



AUDIT & GOVERNANCE COMMITTEE

Monday, 10 July 2023

Subject	HOUSING GOVERNANCE REVIEW
Report by	Councillor David Beavan Deputy Leader and Cabinet Member with Responsibility for Housing
Supporting Officer	Andrew Jarvis Strategic Director andrew.jarvis@eastsoffolk.gov.uk Chris Bing Head of Legal and Democratic Services & Monitoring Officer chris.bing@eastsoffolk.gov.uk Heather Fisk Head of Housing heather.fisk@eastsoffolk.gov.uk

Is the report Open or Exempt?	OPEN
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Wards Affected:	All Wards Although, the housing regulation matters predominantly affects the former Waveney District Council area only.
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Purpose and high-level overview

Purpose of Report:

In February 2022, East Suffolk Council (ESC) self-referred to the Regulator of Social Housing (RSH) because it had acted, or may have acted, in breach of two relevant standards set by the Regulator; the "Rent Standard" and the "Home Consumer Standard". Having investigated, the Regulator confirmed the reported breaches of Housing Regulations, [they published a Regulatory Notice in May 2022](#).

Within the self-referral letter to the RSH, the Council committed to, amongst other things, an independent governance review, with the following Terms of Reference:

1. Establish why there was a delay in ESC identifying and acting upon compliance breaches.
2. Consider the scope and sufficiency of changes made to ESC's Housing management arrangements to address the concerns identified by David Tolson Partnership (DTP) consultancy in February 2022 and the Social Housing Regulator in May 2022.
3. Recommend any structural and/or cultural changes which could be made to ESC's governance arrangements moving forward so that regulatory and statutory contraventions are, as far as reasonably possible, prevented from occurring and if/when they do occur, that they are identified and addressed at the earliest opportunity.

This report provides the Audit and Governance Committee with the findings of the independent governance review, and the Officer response to the report's conclusion and to each of the ten recommendations.

Recommendation/s:

Audit and Governance Committee resolves to:

1. Note and accept the findings of the independent governance review report.
2. Endorse the ten recommendations, and the linked officer actions in response, as set out in this report

Corporate Impact Assessment

Governance:

The Council commissioned an external, independent review of the governance, which this report focusses on.

East Suffolk Council has a constitution, which sets out how decisions should be made and what constitutes a 'Key Decision'. The independent review found that there was a failure to make/record a Key Decision, when the decision was made to convert properties from Social Rent to Affordable Rent upon re-let. It states that if a Key Decision had been made,

that mechanisms would have been put in place, which would have prevented too many properties from being converted.

Following a review of the circumstances and matters that led the Council to self-report to the RSH, in April 2022, a new Housing, Health and Safety Board (HHASB) was created. A monthly 'compliance' dashboard is produced, which is used to both monitor and demonstrate ESC's levels of Housing Revenue Account (HRA) stock compliance. Going forward, this dashboard will be provided to the Cabinet Member for Housing, so he will also have oversight.

It was agreed at Council in January 2023 that quarterly updates on regulatory matters would be provided to Cabinet Members until the Regulatory Notice is no longer applicable. The next update is being presented to Cabinet on 11th July 2023.

In Summer 2022, a Rents Development Group was created. This Group developed a Rent and Service Charge Policy, which was approved by Cabinet in March 2023. This is the first Rent and Service Charge Policy for East Suffolk Council and sets out the approach taken, in line with relevant legislation and guidance to Rent and Service Charge setting.

The Rents Development Group will oversee the refund programme, which will commence imminently. It will also review the annual rent setting process and ensure an annual sample audit is conducted by external specialists, who specialise in rent regulation.

ESC policies and strategies that directly apply to the proposal:

The [Housing Strategy 2017-2023](#) sets out the Council's commitment to investing and improving its housing stock.

The [HRA Business Plan](#) sets out the proposed investment in the Housing Stock over a 30-year period.

Environmental:

There are no environmental factors affected by this issue.

Equalities and Diversity:

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 in relation to the Governance Review and no decisions are required that will directly impact on residents, a further EQIA is not required.

Financial:

The Council can charge two types of rent: Social Rent and Affordable Rent.

