

Cabinet 24 April 2024	 TOWER HAMLETS
Report of: Paul Patterson, Interim Corporate Director of Housing & Regeneration	Classification: Unrestricted
Nominees for Adopting New Social Housing Regulatory Functions	

Lead Member	Councillor Kabir Ahmed, Cabinet Member for Regeneration, Inclusive Development and Housebuilding
Originating Officer(s)	Karen Swift, Director of Housing, Nicola Klinger – Housing Management Programme Lead, Lola Williams, ALMO Client Officer
Wards affected	All Wards
Key Decision?	Yes
Forward Plan Notice Published	22/03/2024
Reason for Key Decision	Impact on all wards
Strategic Plan Priority / Outcome	1. Homes for the future . 2. Empower Communities and Fight Crime 3. A council that works for you and listens to you

Executive Summary

This report sets out the requirement to nominate individuals to two new functions (Responsible Person and Health and Safety Lead) to comply with the below new regulations for social housing landlords:

- The Social Housing (Regulation) Act 2023 introduced that social housing landlords should designate an employee as a Health & Safety Lead who is responsible for monitoring and assessing the risk of failure to comply with health and safety requirements in social housing. This includes informing Cabinet of any non-compliance with health and safety requirements and providing advice to Cabinet on how the health and safety risks and failures should be addressed.
- The Charter for Social Housing Residents sets out the requirement to have a senior “Responsible Person” overseeing compliance with the new consumer standards.

It is recommended that the Mayor appoint postholders to these two new functions.

Recommendations:

The Mayor in Cabinet is recommended to:

1. Note the requirement for individuals to be appointed to two new functions to comply with new commitments and legislation related to social housing landlords:
 - a. **Responsible Person** to oversee the council's compliance with the new social housing Consumer Standards, as set out in the Charter for Social Housing Residents and Social Housing (Regulation) Act 2023.
 - b. **Health and Safety Lead** to be responsible for monitoring and assessing the risk of failure to comply with health and safety requirements related to the council's social housing stock as set out in the Social Housing (Regulation) Act 2023.
2. Appoint the Director of Housing Asset Management to be the Council's Health and Safety Lead as set out in the Social Housing (Regulation) Act 2023.
3. Appoint the Corporate Director, Housing & Regeneration to be the Council's Responsible Person as set out in the Charter for Social Housing Residents.

1. REASONS FOR THE DECISIONS

- 1.1 Under the Social Housing (Regulation) Act 2023, the council must nominate individuals to adopt a new function, namely a Health and Safety Lead and under the Charter for Social Housing Residents, the council should nominate a Responsible Person.
- 1.2 Compliance with the Social Housing (Regulation) Act 2023 will be monitored by the Regulator of Social Housing (RSH) via an inspection regime which will commence from 1 April 2024.
- 1.3 The council must publish the names of the individuals who will take on the responsibilities as outlined in the functions mentioned in 1.1 by 1 April 2024.
- 1.4 Non-compliance with legislation set out in the Social Housing (Regulation) Act could lead to:
 - the council facing unlimited financial penalty; and/or:
 - The Regulator publicly admonishing the council for non-compliance.

1.5 Health and Safety Lead

- 1.5.1 Under the Social Housing (Regulation) Act 2023 the council as a social housing landlord, must designate an employee as a Health & Safety Lead.

The Health and Safety Lead is responsible for monitoring and assessing the risk of failure to comply with health and safety requirements in its social housing.

1.5.2 This includes informing the Mayor and Cabinet of any non-compliance with health and safety requirements and providing advice to the Mayor and Cabinet on how the health and safety risks and failures should be addressed.

1.5.3 Appointing an individual to this role will provide the Mayor and Cabinet with a clear line of responsibility regarding monitoring health and safety requirements in social housing.

1.5.4 In the case of a local authority which operates executive arrangements with a mayor and cabinet the individual can be:

- A member of the executive other than the elected mayor or
- An employee of the authority

1.6 Responsible Person

1.6.1 The Charter for Social Housing Residents sets out the requirement to have a “Responsible Person” overseeing compliance with the new Consumer Standards, which will be fully implemented in April 2024.

1.6.2 The Charter for Social Housing Resident’s states that the Responsible Person must be:

- a senior officer such as an executive and
- an employee of the landlord.

1.6.3 Appointing an individual to this role will provide the Mayor and Cabinet with a clear line of accountability regarding compliance with the new Consumer Standards.

