

Committee(s): Housing Management and Almshouses Sub (Community and Children's Services) Committee	Dated: 14/01/2022
Subject: Housing Maintenance – Compliance Update	Public
Which outcomes in the City Corporation's Corporate Plan does this proposal aim to impact directly?	1, 2, 12
Does this proposal require extra revenue and/or capital spending?	N
If so, how much?	N/A
What is the source of Funding?	N/A
Has this Funding Source been agreed with the Chamberlain's Department?	N/A
Report of: Director of Community and Children's Services	For Information
Report authors: Paul Murtagh Assistant Director Barbican & Property Services	

Summary

The purpose of this report is to provide Members of this Sub Committee with information on how the City of London Corporation (the Corporation), through its Housing Property Services Team, is ensuring that all its social housing within the Housing Revenue Account (HRA) is managed in a way that meets compliance with current health and safety legislation, best practice, and regulatory standards to ensure the health and safety of its residents.

Recommendations

Members are asked to:

1. Note the content of this report and the compliance information provided which details how the Corporation is performing against statutory building compliance relating to its social housing portfolio.
2. Note that going forward, the information presented in this first report will be provided to this Sub Committee bi-annually.

Main Report

Background

1. The Corporation, as a landlord, has several legal obligations it must satisfy to ensure the health, safety, and welfare of its social housing tenants. In addition, it must also adhere to the regulatory standards as set out by the Regulator of Social Housing particularly, the government's Home Standard.

2. It is rightly appropriate that Members of this Sub Committee should have oversight and assurance of compliance against the legal and regulatory requirements that are placed upon the Corporation, as a landlord. The presentation of this report bi-annually to this Sub Committee will ensure that Members do have the requisite oversight and assurance.
3. The HRA is a ring-fenced account that relates to the Corporation's income and expenditure for its rented social housing. The Corporation's total rented social housing stock, as of 31 December 2021, is 1879 homes. In addition, there are 948 leasehold properties across the 12 social housing estates that are managed by the Corporation.
4. The statutory instruments that cover general topics around the requirements of a landlord include:
 - the Health and Safety at Work Act 1974 (HSWA).
 - the Landlord and Tenant Act 1985.
 - the Housing Act 2004.
5. In addition to the above, there is more specific guidance and legislation relating to the following areas of compliance that are deemed to be of the highest risk:
 - water quality,
 - gas safety,
 - asbestos,
 - electrical safety,
 - fire safety,
 - lift safety.
6. It must be remembered that there are many other repairs outside of the above categories that arise daily which, could have an impact on the safety of our tenants. These repairs are dealt with as and when they arise as part of the Corporation's Response Repairs and Maintenance Service and, are not included in this report.
7. A Compliance Report Template (CRT), which gives Members a succinct overview of the Corporation's performance in terms of compliance with current health and safety legislation, best practice, and regulatory standards is included at Appendix 'A' to this report. The Template reports on the position as at 30/11/21.

Considerations

Water Quality (Legionella Management)

8. There is a legal duty under the Control of Substances Hazardous to Health Regulations 2002 (COSHH), for landlords to assess and control the risk of exposure to legionella bacteria however, the law does not prescribe specific review periods. Health and Safety Law does not require landlords to produce or obtain, nor does the Health & Safety Executive (HSE) recognise a 'Legionnaires Testing Certificate'.

9. The Approved Code of Practice: Legionnaires Disease: The Control of Legionella Bacteria in Water Systems (L8), outlines best practice guidance, which forms the basis of the Corporation's Water Tank Testing Programme.
10. As can be seen from the CRT, we remain fully compliant with our quarterly inspections and testing of water quality to the communal water tanks across all our blocks of flats. In addition to the quarterly inspections, the Corporation's Water Tank Testing Programme also includes for additional safety checks by way of a 20% sample testing (per annum) of the quality of the water that comes out of the taps in our tenants' homes. During the various lockdowns, for obvious reasons, we have not been able to fully complete the 20% annual sample surveys. It should be noted however, that this does not in any way impact on our compliance with the Approved Code of Practice.

Gas Safety

11. Regulation 36 of the Gas Safety (Installation and Use) Regulations 1998 deals with the landlords' duties to make sure gas appliances, fittings and flues provided for residents are safe. It details the duties of landlords to 'ensure that each appliance and flue to which the duty extends, has been checked within a 12-month period, that proof is kept for two years and is available for the tenant(s) of the premises.
12. The Corporation ensures full compliance with Regulation 36 through the implementation of its Gas Servicing and Maintenance Contract with TSG Building Services, a specialist Gas Safe accredited domestic heating contractor.
13. As can be seen from the CRT, at the 30/11/21, there were 10 properties without a valid gas safety certificate (CP12) and, this is due to the failure of the tenants in these properties to provide us with reasonable access. The Corporation has robust procedures in place for dealing with problems with access which, ultimately, includes taking legal action for breach of the Tenancy Agreement. Unfortunately, legal action does take much longer than we would like and, the 10 outstanding properties, at the time of writing this report, are in various stages of the legal process.