A Social Rent (SR) should not be higher than 'formula rent', which is calculated based on the relative value of the property, relative low-income levels, and the size of the property. An aim of this formula-based approach is to ensure that similar rents are charged for similar socially rented homes, throughout the country taking account of regional factors.

For an Affordable Rent (AR), the initial rent should not be set higher than 80% of market rent (inclusive of service charges), as well as at any future relet.

There are 145 properties within the East Suffolk HRA stock that are legitimately being charged an affordable rent and indeed are required to be charged such a rent as the properties were either a new build or an acquisition with the use of Right to Buy (RTB) receipts to fund the purchase. These properties are therefore outside of the rent repayment matters being updated on in this report.

It was agreed at Full Council in January 2023, that properties previously converted from Social to Affordable Rent would have their rent re-set back to Formula Rent plus flexibility. This was completed at the start of the new Financial Year, in April 2023.

ESC had been charging additional charges in relation to heating servicing. ESC received specialist legal advice that these charges should not have been levied and therefore, a full refund must be administered to all affected current and former tenants. These charges were removed from all Rent Accounts at the start of the new Financial Year, in April 2023.

A comprehensive update on the financial impact of the Housing Regulation matters, will be presented to Cabinet on 11th July 2023.

Human Resources:

Since the issues were first identified, significant officer time has been spent working intensively to resolve them. In addition to this, interim support was employed to support the work programme. This included external specialists to deliver the forensic audit, and compliance experts to support the work related to stock compliance.

To enable the refund process to happen at pace, the Council has recruited additional staff on a fixed term basis to support this work.

A new team has been created to manage the compliance of our housing assets. The team consists of Contract Managers for Fire Safety, Asbestos and Legionella, and Heating. They manage the external contracts and third party assurance for their specialisms, to ensure we remain compliant.

ICT:

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.

Legal:

The Housing and Regeneration Act 2008 sets out that local authorities with social housing stock are “registered providers of social housing”. Registered Providers are governed by the [Regulator of Social Housing](#).

There are a multitude of legislative and regulatory responsibilities that Registered Providers of Social Housing must ensure they adhere to including the Regulator of Social Housing Standards as well as Policy Statements issued by the Department for Levelling Up Housing and Communities.

The regulation of Social Housing is increasing significantly and there are many changes, which it is essential that ESC complies with.

The [Smoke and Carbon Monoxide Alarm \(Amendment\) Regulations 2022](#), which effectively amend the Smoke and Carbon Monoxide Regulations 2015 to remove the exemption of social landlords, so that from 1 October 2022 housing associations and local authorities were subject to the 2015 Regs. This means that from this date ESC must ensure:

- At least one smoke alarm is equipped on each storey of their homes where there is a room used as living accommodation: and
- A carbon monoxide alarm is equipped in any room used as living accommodation which contains a fixed combustion appliance (excluding gas cookers).

We have attempted to install CO alarms in all properties, where there is a legal requirement to have one. Most properties had these installed by the end of October 2022. Where we have struggled to gain access, we are now installing them routinely as part of their annual heating service. By early Autumn, every property will have a CO alarm installed.

In addition to this, there is new legislation either planned or recently approved, which will shortly be enacted. These include:

The [Social Housing Regulation Bill](#), which has now passed through Parliament and is awaiting Royal Assent, introduces a stronger regulatory regime for Registered Providers and delivers the measures set out in the [Social Housing White Paper](#).

There are two key pieces of Legislation, which have received Royal Assent, following the review of the Grenfell Tragedy in 2017.

The new duties set out in the Building Safety Act 2022 and Fire Safety Order (England) 2022, will require the Council to carry out new programmes of work, to ensure they meet the duties.

Risk:

The key risk is if we don't address the issues raised in the notice served on us by the regulator for social housing, a similar situation may occur again. However, this report demonstrates the significant steps taken by the Council to address the shortcomings in the Housing service.

The Housing regulation report considered by Full Council on 25 January 2023 sets out in some detail the mitigation that has been put in place to address the issues and prevent recurrence.

