

Together we are delivering your

# New Somerset Council

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## Building & Resident Safety Strategy

LGR Housing 1 – Housing Landlord Function



# The Changing Landscape for Building and Resident Safety

Somerset Council

Monday 6<sup>th</sup> February 2023



# The Context of (justification for) Change....



**Chapter 1:** To be safe in your home

**Chapter 2:** To know how your landlord is performing

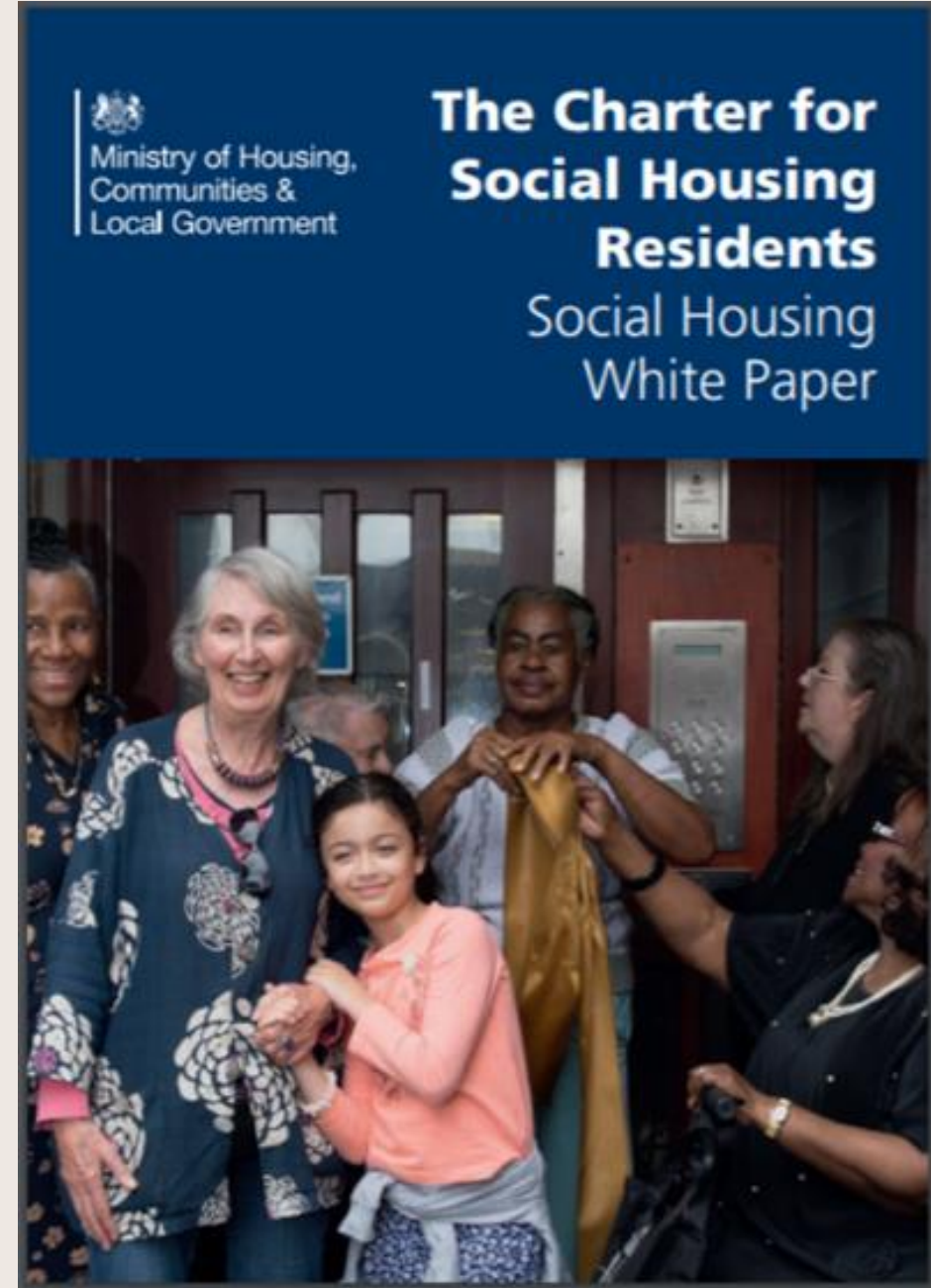
**Chapter 3:** To have your complaints dealt with promptly and fairly

**Chapter 4:** To be treated with respect, backed by a strong consumer regulator for tenants

**Chapter 5:** To have your voice heard by your landlord

**Chapter 6:** To have a good quality home and neighbourhood to live in

**Chapter 7:** To be supported to take your first step to ownership



# The Changing Face of Regulation



# Regulation Landscape – It's changing

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Regulator of Social Housing (RSH)