1.6.4 The name of the Responsible Person must be published so tenants know who is responsible for compliance with the consumer standards for council-owned housing stock in the borough.

1.6.5 It will also demonstrate to the Regulator of Social Housing and its’ tenants the council’s commitment to meeting the requirements of the Charter for Social Housing Residents and the Consumer Standards.

1.6.6 It is also proposed that the Responsible Person is designated as the Member Responsible for Complaints (MRC) in line with the requirements of the Housing Ombudsmans’ Code, which comes into effect in June 2024. The role is to report to the Governing Body on complaints’ performance and trends, and foster a positive complaint handling culture.

2. ALTERNATIVE OPTIONS

2.1 Decision not to appoint a Health and Safety Lead overseeing compliance and risks of failure to comply with requirements (related to the council's housing stock).

- 2.1.1 If a Health and Safety Lead is not appointed, there is a risk that no individual postholder will have oversight of health and safety and the risks of failure across the council's social housing. There is a further risk that tenants and leaseholders, as well as the Mayor and Cabinet, do not have a clear lead on health and safety risks and mitigations.
- 2.1.2 At its most serious, this could result in injury or loss of life if failures of health and safety are overlooked, or issues are not raised to the relevant and appropriate services, bodies or decision makers.
- 2.1.3 If the council does not appoint a Health and Safety Lead, it will be breaching the Consumer Standards as set out by the Regulator of Social Housing.
- 2.1.4 This could result in an enforcement notice and penalty from the Regulator of Social Housing.
- 2.1.5 The council could also be admonished publicly resulting in significant reputational risk.

2.2 Decision not to appoint a Responsible Person overseeing compliance with the Consumer Standards

- 2.2.1 The requirement to have a Responsible Person is not set in legislation and so it could be decided not to appoint a Responsible Person.
- 2.2.2 However, the commitment is set out in the Charter for Social Housing Residents and additional information regarding the role is outlined in the Social Housing (Regulation) Bill equalities impact assessment.
- 2.2.3 Therefore, while currently the role is non-statutory, the Regulator of Social Housing could view not having an individual Responsible Person as non-compliance with the Government's commitments outlined in the Charter for Social Housing Residents.
- 2.2.4 This is of significant reputational risk to the council.
- 2.2.5 There is also a risk that accountability for compliance with the Consumer Standards is less robust without a nominated individual responsible for compliance with the Consumer Standards across all council services. This could result in less comprehensive oversight of compliance and areas for improvement (including by the Lead Member, Mayor and Cabinet as well as

corporately, without a Responsible Person to report on this).

- 2.2.6 It is also possible that subsequent legislation introduces the requirement, meaning that the council could face a contravention or prosecution for non-compliance in the future.

3. DETAILS OF THE REPORT

3.1. Background

- 3.1.1. In November 2020, the Government published “The Charter for Social Housing Residents” White Paper. This was published following the Grenfell tragedy in 2017. The reforms set out in the White Paper fundamentally seek to redress and balance the relationship between landlords and social housing tenants; to ensure transparency and accountability which in turn provides assurance that residents in social housing are safe, listened to, live in good quality homes, and have access to redress when things go wrong.
- 3.1.2. The Charter outlines aspirations to make social housing residents:
- feel safe in a home that is of good quality,
 - heard by their landlord including via the complaints process, and
 - treated with respect by a landlord who is transparent.
- 3.1.3. The Grenfell tragedy in 2017 has focused discussion around how to ensure buildings are safe and fit for purpose as well as how residents can influence landlords and shape how services are delivered and complain and seek redress when unhappy about issues. These discussions have culminated in the Building Safety Act (2022) and the Fire Safety Act (2021). The council is the “accountable person” for building safety under the new post-Grenfell regulations. Both pieces of legislation place extra duties on councils with regards to the homes that it owns.
- 3.1.4. The Social Housing (Regulation) Act received royal assent in July 2023. The Act changes the role of the Regulator by removing the ‘serious detriment’ test which currently limits the Regulator to a reactive role as opposed to a proactive role in ensuring Consumer Standards are met in social housing.
- 3.1.5. The focus is on ensuring that homes are safe but also that local residents are engaged and involved in decision making and supporting wider neighbourhood development in their areas. The approach is designed to mark a sea change in current delivery methods.
- 3.1.6. The Regulator will be empowered to proactively ensure social landlords are compliant with Consumer Standards (which are expected to be reviewed and added to) and will seek assurance of compliance through a new inspection regime. As the Council holds over 1,000 units of stock, its housing management function will be assessed at least once every 4 years. The inspection regime will come into effect from 1 April 2024.

