

OVERVIEW AND SCRUTINY COMMITTEE

10 May 2023

Title: Regulator of Social Housing, Update Report – Health and Safety Compliance	
Report of the Strategic Director, MyPlace	
Open Report	For Information
Wards Affected: All	Key Decision: No
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Accountable Strategic Leadership Director: Leona Menville, Strategic Director, MyPlace	
Summary <p>This report provides a summary of actions taken and progress made within the Housing Compliance areas of MyPlace since receiving a regulatory notice of noncompliance from the Regulator of Social Housing (RSH).</p> <p>The report provides updates on the phase 1, service recovery plan and finds that the plan is well progressed and expected to complete ahead of its target date of August 2023.</p> <p>The report also sets out the ambitions and long-term strategic plans for the service once the phase 1 program has been achieved.</p> <p>Finally, it provides a view of the compliance performance journey across the ‘big six’ areas between 2022/23. Compliance levels are very good across all areas except for the provision of a 5-year electrical testing program which is expected to be mobilised in May 2023.</p>	
Recommendation(s) <p>The Overview and Scrutiny Committee is recommended to:</p> <ul style="list-style-type: none">(i) Note the progress made against phase 1 of the service recovery plan and continue to monitor its outputs until completion; and(ii) Agree to receive a report detailing the phase 2, strategic plan from September 2023.	
Reason(s) <p>This item is for noting and allows the Committee to put questions to the officers presenting the reports.</p>	

1. Introduction

- 1.1. As a local authority, the Council is bound by the Consumer Regulations set by the Government.
- 1.2 We must ensure that we meet the Home Standards, which provide repairs and maintenance. Registered providers shall:
 - Provide a cost-effective repairs and maintenance service to homes and communal areas that responds to the needs of, and offers choices to, tenants, and has the objective of completing repairs and improvements right first time; and
 - Meet all applicable statutory requirements that provide for the health and safety of the occupants in their homes.

2. Background

- 2.1. In May 2021, the Council's wholly owned repairs and maintenance contractor, Barking & Dagenham Management Services (BDMS), commissioned Pennington Choices (PC), a property surveying consultancy, to carry out a review of its functions relating to home standards compliance.
- 2.2. This review assessed BDMS's compliance arrangements across six areas, namely gas, electric, fire risk assessment, asbestos, water hygiene and lifts.
- 2.3. BDMS received the PC report in August 2021, and it was subsequently shared with the Council. It was clear that there were short comings.
- 2.4. The PC report's conclusion was that there was no assurance of compliance with the required standards.
- 2.5. PC reported that:
 - Gas Safety Inspections had not been carried out;
 - The Electrical Testing Program had not been implemented;
 - Fire risk assessments were being undertaken by internal staff members, raising concerns around competencies; and
 - Lift compliance, Asbestos and Water safety tests, had not been undertaken on all potential dwelling premises.
- 2.6. This report set out several recommendations to improve the BDMS compliance functions. This review focused on the services that BDMS provide in relation to compliance. However, it also noted potential weaknesses within the Council's Quality and Compliance Team, which acts as the 'client' for the compliance services delivered by BDMS.
- 2.7. The Council subsequently commissioned PC to carry out a review of the Council's functions relating to health and safety compliance, and this commenced in October 2021. A draft report was received from PC on 17 November 2021 outlining their findings.

- 2.8. As a result, MyPlace believed that it had not been meeting required standards relating to building safety and statutory health and safety compliance and self-referred the borough to the Regulator of Social Housing (RSH) in November 2021.
- 2.9. Subsequently, the RSH assessed the self-referral and found that the borough had breached part 1.2 of the Home Standard.
- 2.10. In a notice dated 17 February 2022, the RSH concluded that: 'London Borough of Barking and Dagenham (the Council) has breached part of 1.2 of the Home Standard; **and** As a consequence of this breach, there was the potential for serious detriment to the Council's tenants.' My Place accepts its previous performance on statutory health and safety was unacceptable and has sought to redress these failings over the past year.
- 2.11. The Council committed to achieving and maintaining full compliance by the end of August 2023. At the same time, we resolved to rebuild our housing management service with an emphasis on both resident and building safety and to improve services more widely to residents.
- 2.12. Our service improvement plan was designed to be delivered in two phases. The first phase covered our immediate response to procure and provide appropriate services and professionals to deliver the initial service recovery plan.
- 2.13. The aim was to demonstrate compliance with both legislative and Consumer standards requirements by the end of August 2023 (with expectations that we would achieve this within one year of the notice being published).
- 2.14. The second phase of the improvement design is a longer-term plan to transform our services. This phase will be implemented over a two to three-year timeframe and will include a full-service restructure.
- 2.15. This report focuses on the improvements made within Phase 1 of our service improvement plan. Phase 2 will be the focus of a future paper and is currently being scoped to commence from September 2023.