External Consultees:	None.
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Strategic Plan Priorities

Select the priorities of the Strategic Plan which are supported by this proposal: (Select only one primary and as many secondary as appropriate)		Primary priority	Secondary priorities
T01	Growing our Economy		
P01	Build the right environment for East Suffolk	<input type="checkbox"/>	<input type="checkbox"/>
P02	Attract and stimulate inward investment	<input type="checkbox"/>	<input type="checkbox"/>
P03	Maximise and grow the unique selling points of East Suffolk	<input type="checkbox"/>	<input type="checkbox"/>
P04	Business partnerships	<input type="checkbox"/>	<input type="checkbox"/>
P05	Support and deliver infrastructure	<input type="checkbox"/>	<input type="checkbox"/>
T02	Enabling our Communities		
P06	Community Partnerships	<input type="checkbox"/>	<input type="checkbox"/>
P07	Taking positive action on what matters most	<input type="checkbox"/>	<input type="checkbox"/>
P08	Maximising health, well-being and safety in our District	<input type="checkbox"/>	<input type="checkbox"/>
P09	Community Pride	<input type="checkbox"/>	<input type="checkbox"/>
T03	Maintaining Financial Sustainability		
P10	Organisational design and streamlining services	<input type="checkbox"/>	<input checked="" type="checkbox"/>
P11	Making best use of and investing in our assets	<input type="checkbox"/>	<input type="checkbox"/>
P12	Being commercially astute	<input type="checkbox"/>	<input type="checkbox"/>
P13	Optimising our financial investments and grant opportunities	<input type="checkbox"/>	<input type="checkbox"/>
P14	Review service delivery with partners	<input type="checkbox"/>	<input type="checkbox"/>
T04	Delivering Digital Transformation		
P15	Digital by default	<input type="checkbox"/>	<input type="checkbox"/>
P16	Lean and efficient streamlined services	<input type="checkbox"/>	<input type="checkbox"/>
P17	Effective use of data	<input type="checkbox"/>	<input type="checkbox"/>
P18	Skills and training	<input type="checkbox"/>	<input type="checkbox"/>
P19	District-wide digital infrastructure	<input type="checkbox"/>	<input type="checkbox"/>
T05	Caring for our Environment		
P20	Lead by example	<input type="checkbox"/>	<input type="checkbox"/>
P21	Minimise waste, reuse materials, increase recycling	<input type="checkbox"/>	<input type="checkbox"/>
P22	Renewable energy	<input type="checkbox"/>	<input type="checkbox"/>
P23	Protection, education and influence	<input type="checkbox"/>	<input type="checkbox"/>
XXX	Governance		
XXX	How ESC governs itself as an authority	<input checked="" type="checkbox"/>	<input type="checkbox"/>
<p>How does this proposal support the priorities selected?</p> <p>This review was commissioned following the Regulatory Notice being issued to East Suffolk Council by the Regulator of Social Housing, for a breach of two Regulatory Standards.</p> <p>This review makes recommendations, for measures, which should be implemented to prevent governance failures in the future.</p>			

Background and Justification for Recommendation

1 Background facts	
1.1	Local authorities with social housing stock became "registered providers of social housing" pursuant to the Housing and Regeneration Act 2008. However, 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 April 2020.
1.2	Registered Providers of social housing, which includes both Councils and Housing Associations, are governed by the Regulator of Social Housing (RSH).
1.3	The Housing and Regeneration Act 2008, sets out the role of the RSH.
1.4	The RSH has a set of standards, which Registered Provider (RP) landlords, must comply with. These include 3 economic and 4 consumer standards. The consumer standards are applicable to all RP's, including Councils. Not all the economic standards apply to Councils, because the RSH does not have the power to set them standards. The only economic standard, which Councils must comply with, is the Rent Standard (Appendix A).
1.5	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.
1.6	In February 2022, the Council made a self-referred to the RSH on the basis that it had acted or may have acted in breach of two relevant standards set by the Regulator; the "Rent Standard" and the "'Home' Consumer Standard".
1.7	Within the self-referral letter the Council detailed actions that had already been taken to start to address the breach of standards, namely: <ol style="list-style-type: none">1. The development of a corrective action plan2. Instruction to David Tolson Partnership (DTP) to carry out forensic reviews of rent charges in order to identify any overpayments that required returning to affected tenants.3. Commitment to an independent governance review.
1.8	A detailed report setting out the Council's self-referral to the RSH, the responsibilities of the Council as a Registered Provider (RP) of Social Housing, to ensure it is compliant with the RSH Regulatory Standards and the development of a corrective action plan were presented to Council on 25 January 2023.
1.9	In August 2022, VWV LLP Solicitors was commissioned by the Head of Legal and Democratic Services and Monitoring Officer to carry out the independent governance review mentioned in 1.7 above. This review has now been completed and is attached in full as Appendix A.