3.2. Health and Safety Lead (for Social Housing)

- 3.2.1. The Social Housing (Regulation) Act 2023 (the Act) introduced a requirement for social housing landlords to identify a nominated individual as a Health and Safety Lead.
- 3.2.2. The Act legislates that all social housing landlords with 15+ employees should nominate a senior individual within their organisation to be responsible for the Health and Safety lead function as outlined in the Act.
- 3.2.3. The Act states where a local authority has a cabinet and an elected mayor, the Health & Safety Lead can be:
 - a member of the executive other than the elected mayor, or
 - an employee of the local authority.
- 3.2.4. The Regulator of Social Housing has stated that registered providers/local authorities need to designate the function of Health and Safety Lead to a person who can carry out the function but has not provided any guidance related to the competencies required.
- 3.2.5. The function that the Health & Safety Lead must deliver, as outlined in the Act and the Charter includes:
 - a. to be a health and safety champion who is accessible and visible to tenants.
 - b. their name being published as the Health & Safety Lead.
 - c. monitoring and ensuring that the council is compliant with health and safety requirements.
 - d. assessing risks of failure to comply with health and safety requirements.
 - e. informing Cabinet of assessments of risks and material failures whilst aiming to comply with health and safety requirements.
 - f. providing Cabinet with advice on how the council should mitigate and remedy any risks and failures.
- 3.2.6. Therefore, while the Regulator of Social Housing is not prescriptive about qualifications for this role, it is considered that the postholder for the Health and Safety Lead should have:
 - a. recent experience of working in a technical environment where health and safety requirements are delivered,
 - b. has knowledge to provide technical advice to Cabinet regarding health and safety requirements and
 - c. should have technical competency to be responsible through providing assurance to tenants regarding health and safety concerns in social housing.
- 3.2.7. Health and Safety Lead Option 1 (recommended): Director of Housing Asset Management

3.2.7.1. The Director of Housing Asset Management is responsible for the functions that are responsible for ensuring the health and safety for residents in the councils social housing, monitoring and assessment of risks and material failures and remediating risks and failures.

3.2.7.2. In their day-to-day role, the Director of Housing Asset Management is responsible for:

- a. Overseeing and monitoring all the work that the Housing Asset Management department carries out.
- b. keeping abreast of asset management related regulatory and policy matters concerning council-owned social housing.
- c. ensuring the delivery through effective programming in accordance with regulatory requirements including health and safety requirements.
- d. ensuring that Housing Asset Management are compliant with an internal risk assessment framework.
- e. representing the council, acting as an ambassador regarding asset management including health and safety.
- f. ensuring that decisions are made within a robust risk assessment framework and that there is compliance with all statutory regulation.
- g. providing strategic direction related to Housing Asset Management ensuring the work of the department are compliant with the latest legislation and regulations.

3.2.7.3. The Director of Housing Asset Management also has experience and knowledge of:

- a. close involvement in delivering high quality services to residents, which are based on knowledge of customer needs, regulatory standards and best practice. This experience will be beneficial when addressing tenants' health and safety concerns.
- b. understanding the regulatory framework which governs the provision of social housing.
- c. technical requirements for delivering health and safety within social housing.

3.2.7.4. The above indicates that the Director of Housing Asset Management postholder has the relevant knowledge of risks, control of service delivery and technical expertise required to hold the Health and Safety Lead role in the council.

3.2.8. Health and Safety Lead Option 2: Head of Asset Management

3.2.8.1. The Head of Asset Management is responsible for ensuring the Health and Safety of council residents through effective management of gas servicing, electric safety tests, the asbestos register, fire risk assessments, lift servicing, legionella and radon inspections.

3.2.8.2. The reasons why the Head of Asset Management is not recommended to adopt the Health and Safety Lead function are:

a. the Health & Safety Lead will be responsible for overseeing that health and safety requirements are being managed and delivered by the teams under the Head of Housing Asset Management, which could mean there would be a conflict as this would be self-monitoring.

b. The Head of Asset Management would not have oversight over health and safety aspects that are outside of their areas (e.g. responsive repairs).

3.2.9. Health and Safety Lead Option 3: Building Safety Lead

3.2.9.1. The Building Safety Lead post has been in place since May 2022 and the role is responsible for ensuring compliance with the Building Safety Act 2022. It provides building, fire safety and health and safety advice to officers in the council and the Mayor and Cabinet.