Asbestos

14. Up until the year 2000, asbestos was a widely used building material and, can be found in any buildings built before 2000 including houses, factories, offices, schools, hospitals etc). Asbestos is responsible for around 5000 deaths every year.
15. The Control of Asbestos Regulations came into force on 6 April 2012, updating previous asbestos regulations to take account of the European Commission's view that the UK had not fully implemented the EU Directive on exposure to asbestos (Directive 2008/148/EC).
16. The Regulations provide that 'if existing asbestos containing materials are in good condition and are not likely to be damaged, they may be left in place; their condition monitored and managed to ensure they are not disturbed'. At present however, there is no directive within the Regulations as to how frequently asbestos containing materials should be inspected.

17. Asbestos can be present as asbestos insulation board (AIB) or, as asbestos containing material (ACM) in, for example, floor tiles, bath panels, door panels and, artex ceilings.
18. The Corporation's Asbestos Management Programme provides for the following level of inspection:
- annual inspection of common parts to all blocks of flats where asbestos containing materials are known to be present. The Corporation's Asbestos Database identifies 347 locations within common parts where, asbestos containing materials have been identified.
 - annual internal inspection of 20% of all flats where asbestos containing materials are known to be present.
 - asbestos surveys are also undertaken as part of the central heating boiler replacement programme.
19. Wherever possible, asbestos within the Corporation's domestic tenanted properties is removed as part of its Major Works Programme.
20. As at the 30/11/21, the CRT shows that all asbestos inspections to the common parts are up to date and, we are complying with our obligations under the regulations.

Electrical Safety

21. Currently, there is no regulation, standard or act that defines a frequency for electrical installation inspection and testing in social housing. However, the Code of Practice for the Management of Electrotechnical Care in Social Housing recommends that the frequency for testing and inspection should be every five years.
22. In 2017, the Corporation introduced a five-year Electrical Inspection and Upgrade Programme to bring the electrical installations in all its social housing stock (including communal areas) up to a modern standard. This was a significant project as, the electrical installations in most of the Corporation's housing stock had not been upgraded since the homes were built.
23. As can be seen from the CRT, the landlord's installations to the common parts of all blocks of flats have all been tested and issued with a current, compliant Electrical Installation Condition Report. It should be noted however, that whilst the landlord's installations are safe and compliant, significant additional work has been identified to bring the installations up to the latest version of BS7671 (18th Edition).
24. In terms of the domestic electrical installations to individual tenanted properties, the CRT shows that three properties are without a current valid electrical certificate. This is again due to access difficulties and, appropriate action under the Tenancy Agreement is being taken. A further 242 homes will require a new electrical certificate within the next six months and, these homes are included in the current programme of electrical testing and inspection.

25. Later this year, once the five-year Electrical Inspection and Upgrade Programme is complete, the Corporation will introduce a five-year rolling programme of electrical testing and inspections (domestic and communal areas) across the whole of its social housing portfolio which, will not only ensure that the electrical installations remain in a safe condition but also, will ensure compliance with the recommended frequency for electrical installation inspections set out in the Code of Practice.

Fire Safety

26. There are three specific pieces of legislation that govern the actions of landlords in relation to fire safety:

- the Housing Act 2004,
- the Smoke and Carbon Monoxide Alarm (England) Regulations 2015,
- the Regulatory Reform (Fire Safety) Order 2005.

27. Members will be aware from a previous report brought to this Sub Committee, that the Fire Safety Act 2021, amends the Regulatory Reform (Fire Safety) Order 2005, with the intention of improving fire safety in multi-occupancy domestic buildings. The Fire Safety Act 2021 provides that the external walls of a building and, the fire doors to individual flats must now be assessed as part of the requirement for a fire risk assessment. The Act requires the owners and managers of multi-occupied residential buildings to ensure that the fire risk assessments for such buildings are reviewed and updated to encompass the structure, external walls, and flat entrance doors.

28. An effective fire safety programme, incorporating Fire Risk Assessments (FRA's) that look at measures such as compartmentation, external cladding, doors (and door closers) and the general management of common parts, is in place covering all blocks of flats within the Corporation's social housing portfolio.

29. As Members are aware, our focus has been on continuing the progress we are making on the improvements identified in the Action Plan that was developed from the FRA's that were completed in 2017/18. However, it has been agreed that we will carry out new Type 3 FRA's for each of our residential blocks of flats on our social housing estates during 2021/22. Following a Corporate procurement exercise, Turner & Townsend was appointed to undertake the next round of FRA's for Housing and, work is now well underway.