3. Root causes

- 3.1. We have undertaken several reviews of the MyPlace services, systems, data, policies, and procedures, including the health check undertaken by PC, along with the commissioning of external subject matter expert consultants.
- 3.2. We believe that the root cause of the service failings can be attributed to five primary themes:
 - a) Leadership, management, and compliance resourcing capacity;
 - b) Data quality and effective use of information technology;
 - c) Contract management and procurement;
 - d) Performance management and reporting; and
 - e) Culture.

The above five themes shape the central spine of our service improvement plan in both phases 1 & 2, set out above.

4. Our Ambitions

- 4.1. At the end of this journey, we are clear that the outputs from our service improvement plans will lead to a demonstrable upgrading of our services. The re-imagined service delivery team of the future will be led by a strong and credible leadership team. The delivery team will be appropriately skilled and qualified to undertake the activities required of them. We will ensure the correct level of resources are allocated to the service delivery team and empower them to apply corrective actions and compliant systems within compliant timeframes.
- 4.2. Additional strategic leadership roles will be created to ensure property compliance and the health, safety and wellbeing of our residents is a shared value across the organisation. All roles will be reviewed and clarity on purpose and accountabilities highlighted. Named individuals will be regularly performance managed against a key set of health and safety performance indicators.
- 4.3. Our improvement plans also include strengthening our assurance frameworks to ensure that there is a high level of oversight and visibility of our risks and performance. We will ensure all lines of assurance are listened to, valued, and are fit for purpose through a system of check and challenge.
- 4.4. Regular performance reporting will become a mandatory activity and this information will continue to be shared with several internal boards.
- 4.5. We will continue to invest in technology to provide high levels of information scrutiny. Our internal data information systems will be reset once all asset information has been externally validated. This will ensure that we have one version of the truth about our buildings.
- 4.6. We intend to create a new client-side team who will be responsible for overseeing the contractual and procurement arrangements for all compliance works. Currently, this sits with our wholly owned company and led to us having poor visibility on third party performance. The creation of this team will allow us to check and challenge contractors working on our behalf, ensuring that they have the requisite qualifications and insurances to undertake the work given to them.
- 4.7. A network of third-party auditing arrangements will be entered into to periodically check that works being undertaken by sub-contracts are post inspected and quality assessed.

Engagement with the RSH

- 4.8. Since self-referring we have actively engaged with the process. We have committed to being open and honest in our engagement with the RSH and will continue to do.
- 4.9. We have used the engagement process with the RSH as a learning opportunity to fully understand the gaps in our service provision, staffing arrangements and data and technology needs.

- 4.10. My Place is dedicated to both addressing its failure to keep its properties safe for tenants and resolving the underlying, long-term causes of the failings.
- 4.11. We continue to meet monthly with the RSH and openly share our progress against our improvement plans as well as reports on performance. Where we have encountered challenges with our progress, such as the failed procurement process for the electrical testing program, we have shared this with the RSH along with our plans for resolving the issues.

