.1. Some of this is accounted for by high levels of annual leave and staff sickness during the period. It has also taken time for officers to be trained and to fully understand the complexities of case management.
  - 3.47.2. We have made responsive changes to the data tools we built, as a result of lessons learned during full deployment in the real environment.
  - 3.47.3. The full business process is multi-stage and officers in housing, finance and IT have had to refine their approach to rostering staff to make sure all stages of the project are being progressed in parallel to achieve maximum productivity.
  - 3.47.4. By its nature the work is detailed, intense and requires accuracy at all time.
  - 3.47.5. Surprisingly, tenants are not applying for a refund (and providing the required bank information) as soon as they receive their individual letter and this is slowing down the pace of the overall process.
  - 3.47.6. We are having a lot of contact with tenants during the refund process, which impacts Officer capacity. Typical issues include that the tenant has lost their letter (so a new one has to be printed manually and sent) and queries about which bank account they can use for the refund.
- 3.48. Officers continue to closely monitor progress and we believe there is still opportunity to accelerate the pace of work. Nevertheless, we are considering the case for adding additional administration resource to the team.
- 3.49. We advise that revised targets would see all Current tenants being processed by end July 2024 and the bulk of Former tenants by September/October 2024.
- 3.49.1. There is likely to be a 'tail' of former tenants that we have lost contact with, and separate financial arrangements will be made for holding monies in reserve for a period of several years.
- 3.50. Two current tenants have advised us of serious or potentially terminal ill health and these tenants have received their refunds early. One tenant was accelerated when we learned they had limited cooking facilities for hot food and the refund was used to replace an oven.
- 3.51. All current tenants in St Peter's Courts have been advanced and have received their refunds. This will facilitate the current work to decant the building.
- 3.52. A Rent Officer is visiting all tenants owed a refund of greater than £5k after case management has been completed. The Officer is delivering their individual letter by hand.

3.52.1. So far 41 tenants have been visited (to 15.03.24). A further 4 Tenants are scheduled a visit but are not responding to our contacts.

**3.53. Removal of the Regulatory Notice**

3.54. We anticipate the Regulatory Notice could be removed in early Autumn 2024 (October).

3.55. The critical path is driven by the requirement for an independent 3<sup>rd</sup>-party audit of compliance capability in Housing. A Scoping document for the audit has been prepared for discussion and agreement with the RSH in April, and then procurement for the auditor will start with a target date for audit completion of September/October 2024.

3.56. The arguments for the removal of the notice are as follows:

**Rent Standard:**

3.57. ESC has been compliant with the Rent Standard since April 2023.

3.58. All rents and service charges were corrected on 4<sup>th</sup> April 2023 and Tenants have been paying correct charges since.

3.59. An independent audit of ESC rent accounts was completed by David Tolson Partnership on 11<sup>th</sup> September 2023 and has guided corrections to historic errors.

3.60. The Housing Benefit overpayment was repaid by the HRA to the DWP in January 2024.

3.61. Work is in progress for case management of each rent account and to refund money to tenants (after deductions for arrears). Expected completion is end September 2024.

**Home Standard:**

3.62. ESC is compliant for all aspects of servicing and inspections (see Section 3.1).

3.63. We anticipate the 2 remaining Enforcement Notices from Suffolk Fire and Rescue Services (SFRS) will be removed, in the case of Harry Chamberlain Court by 9<sup>th</sup> May 2024 and St Peter's Court by September 2024.

3.64. ESC has made very good progress decanting tenants from St Peter's Court and we anticipate this will be completed by end August 2024 (subject to timescales for Court proceedings to regain possession if this action proves necessary).

3.65. A satisfactory outcome following an independent 3<sup>rd</sup>-party audit of compliance capability in Housing (estimated completion is October 2024).

**4. Financial Implications**

4.1. Detail of the Financial implications of these historical errors are set out in paper [ES/1432](#), which was presented to Full Council on 25<sup>th</sup> January 2023.

4.2. In addition to the initial refunds of £8,693,774, there will also be an effect on the HRA Business Plan, due to a reduction in income. Income has been reduced in each future financial year as part of our business plan modelling and including the initial refund levels, the impact on the HRA Business Plan over the rest of its 30-year term is over £28.2M

**5. Legal Implications**

5.1. Detail of the Legal implications of these historical errors are set out in paper [ES/1432](#), which was presented to Full Council on 25<sup>th</sup> January 2023

**6. Risk Implications**

6.1. This area of work has been added to the Corporate Risk Register and the current Risk Score is **C2 (Amber)**

**7. Options**

7.1. Not applicable

**8. Recommendations**

8.1. This progress report is provided for information, there is no requirement for Cabinet to make a decision.

**9. Reasons for Recommendations**

9.1. Not applicable

**10. Conclusions/Next Steps**

10.1. The next quarterly update will be presented to July 2024's Cabinet Meeting

## Areas of consideration comments

### **Section 151 Officer comments:**

No comment required, report for information only.

### **Monitoring Officer comments:**

No comment required, report for information only.

### **Equality, Diversity and Inclusion/EQIA:**

An EQIA was completed to accompany the report to Full Council in January 2023, where certain policy decisions were made. The reference for this EQIA was 'EQIA477820335'. As this report is an update on progress made and no decisions are required, a further EQIA is not required.

### **Safeguarding:**

No comment required, report for information only.

### **Crime and Disorder:**

No comment required, report for information only.

### **Corporate Services implications:**

*(i.e., Legal, Finance, Procurement, Human Resources, Digital, Customer Services, Asset Management)*

#### Human Resources

Housing will be further building on its capability requirements during 2024 to meet the standards set out under the Social Housing Regulation Act. Additional roles were accounted for as part of the budget setting process and it is likely recruitment will commence in the next quarter.

#### Digital

As part of this programme of work, ESC has identified that significant work is required to improve the quality of data held electronically in relation to the effective management of the housing stock. Therefore, system updates are being planned and implemented as required.

This includes implementation of a new module for our Asset Management system to manage the cyclical servicing of essential components and equipment in properties e.g., heating systems, alarm systems. Roll out of this system began on 18<sup>th</sup> March 2024 and implementation will be completed in April 2024.

### **Residents and Businesses consultation/consideration:**

No comment required, report for information only.

## Appendices:

None

## Background reference papers:

Date	Type	Available From
25.01.2023	<a href="#">ES/1432 Housing Regulation</a>	ESC CMIS
02.01.2024	<a href="#">ES/1796 Housing Regulation Quarterly Update</a>	ESC CMIS
25.05.2022	<a href="#">Regulator of Social Housing: Regulatory Notice</a>	RSH website
March 2023	<a href="#">ESC Policy on Rent and Service Charges</a>	ESC public website