2 Current position	
2.1	The Report produced by VWV LLP has been considered by the Corporate Leadership Team. The report has made the following findings, in relation to the terms of reference set out as part of the review.

2.2	<p>Question 1: Why there was a delay in ESC identifying and acting upon compliance breaches?</p> <p><i>“It is clear is that human error was the fundamental reason for the Council’s failings in respect of its Housing Services. We note that the Covid-19 pandemic played some part in respect of the timeframe for responding to the breach. We can find no deliberate malice in any documentary evidence seen but we do see omission. Whether this was pure naivety as to the seriousness of the issues or hope that these problems would resolve themselves/be swept under the carpet and go away – serious errors of judgment were made. The recommendations in this report seek to minimise the possibility of this being able to happen again – accepting you can never fully eradicate risk when it comes to human error.”</i></p>
2.3	<p>Question 2: The scope and sufficiency of changes made to the Council’s Housing management arrangements to address the concerns identified by DTP consultancy in February 2022 and the Social Housing Regulator in May 2022.</p> <p><i>“All steps taken to identify and address Housing management issues, as endorsed by Full Council, are considered to be sufficient. This includes the extensive steps and work undertaken to fully identify each and every issue. The recommendations in this report aim to support and enhance ongoing work.”</i></p>
2.4	<p>Question 3: Recommending any structural and/or cultural changes which could be made to ESC’s governance arrangements moving forward so that regulatory and statutory contraventions are, as far as reasonably possible, prevented from occurring and if/when they do occur, that they are identified and addressed at the earliest opportunity.</p> <p>The independent report contains ten recommendations that apply to the whole of the Council. The recommendations, all of which are accepted by officers are set out in full below, along with the management response which sets out the arrangements that have / or are being put in place.</p>

<h3>3 How to address current situation</h3>	
3.1	<p>The Corporate Leadership Team accepts the 10 Recommendations set out in the report and provides the following responses to each recommendation:</p>
3.2	<p>1. All meetings of SMT have an agenda and minutes taken.</p> <p>Response: As part of a renewed commitment led by the Chief Executive to provide the best possible leadership for the organisation the council’s senior management function has been refreshed.</p> <p>The Strategic Management Team (SMT) and Corporate Management Team (CMT) have been replaced by a new Corporate Leadership Team (CLT), which will provide accountable and visible leadership to deliver the plans and priorities set out by the Council’s political administration. All members of CLT have agreed to the content</p>

	<p>of a Charter which underpins the ambitions, activity and accountability of the team.</p> <p>CLT now meet four times each month and each meeting has a specific focus:</p> <ul style="list-style-type: none"> • Finance • Governance and Risk • Politics and Forward Planning • Business Meeting <p>There is a rolling CLT Forward Plan in support of the above, which is reviewed regularly by CLT. All meetings are supported by the Executive Support Team who produce an agenda, take notes, record actions, and ensure the actions are followed up. The agendas and notes are kept in accordance with the Council's Data Retention Policy.</p>
3.3	<p>2. SMT review and comment on an early draft of the audit plan as a collective.</p> <p>Response: Agreed. This is already an established process. The Head of Internal Audit (HOIA) meets individually with each CLT member (previously SMT and CMT) and formally records the discussion and all parties sign the document.</p> <p>Subsequently the draft Internal Audit Plan is circulated for additional comment to all CLT (previously SMT and CMT) members, and then again formally presented at the CLT meeting (previously CMT).</p> <p>The HOIA then presents the Internal Audit Plan to the Audit and Governance Committee for endorsement.</p> <p>The Internal Audit Plan is a living document and is regularly assessed and reviewed and presented to the Audit and Governance Committee which includes any CLT (previously SMT and CMT) comments.</p> <p>A formal six monthly follow up meeting also occurs with each CLT (previously SMT and CMT) member.</p>
3.4	<p>3. Consideration be given where audit can add further value to the Council and their work with the corporate risk register be aligned.</p> <p>Response: The work of Internal Audit Services provides recommendations and advice to improve governance and risk management. Internal Audit Services proactively adds value during consultative exercises along with mainstream assurance programmed work in accordance with the Public Sector Internal Audit Standards.</p> <p>The Corporate Risk Register is constantly considered as part of each Internal Audit engagement. Internal Audit recommendations are reported in line with the Councils Risk Management Methodology. Where high level risks are identified</p>