5. Initial Recovery Plan

- 5.1. We are currently implementing the first phase of our service recovery plan which aims to deliver full compliance by the end of August 2023. This phase will include the commissioning and onsite presence of our full global electrical testing program (although it should be noted that the remaining electrical domestic testing program (EICRs) are not due for completion until March 2026).
- 5.2. A comprehensive summary of our activities to date can be seen in Appendix 1 (attached). However, detailed below is our current service recovery matrix position:

5.3. Health and safety compliance – Indicative Timeline

Category	Commitment	Timescale
F	Undertake a full FRA on every property.	Complete
F	Complete all outstanding FRA high priority (Man 1) actions within specified timescales	Expected completion date 31/8/2023.
F	Complete all outstanding FRA high priority (Man 2) actions within specified timescales	Expected completion date 31/04/2023
F	Undertake a full Cat B inspection regime	Complete
L	Complete and maintain all Legionella Testing inspections	Complete
L	Complete all Legionella remedial actions with timescales	Complete
A	Complete and maintain all communal asbestos surveys	Complete
A	Complete all remedial works arising from asbestos surveys within specified times	Complete
G	Complete and maintain all gas safety inspections	Expected completion date 30 th April 2023.
L	Complete and maintain all LOLER inspections	Expected completion date 30 th April 2023.
E	Complete and maintain all communal electrical installation condition reports and complete all high priority remedial actions	116/1088 Communal EICR, completed on 12-month programme with two contractors' delivering.

		Expected completion end January 2024. All High- Rise > 5 storeys - communal EICR testing Complete All High- Rise > 5 storeys - communal priority remedials Complete
E	Complete and maintain all domestic electrical installation condition reports and complete all high priority remedial actions	Final phase of the global domestic testing program. 2,011/16,788 completed. 14,777 awaiting test and inspection. Completion expected May 2026
N	Provide smoke and carbon monoxide alarms to all homes.	Complete

Category	Action	Timeline
Structural change	Initial Compliance team resourcing and capacity reviewed and restructure of team.	Complete
Structural change	Develop performance management dashboards for all compliance areas.	Complete
Structural change	Quality assurance process for all FLAGEL functions in place	Complete
Check & Challenge	Undertake further health and safety compliance check via PC	Expected Completion date 31 st May 2023
Governance	Compliance Board set up and receiving regular performance updates	Complete

6. Leadership, management, and team capacity

- 6.1. MyPlace has a new leadership team who are clear about their responsibilities and the need for them to work to the highest standards.
- 6.2. The governance structures for the delivery of the full recovery plan have now been established, recognising the need to embed significant change over a longer period. The Compliance Board meets monthly and is chaired by our Chief Executive. Regular performance updates are further provided via the Assurance Board, which is chaired by an Executive Director.
- 6.3. We have reviewed the capacity of our Compliance team. One Head of service and three additional Compliance Officers have been employed over the last year. This is kept under constant review to ensure that appropriate capacity levels are maintained.
- 6.4. Our longer-term vision involves restructuring and expanding the compliance function to meet our stretching ambition for a tenure blind building safety service across the entire borough.

7. Data quality and effective use of information technology

- 7.1. The lack of a single, comprehensive database for all of the building safety attributes of all of our homes contributed to the identified failings. Our immediate response was to commission two separate stand-alone risk management systems as an interim measure. This has worked exceptionally well but our medium to long term objective is to procure a single, definitive database with integrated asset management capabilities.
- 7.2. We also commissioned Savills to undertake a full Cat B inspection of all of our communal areas to ensure that data being used in our new systems represented one version of the truth.
- 7.3. We are working with colleagues in our IT section to design, commission and procure a suitable system for long-term use. We expect this to be completed by the end of 2025.

8. Contract management and procurement

- 8.1. The Initial Recovery Plan focussed on improving the performance of existing contractors and appointing additional contractors to deliver compliance. The second phase of the service improvement plan will embed sustainable improvements in contract management and procurement and see the creation of a client-side team to oversee contractor performance and delivery. This team will be responsible for driving up compliance performance.

9. Re-imagining our service

- 9.1. Our phase 1 service recovery plan will deliver compliance to respond to the regulatory notice. However, embedding all the elements for sustainable health, safety and wellbeing compliance is anticipated to extend over a period of two to three years. We are currently undertaking the discovery phase on some elements of this transformation, while for others we have a planned way forward with anticipated timescales.