The Housing Ombudsman (THO)

Building Safety Regulator (new)

- Focus on Social Landlords – with a return to ***pro-active regulation*** (inc. removal of 'serious detriment' test/threshold)
- Economic and Consumer Standards (with objectives to explicitly include safety and mandatory KPIs)
- In-Depth Assessments and (new) Consumer Standards Inspections (*Desk-Top, Routine and Reactive*)
- Focus on Tenants
- New Complaints Code (Landlords Self-Assess)
- New 'name and shame' on maladministration findings
- Focus on Tall (18 metres +) Buildings
- Part of HSE
- Focus on Safety not just Compliance – across design, construction and ongoing use/occupation

# Governance.....the role and importance of Members

- **Regulator for Social Housing (RSH) ‘Consumer Regulation Review 2021-22’**.....under current ‘reactive’ regulation of Consumer Standards, 8 breaches found which satisfied test of ‘serious detriment’ and 5 of these were Local Authority Landlords
- RSH increasingly clear, robust in its stressing of importance of role of – *and clear responsibility for* – Council Members (in addition to Senior Officers) regarding governance and compliance (both in general and in the context of Landlord Health and Safety):

“Elected officials and senior leaders in local authorities have a responsibility to ensure their organisations are meeting the consumer standards. That applies regardless of whether housing is managed directly by the local authority, or there are other management arrangements (for example arms-length management organisation) in place” (Page 6, para 2.13)

“All of the non-compliance decisions we made this year included a failure to have appropriate oversight and understanding of compliance and performance. It is the responsibility of governing bodies to ensure that their organisations are meeting the regulatory standards. Boards, councillors and management teams must have clear oversight of service delivery so they can be assured of the quality and safety of homes and services they provide for tenants” (Page 4, para 2.3)

# May 2022....early signs of the new regime taking legislative shape

- **Queen's Speech 10 May**....Government confirmed Social Housing Regulation Act intended to be brought forward in this parliamentary session
- Draft, indicative clauses also released, which **confirmed** several elements of what is to come:
  1. **Full removal of the serious detriment test for regulatory intervention**....pro-active regime confirmed
  2. **Fines for non-compliance will now be "unlimited"**....previous cap of £5,000 is gone
  3. **Regulator Emergency Surveys to assess property condition if believes Standards not being met**....only 2 days Notice required to the Landlord
  4. **Performance Improvement Plans**....Regulator to have the power to require landlords to work to this where they have been found in breach of standards. Landlords will have to set out timelines and plans, which they will then be required to implement
  5. **Safety**....confirmed as to be added to the Regulator's fundamental objectives, and also confirmed the requirement for all landlords to name individual responsible for Health and Safety



# Another sign...Central Government response to death in social housing due to Damp/Mould/Condensation....

- **Coroner's Verdict mid-November 2022** that Damp/Mould/Condensation in flat rented by Rochdale Boroughwide Housing had been substantial contributory factor to death of 2 year old Awaab Ishak
- Subsequent direct, public intervention of Secretary of State re removal of CEO, stripping of Affordable Housing Programme funding plus RSH regulatory downgrade of the Provider....
- Accompanied by sector-wide regulatory engagement re scale/extent of issue and adequacy of individual landlord approaches....*with instruction to self-report as non-compliant with Consumer Standards if unable to answer (by 19<sup>th</sup> December) enquiry questions from the RSH*

“(RPs) should be looking after their tenants first, and we're not giving money to people who are not even looking after their existing properties to build new properties. They've got to make sure that they look after their tenants and it would be, I think, wrong of us to give public money to an organisation that is failing until it gets its own act together.” (Michael Gove, Sky News, 24<sup>th</sup> November 2022)

- A clear illustration of the changed landscape, and the shape of things to come....

## ***“sets expectations for registered providers of social housing to”.....***

- **Home Standard** – “provide tenants with quality accommodation and a cost-effective repairs and maintenance service”
- **Tenancy Standard** – “let their homes to tenants in a fair, transparent and efficient way”
- **Neighbourhood & Community Standard** – “keep the neighbourhood and communal areas associated with the homes they own clean and safe, co-operate with relevant partners to promote the wellbeing of the local area and help prevent and tackle Anti-Social Behaviour”
- **Tenant Involvement & Empowerment Standard** – “provide choices, information and communication that is appropriate to the diverse needs of their tenants, a clear approach to complaints and a wide range of opportunities for them to have influence and be involved”