	<p>these should be considered and incorporated into the Corporate Risk Register as appropriate.</p>
3.5	<p>4. A formal method of reporting projects and programmes be introduced to the governance structure of the council.</p> <p>Response: All projects are captured as part of Service Planning exercises in the Strategic Plan Master document, so that there is complete transparency of projects being run across all teams of the council.</p> <p>There is a project management framework already in place to guide and ensure appropriate governance of projects is undertaken.</p> <p>The approach as to how we run projects as an organisation is scheduled to be reiterated and discussed at CLT level in the coming months and a programme of internal briefings/training sessions will be put in place as part of Corporate Learning and Development, aimed at all officers in the council who manage projects.</p> <p>Major projects are governed appropriately, with formal Project Teams and Sponsor Boards established depending on the size and impact of the project, with an aim to being as agile as possible in our approach to delivering projects.</p> <p>The key to ensuring this recommendation is actioned is to ensure our already-robust governance methods for running projects are used consistently across all areas of the council; it is this element we will be addressing following discussions at CLT.</p>
3.6	<p>5. Governance training, with a focus on decision making, be provided for all existing managers and is included in the induction of any new member of staff joining the council with management responsibility.</p> <p>Response: A Constitution Review Working Group (CRWG) is being convened (first meeting scheduled for 7 July 2023) with the objective of reviewing the Constitution to ensure it is complete, accurate, up to date, clear, lawful, fit for purpose and democratically sound. It is proposed the CRWG will also examine the accessibility of the Constitution with respect to its size, user friendliness and organisation. As part of the review, the CRWG will consider how decisions are made and recorded by councillors and officers.</p> <p>Governance training will be prepared and delivered on the revised Constitution, both to elected Members and existing officers, with a focus on CMT. In addition, new officers at induction will be briefed about our decision-making processes.</p>
3.7	<p>6. A full review be undertaken of the council's approach to procurement and contract management.</p> <p>Response:</p>

	<p>The report stresses the importance of ensuring that specialist advice is available to the council when carrying out a procurement. That there is support available to contract managers and that feedback is gathered from them. Also, that the procurement function is adequately resourced.</p> <p>On these points:</p> <ul style="list-style-type: none"> • A new procurement strategy has been approved with a greater focus on how the team can support the needs of service areas. • The reporting lines for procurement have been reviewed, with changes in reporting lines intended to provide greater senior oversight of the function. • Recruitment has been prioritised – and the team is currently fully staffed, although recruitment remains an issue in a competitive market. • The newly appointed Procurement Manager has spent time delivering training on contract management and in parts of the organisation, contract management is being trialled. If successful, this will be rolled out to other service areas.
3.8	<p>7. Technical mentoring and support be provided within the current procurement team.</p> <p>Response: This is being picked up with the new Procurement Manager, and suitable technical mentoring support identified.</p>
3.9	<p>8. A review of capacity and capability be undertaken in the key and critical support services to the Housing teams to ensure outcomes are aligned.</p> <p>Response: There are a number of internal support services within the Council, which provide support to the Housing Service. These include Legal, Internal Audit, Digital and Programme Management, Procurement, HR and Communications.</p> <p>ESC's Legal Services currently has 1 FTE Lawyer who specialises in Housing. There is a post to support that lawyer, which is currently being covered by a locum due to significant challenges in recruiting to the post. Where required, Housing, with the support of the Head of Legal and Democratic Services engage external legal support. For example, Trowers and Hamlin LLP, London have been providing specialist legal advice to the Housing Service on the Housing Regulation matters. The size and structure of ESC's Legal Services is in the process of being reviewed with the objective of building capacity and resilience.</p> <p>The Internal Audit Services provide any governance support requested or required at any point (as is the normal practice). The Head of Housing meets with the Head of Internal Audit on an annual basis to agree an Audit Plan for the year ahead, and a review is conducted mid-year.</p> <p>The Digital & Programme Management Service Area wish to provide support services to Housing, as it already does for the rest of the organisation, utilising its expertise in delivering digital technology solutions, streamlined process delivery</p>