10. Other activities

- 10.1. There are several other activities which we will undertake over the course of the coming year. Some of these are set out below; however, the list is not exhaustive and will evolve over time:
 - Communications with tenants will be strengthened, training and awareness of compliance issues will be a key aspect of the programme;
 - Engage with residents to understand how safe they feel in their homes, their understanding of building safety and their views of our performance;
 - Engage with staff to understand whether the safety-first culture has been embedded and they have the skills, tools and capacity to maintain good performance;
 - Hold an internal audit review of progress following previous audits in early summer 2023;

- Repeat internal audits at key milestones across all compliance areas on rotation; and
- Commission a full external review of compliance to test whether a compliant and safety-first culture has been embedded and is delivering full compliance in September 2023.

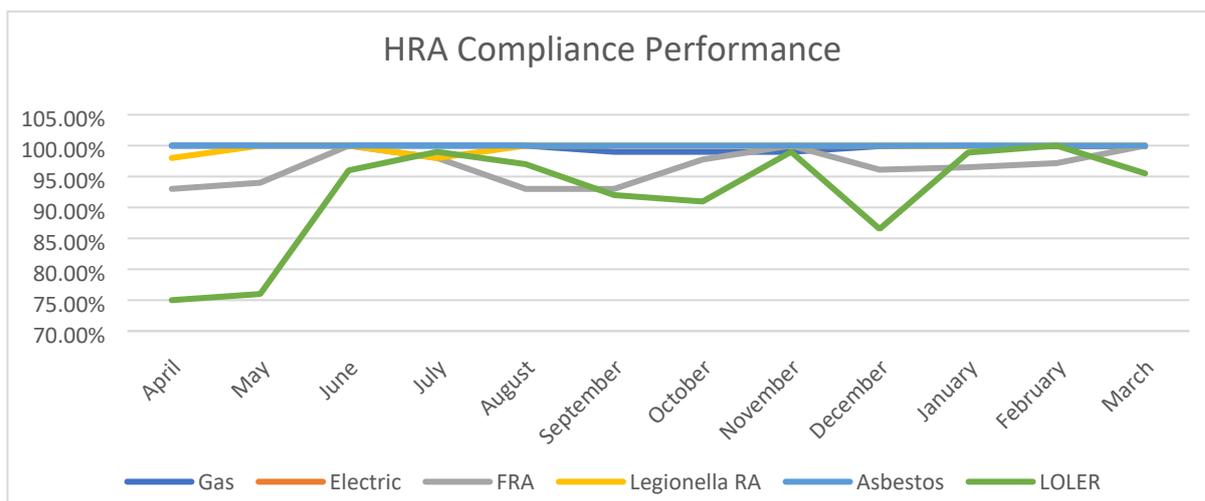
11. Health Check Review

11.1. Internal audit will commission PC to repeat its compliance health check. This is expected to be undertaken in the summer of 2023.

12. Performance Reporting

12.1. As can be seen from Appendix 2 and the table below, we have been successful in phase 1 of our service recovery plan. The aim was to achieve and maintain full housing compliance across our big “Six” areas by the end of August 2023. We have largely achieved this ahead of schedule.

Table 1 – HRA Compliance reporting – Big 6



13. EICR program

13.1. It should be noted that having a five-year electrical testing program is only legally required within the private sector. However, it is deemed to be good practice for registered providers to also follow this scheduling regime. As a landlord that seeks the highest levels of health, safety, and wellbeing for its residents, we are committed to providing a 5-year cyclical testing program across our Housing Revenue Account (HRA) and Reside stock.

13.2. We have rolled out a risk-based approach to delivering our global five year rolling electrical testing program.

- i) **Phase 1** - At the end of M12 (Mar 2023) all communal testing programs have been completed to high rise buildings > 11m. There is 1/43 outstanding remedial action which relates to an incoming supply cable owned by the National Grid. We are working closely with UKPN (U.K. Power Networks) to resolve this issue at the earliest opportunity.