3.2.9.2. The role was created as the council lacked technical expertise whilst overseeing its arms-length management organisation's (Tower Hamlets Homes) preparations and compliance with the new building safety regime for any building with two or more residential units and 18m+/7 storeys+ in height.

3.2.9.3. The role is also the link between the Building Safety Regulator and the council, champions and coaches building safety culture across the council, provides technical advice for council officers whilst overseeing housing management's compliance with building safety (including health and safety requirements) and the new building safety regime borne by the Building Safety Act 2022.

3.2.9.4. The Building Safety Lead was originally earmarked for the Health and Safety Lead role as the role sat at a distance from Housing Asset Management.

3.2.9.5. However, the post has been vacant since February 2024 and therefore is not considered a viable option at this time.

3.2.10. Health and Safety Lead Option 4: Cabinet Member for Regeneration, Inclusive Development and Housebuilding

3.2.10.1. The Cabinet Member for Regeneration, Inclusive Development and Housebuilding is accountable for housing services delivered by the

council.

3.2.10.2. The Cabinet Member receives regular updates regarding compliance with statutory health and safety requirements from all housing-related directors including the Director of Housing Asset Management and Corporate Director of Housing & Regeneration.

3.2.10.3. Therefore, the Cabinet Member could be considered for this role.

3.2.10.4. However, the Cabinet Member would need to have extensive and technical knowledge of health and safety in social housing in order to provide technical advice to Cabinet and tenants regarding health and safety requirements. Technical competency will also be required to provide assurance to tenants regarding health and safety concerns in social housing.

3.2.11. Health and Safety Lead Option 5: Team Leader Corporate Health and Safety

3.2.11.1. Whilst it may appear that another option for the Health and Safety Lead role could be the corporate Health and Safety Lead (Team Leader Corporate Health and Safety), it should be noted that this post and service (including officers that transferred to this team upon insourcing of housing management services) is focused on the health and safety of Tower Hamlets Council employees not its social housing stock.

3.2.11.2. The team does not hold any expertise in relation to the health and safety of council stock and its residents.

3.2.11.3. It would also be unlikely considered unsatisfactory for the Health and Safety Lead to be assigned to an officer that is not in a senior role.

3.2.12. **Responsible Person (Consumer Standards)**

3.2.12.1. The Government's Charter for Social Housing Residents sets out the commitment for all social housing landlords to nominate and publish the name of a senior officer who will be responsible for overseeing compliance with the new consumer standards. The consumer standards that are set by the Regulator of Social Housing will be fully implemented from April 2024.

3.2.12.2. The Charter for Social Housing Residents' equality impact assessment states that the Responsible Person must be:

- a. a senior officer such as an executive and
- b. an employee of the landlord

3.2.13 Responsible Person Option 1 (recommended): Corporate Director Housing & Regeneration

3.2.13.1 The Corporate Director Housing & Regeneration is assessed to be the most suited to the function of Responsible Person as they have (in their day-to-day role) responsibility for the following:

- a) ensuring statutory requirements are met in the Housing and Regeneration directorate.
- b) being accountable for the development of housing policy, housing strategy and driving improvements in delivery of housing-related services.
- c) providing strategic direction in relation to managing and delivering housing services for council-owned stock whilst meet and exceeding statutory standards.
- d) ensuring housing related divisions (Housing Asset Management, Neighbourhood Services and Housing) take responsibility and are accountable for all aspects of their service including complying with the consumer standards and other housing regulations.
- e) working closely with the three housing related directors and receives regular updates on compliance issues across all housing related matters.
- f) line management for the three housing-related directors.

3.2.13.2 The Corporate Director of Housing & Regeneration role is the only officer role in the council which has direct oversight of all three housing divisions through internal governance arrangements (e.g. Divisional Leadership Team) and direct line management of all three housing directors.

3.2.14 Responsible Person Option 2: Chief Executive

3.2.14.1 The council's Chief Executive's role includes monitoring compliance and performance at a strategic level and is the most senior council officer and therefore could be considered suitable for this position.

3.2.14.2 However, it is not considered feasible for the Chief Executive to take on the Responsible Person function for the following reasons:

- a) the postholder's role's responsibilities are too wide-spread across the council limiting the capacity to focus on the three housing-related divisions' (Housing, Housing Asset Management and Neighbourhood Services) compliance with the consumer standards.
- b) there needs to be close working with the Director of Housing, Director of Housing Neighbourhoods and Director of Housing Asset Management (housing-related directors) who will provide information regarding compliance with the consumer standards. The Chief

Executive does not work closely or directly enough with the three housing-related directors to receive full oversight of compliance with the consumer standards.