30. A comprehensive and detailed Fire Safety Update report is presented to this Sub Committee on a quarterly basis, with the last report being considered by Members at its meeting on 15 November 2021.

Lift Safety

31. The Corporation's duties for managing lifts are contained within the LOLER (Lifting Operations and Lifting Equipment Regulations) 1998 and, PUWER (Provision and Use of Work Equipment Regulations) 1998.

32. The Corporation uses British Engineering Services to carry out 6-monthly examinations and inspections on its 50 lifts across its HRA social housing estates. Not only does this ensure compliance with the relevant regulations listed above but also, satisfies the specific safety requirements required by the Corporation's Insurer.
33. In addition to the lift inspection regime outlined above, the Corporation uses Guideline Lift Services, a specialist lift maintenance and operations company, to carry a fully comprehensive repairs and maintenance service on all its HRA passenger lifts.

Impact of Covid-19

34. The Covid-19 pandemic has had an impact on the level of inspections that the Corporation would ordinarily do in respect of the various services it provides that help ensure that all its social housing within the Housing Revenue Account (HRA) is managed in a way that meets compliance with current health and safety legislation, best practice, and regulatory standards to ensure the health and safety of its residents. However, this has not had an impact on our ability to maintain compliance.
35. The Housing Regulator has been aware of the potential impact, nationally, of the pandemic on the ability of Registered Social Housing Providers to maintain compliance. Up until recently, the Corporation, along with all other providers, was required to submit a monthly 'Coronavirus Operational Response Survey' to the Regulator. The purpose of the survey essentially, was to see how providers were coping with the challenges they were facing. The survey requested information on the following areas:
- Emergency repairs
 - Statutory gas compliance
 - Statutory fire compliance
 - Asbestos, electrical, legionella and lift safety checks.
36. The Corporation complied fully with the Housing Regulator in completing the monthly survey and, reported that compliance was generally being maintained although, there were some limitations on the level of internal inspections due to restrictions and lockdown.

Leaseholders

37. As stated previously, the Corporation is responsible for the management of 948 leasehold properties across its 12 social housing estates that are managed by the Corporation.
38. The Corporation is not responsible for gas safety or electrical checks to leasehold properties but, the Corporation is responsible for compliance issues relating to communal areas and services that impact on these properties.
39. That leaseholders are responsible for their own gas safety and electrical checks does cause significant difficulties for the Corporation (and indeed other providers)

in terms of ensuring the overall safety of the Corporation's housing stock. Although, the Corporation does offer its leaseholders the opportunity to pay to have these works carried out by the Corporation's own approved contractors, at the same tendered rates for the Corporation's own tenanted homes, very few leaseholders choose to do so.

40. The Housing Property Services Team has been looking at ways in which we can encourage/require leaseholders to carry out the essential gas safety and electrical works. The following initiatives have been or, are being implemented:

- writing to all leaseholders to remind them of the importance of gas safety and electrical checks, encouraging them to have the works done and, reaffirming the Corporation's offer to have the works done by its approved contractor.
- to further raise the importance of gas safety and electrical checks in leasehold properties in housing related magazines, flyers and other correspondence distributed to residents on our social housing estates.
- writing to all leaseholders requesting evidence that they have undertaken the necessary electrical and gas safety checks in their homes and, that the installations are safe and compliant (this requirement could, potentially, have significant resource and financial implications for the Corporation).
- work with colleagues in legal to explore the potential, when considering applications to extend existing leases for homes on our social housing estates or, for new leases, for including a new provision for ensuring that electrical and gas safety checks are carried out periodically to ensure that electrical installation is safe and compliant.
- explore with colleagues in Environmental Health the potential for using the provisions of the Housing Act, in relation to private residential dwellings (including leaseholders), to compel leaseholders to carry out periodic electrical testing in their homes and, to provide evidence to the landlord that the electrical installation is safe and compliant.
- to continue discussions with other neighbouring boroughs to see what alternative solutions may have been successfully implemented to ensure that leaseholders carry out periodic electrical testing in their homes.

41. Much of the work above is in progress however, early indications from legal are that it will be very difficult for the Corporation to insist that leaseholders carry out electrical and gas safety testing in their homes as, it is not a legislative requirement (except in respect of gas safety where, a leaseholder is sub-letting his/her home and, effectively, becomes a landlord). Moreover, if it was possible, managing and policing this requirement would be very costly.

42. Whilst we will continue to work on, and implement the initiatives set out above and, look to see if there are other initiatives that can be implemented, there is concern that these initiatives will have a limited impact.

Appendices

Appendix A: Compliance Report Template (CRT)

Paul Murtagh
Assistant Director, Barbican & Property Services
T: 020 7332 3015 E: paul.murtagh@cityoflondon.gov.uk