- ii) **Phase 2** - Our 19 large panel system buildings were mobilised on site 24th October 2022 and concluded at the end of December 2022. The identified remedials from this programme are classified as C3 (recommendations) but have nonetheless been completed.
- iii) **Phase 3** - The remaining low rise, communal testing programme was awarded to two individual contractors to spread the risk of contractor failure and to increase the likelihood of completing on schedule. There were slight delays in mobilisation however we still expect to deliver the program over the coming 12-month period. Contractors began testing at the beginning of February 2023 and are expected to complete these works in February 2024.
- iv) **Phase 4** –a 3-year, global domestic electrical testing programme is currently out for tender following a previously unsuccessful procurement round. Five of the six interested contractors have submitted tenders, and these are currently in the validation stage. Mobilisation is expected by the end of May 2023

13.3. As a result of the previous failed procurement round, the remaining contract has been geographically split into four areas to make the lots smaller and therefore more attractive to bidders. This work will conclude at the end of May 2026 and will then be programmed into a rolling 5-year program thereafter.

14. End of Month 12 Compliance Summary Performance

Compliance Area	Level of Compliance	Exception/Status	Risk Rating
Gas	99.89%	Five inspections not completed on target.	High
Electric (Dwelling)	12.11%	Procurement of program due to complete May 2023	Medium
Electric (Communal)	15.77%	Low Rise inspections in progress.	High
Fire	100%	On Target	Medium
Legionella	100%	On Target	Low
Asbestos	100%	On Target	Low
Lifts	95.51%	On Target	Medium

14.1. The above table depicts our adverse risk culture towards housing regulation and compliance. Both the reported gas and lift numbers are within acceptable tolerance levels of compliance; however, we rate anything less than 100% as red. Equally, as mentioned above, it is best practice to have a 5-year testing program and we will achieve this once the four remaining contracts are in place in May 2023; however, we won't move the rating to green until all properties have been inspected and tested.

14.2. **Gas safety inspections** – Two LGSRs have been rejected back by our AI system and represented to BDMS to re-inspect. Remaining failed visits are being managed via our legal processes to gain access via court injunctions. We continue to improve and refine the process between Landlord Services and BDMS.

- 14.3. **EICR program** – At the conclusion of M12 (Mar. 2023) all communal sections of LBBB 11m and higher buildings will have been subjected to an electrical test and inspection, as well as received an EICR. Unfinished remedials exist in 1/43 buildings that are 11 meters or taller. This is to do with the incoming supply cable which is a National Grid issue. The Council is working with UKPN (U.K. Power Networks) to resolve the issue.
- 14.4. We continue to implement our five-year global domestic electrical testing programme. Five of the six interested contractors have submitted their tenders, and these are currently in the validation stage which is scheduled to conclude and returned on the 18th of April 2023. The conclusion of this procurement is set for end of May 2023, where the Council will appoint four successful contractors to carry out the programme. This includes the remaining 16,060 residential exams from phase one of our 676 programme. In total, 2,026 domestic EICR certificates have been validated. (87.892% of 16,736 are uncertified properties)
- 14.5. **Fire risk assessments (FRA)** - We have successfully completed our FRA program and 100% of our properties now have a valid FRA certificate.
- 14.6. **Legionella** - We continue to be 100% compliant with legionella inspections.
- 14.7. **Asbestos** - We continue to be 100% compliant with the asbestos testing regime.
- 14.8. **Lifts (LOLER)** - We are legally obliged to test our lifts on a six-monthly basis which we do. However, we also undertake a monthly check of all our lifts, and it is this figure that we use to populate our performance updates. Recent access issues and labour shortages within Zurich have led to the drop in compliance levels. This is being addressed and new processes put in place to facilitate the visit by the Compliance team. This will ensure 100% compliance is restored and maintained.

15. I.T SYSTEMS

- 15.1. **RISKHUB** continues to be utilised successfully by us and Savills to communicate, record, and manage FRA assessments and subsequent corrective actions with our various compliance, asset, and housing teams. RiskHub is also used to document and provide information on the newly implemented FED and communal fire door inspection programme.
- 15.2. **TRUE COMPLIANCE** continues to be implemented across all compliance areas, and validation and verification of all contractor-provided certificates are verified for completeness (using AI). The FRA and Fire door/Front entrance door (FD/FED) inspection compliance streams are being managed within RISKHUB. Asbestos is managed within our upgraded MICAD.