- c) the role does not receive the level of information to deliver the Responsible Person function including driving forward improvements and change to comply with the Consumer Standards.
- d) the Chief Executive's role relies on the Corporate Director, Housing and Regeneration to have oversight of housing-related statutory and regulatory compliance advising them of any issues and mitigations.

3.2.15 Responsible Person Option 3: Director of Neighbourhood Services

3.2.15.1 The Neighbourhood Services division is most impacted by the Social Housing (Regulation) Act 2023 in terms of areas of compliance and the Director of Neighbourhood Services is responsible for the Regulatory Assurance team, which focuses on compliance with regulation, monitoring and improvement in delivering housing services.

3.2.15.2 Therefore, another option for the Responsible Person role is the Director of Neighbourhood Services role.

3.2.15.3 However, this is not recommended for the following reasons:

- a) the role works equally alongside the other two housing-related directors, which equally will need to comply with all the Consumer Standards. The Charter implies one person should be designated accountable for the function of the Responsible Person and it would be difficult for one divisional director to be entirely responsible for functions outside of their division and in other directors' divisions.
- b) the role does not have line management responsibility for the housing-related directors and cannot set strategic direction or implement change across all areas which are affected by the Consumer Standards.

3.2.16 Responsible Person Option 4: Cabinet Member for Regeneration, Inclusive Development and Housebuilding

3.2.16.1 The Cabinet Member for Regeneration, Inclusive Development and Housebuilding is accountable for housing services delivered by the council and receives regular updates from all housing-related Directors including the Corporate Director of Housing and Regeneration.

3.2.16.2 However, the Cabinet Member for Regeneration, Inclusive Development and Housebuilding cannot adopt the role of Responsible Person as the Charter for Social Housing sets out that:

- a) the Responsible Person needs to be a senior officer and/or

b) needs to be an employee working in the council.

3.2.16.3 The person appointed as Responsible Person will be accountable to the Cabinet Member for Regeneration, Inclusive Development and Housebuilding, as well as the Mayor and Cabinet.

3.3. **Succession Planning**

3.3.1. Where changes are made to the council structure or roles/responsibilities of the nominated roles are amended, consideration will be given as to which posts are in the best position to hold the roles of Responsible Person and Health and Safety Lead respectively, and this will be reflected in the development of job descriptions.

4 **EQUALITIES IMPLICATIONS**

4.1 At this stage, there are no specific equalities implications to consider.

4.2 It is assessed that appointment to the two roles will result in a positive impact on tenants who:

- will feel reassured they can discuss their health and safety concerns with a named council officer and,
- will be aware of who is accountable for overseeing compliance with the Consumer Standards.

5 **OTHER STATUTORY IMPLICATIONS**

5.1 It should be noted that the Regulator of Social Housing (RSH) will oversee compliance with the Social Housing (Regulation) Act 2023 and the Charter for Social Housing Residents.

5.2 The RSH will also work closely with and receive referrals from the:

- the **Building Safety Regulator** (part of the Health and Safety Executive) for non-compliance with the Building Safety Act 2022, which monitors compliance with building safety, fire safety and the building safety regime which was fully implemented in October 2023.
- The **Housing Ombudsman** which investigates housing complaints in breach of the Housing Complaints Handling Code, including complaints related to health and safety such as damp and mould.

6 **COMMENTS OF THE CHIEF FINANCE OFFICER**

6.1 Providing the recommendations of this report are implemented there will be no financial implications. Failure to make these appointments could result in financial pressures by way of penalties, legal costs and corrective action costs.

7 COMMENTS OF LEGAL SERVICES

- 7.1 The report clearly sets out the requirements of the Charter for Social Housing Residents and the statutory requirements of the Social Housing (Regulation) Act 2023 to appoint responsible persons to be the Health and Safety Lead for social housing and for Consumer Standards and the consequences of non-compliance with these requirements and who these persons should be.
- 7.2 The Council should comply with its statutory and other obligations with regard to the appointment of these two persons.
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Linked Reports, Appendices and Background Documents

Linked Report

- None

Appendices

- None

Background Documents – Local Authorities (Executive Arrangements)(Access to Information)(England) Regulations 2012

- [The Charter for Social Housing Residents \(Social Housing White Paper\)](#)
- [The Social Housing \(Regulation\) Act 2023](#)

Officer contact details for documents:

- N/A