	<p>and appropriate project/change management skills – a discussion will take place regarding capacity and resourcing, as historically this type of work has taken place within the Housing team itself.</p> <p>The Procurement Service within East Suffolk Council provides advice and support with commissioning services, as required. Due to the requirement for technical knowledge in some of the specifications required within housing, a ‘Commercial Manager Capital Projects’ has been appointed. They are a qualified Surveyor with extensive technical knowledge, which has already proven invaluable with tender writing.</p> <p>There is one HR Business Partner allocated to work with Housing and the HR and OD Manager will also provide further support as required.</p> <p>There is no dedicated Communications Business Partner within the team, but there is support available as and when required. The Strategic Communications and Partnership Manager has worked closely and supported housing throughout the regulatory matters over the last 18 months.</p>
3.10	<p>9. Introduce a formal appraisal system alongside 'my conversations' to assist in identifying gaps, training needs and succession plans. In any roll out that training is provided to management and staff to understand the process, both the practical 'how' but also the equally important 'why' which is key to staff buy in.</p> <p>Response: The Council’s My Conversation process is currently being reviewed. Within this scheme there is already the framework for an appraisal system, it is just that this has been used on an ad hoc basis.</p> <p>A full review of the My Conversation scheme is currently underway with an all-staff survey launched to capture feedback alongside some planned detailed focus sessions. One key aim is to embed the existing appraisal system more fully within the My Conversation process with an expectation this is completed by all employees once a year, with at least a six-month review.</p> <p>In the interim period the existing appraisal system is being more formally used with the CEO and Directors now having completed a My Conversation appraisal with each direct report, with this process now filtering across the organisation.</p>
3.11	<p>10. The Chief Executive consider the position of his 'golden triangle' statutory officers in respect of SMT.</p> <p>Response: There is now one CLT (replacing the previous CMT and SMT split) which includes the statutory officers (the Chief Executive, the Chief Finance Officer/Section 151 officer and the Head of Legal and Democratic Services/Monitoring Officer).</p> <p>The Chief Executive is also convening quarterly 'golden triangle' meetings of the Chief Executive, Section 151 Officer and Monitoring Officer.</p>

	The Head of Internal Audit is available to provide independent governance advice as and when required.
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4 Reason/s for recommendation	
4.1	To provide assurance to members that there has been an independent review of the Housing governance matter which resulted in the self-referral to the Regulator of Social Housing in 2022, and that the recommendations coming out of that review have been accepted and actioned (or are in the process of being actioned), so that best practice good governance arrangements are in place moving forward to support decision making and help identify, manage, mitigate and monitor risks within the Council.
4.2	Achieving good governance is a process of continuous improvement. To this end it is proposed that the Council should engage in an annual review of governance within Housing and the critical services that support it. Additionally, as a demonstration of commitment to organisational improvement it is further proposed that the Council commission a further external review in three years' time in order track progress and adjust plans.

Appendices

Appendices:	
Appendix A	Governance Review report of Housing Services by VWV LLP (June 2023)

Background reference papers:		
Date	Type	Available From
January 2023	Full Council Report on Housing Regulation. Appendices include the self-referral to the RSH.	Decision Details: Housing Regulation (cmis.uk.com)