16. Financial Implications

Implications completed by: Joel Gandy, Business Partner

- 16.1. This report focuses on specific aspects of the Compliance responsibility namely electrical testing, fire risk assessments (FRA's), gas servicing, asbestos and legionella testing and finally lift inspections.
- 16.2. FRA's were awarded to two companies in 2022/23 with the majority going to Savill's. The total cost was £663,000 and it would be expected to be a similar annual cost.
- 16.3. Electrical testing and remedials has been undertaken in 3 phases. The first pilot phase is virtually completed which focused on 8 high rise blocks and cost £149,000. Phase 2 focuses on communal areas of the remaining estate and commenced in February 2023 with minimal spend in 2022/23. The estimated contract cost for this is £875,000 with the majority in 2023/24. Phase 3 focuses on dwellings of the remaining estate and is due to commence in May 2023 with an estimated contract value of just over £800,000 for 2023/24. Phase 3 will run for at least 3 years and then electrical testing will switch to a 5-year rolling cycle.
- 16.4. Gas servicing and Lift Inspections are included in the BDMS HRA Contract fixed price for 2023/24 whilst Legionella and Asbestos inspections have less impact with spend at £35,000 in 2022/23.
- 16.5. In addition, investment in Compliance systems has been undertaken with the service now using 3 systems.

<u>Compliance Systems</u>	2022/23	2023/24
True Compliance	55,000	55,000
MICAD	28,000	28,000
Riskhub	66,000	66,000
Riskhub extra module		5,833
	154,833	184,000

- 16.6. Overall, Compliance costs are expected to increase significantly for 2023/24 on prior year, mainly related to the impact of Phase 2 and 3 of the electrical testing programmes. The outturn for 2022/23 is being drafted but this will also be considerably higher than 2021/22. This marks an investment in compliance following the self-referral, however, the service needs to manage these rising costs.
- 16.7. 2023/24 Budget

The Compliance Budget is spread across several areas and includes a Capital Programme provision. The authority has estimated rising costs for 2023/24 but the below value should be treated with caution as LBBD will only be clear what the commitment should be once we are fully compliant and have entered into a

consistent annual approach to cyclical and remedial works. The below includes HRA, Reside and Corporate Buildings.

Budget	2022/23	2023/24
	£'000	£'000
Quality & Compliance Team	1,714	7,769
M&E Compliance (HRA)	1,400	5,000
Capital Compliance (HRA)		<u>2,750</u>
	5,864	16,469

17. Legal Implications

Implications completed by: Alison Stuart, Chief Legal Officer

- 17.1 The Regulator of Social Housing's is an executive non-departmental body accountable to the Department of Levelling-Up, Housing and Communities. It is set two specific objectives being:
- Economic objective: to make sure that registered providers (landlords) are well-managed and financially stable and
 - Consumer objective: to make sure that tenants get quality accommodation, have choice and protection, and can hold their landlords to account
- Its role is to set the consumer standards and to intervene where failure to meet the standards has caused, or could have caused, serious harm to tenants.
- 17.2 The Home Standard published in 2012, sets expectations for registered providers of social housing to provides tenants with quality accommodation and a cost-effective repairs and maintenance service. Part 1.2 Provides: 1.2 Repairs and maintenance Registered providers shall:
- (a) provide a cost-effective repairs and maintenance service to homes and communal areas that responds to the needs of, and offers choices to, tenants, and has the objective of completing repairs and improvements right first time.
 - (b) meet all applicable statutory requirements that provide for the health and safety of the occupants in their homes.
- 17.3 The Regulator has a statutory duty to carry out work in a way that minimises interference and, as far as is possible, is proportionate, consistent, transparent and accountable.
- 17.4 It is important that the Council works with the Regulator to ensure that it complies with its statutory obligations.

Public Background Papers Used in the Preparation of the Report: None

List of appendices:

- Appendix 1 – LBBD – My Place, Review of Compliance position one year on from publishing of regulatory notice
- Appendix 2 – Compliance Performance Data– 2022/23