# The Home Standard – Existing Requirements.....

## 2 key aspects:

### (1) Quality of Accommodation

Decent Homes Standard as a minimum, Local Offers, any period of non-compliance with this minimum to be agreed (with the Regulator of Social Housing)

### (2) Repairs and Maintenance

(a) a cost-effective R&M service reflecting needs of, and offers choice to, tenants and emphasis upon completing repairs “right first time”

In respect to Landlord Compliance and Health and Safety, second aspect of R&M is the crucial one:

***“(b) meet all applicable statutory requirements that provide for the health and safety of the occupants in their homes”***

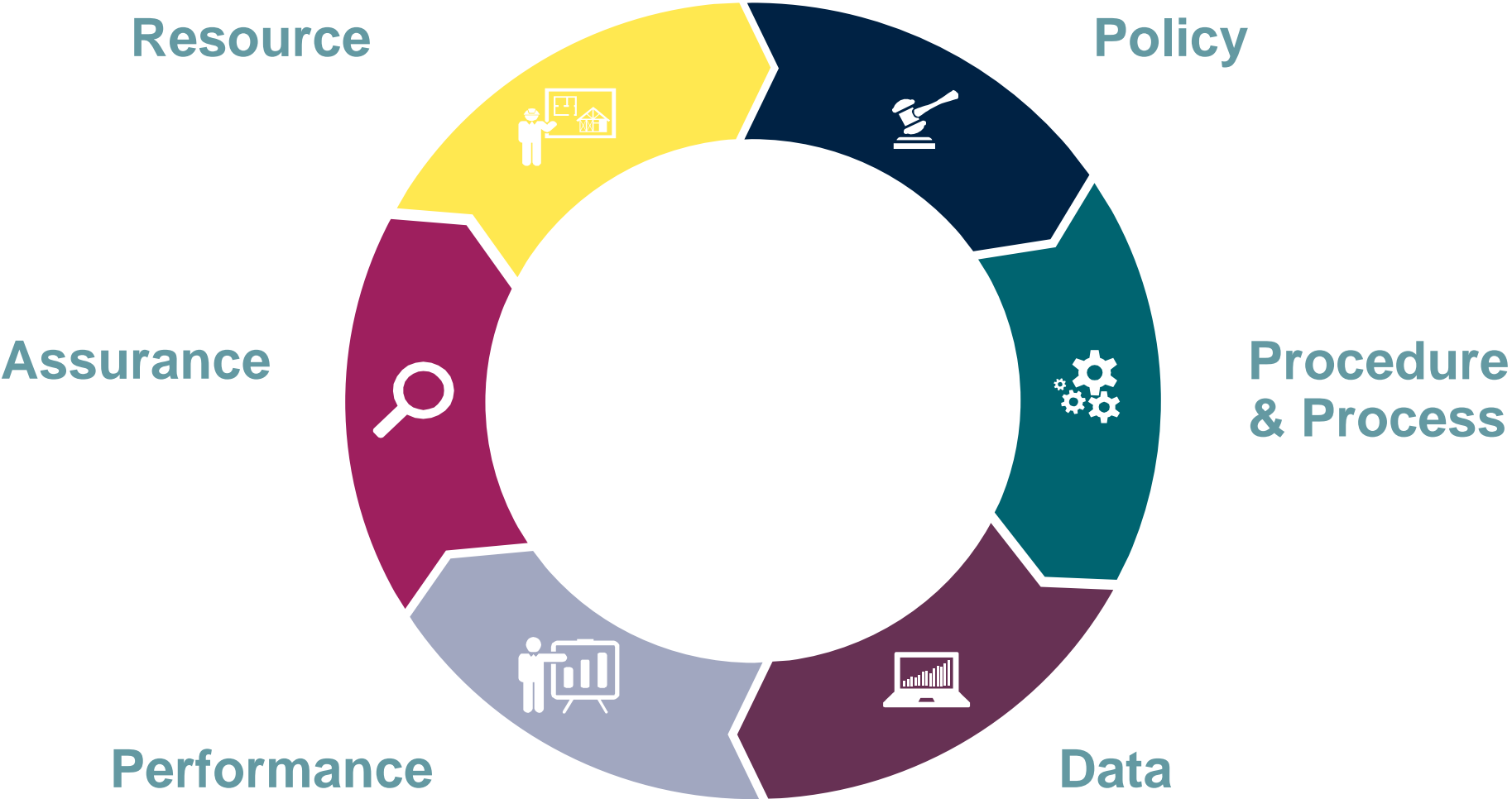
.....a clear, absolute requirement open to very little interpretation

# New Scope, New Obligations....

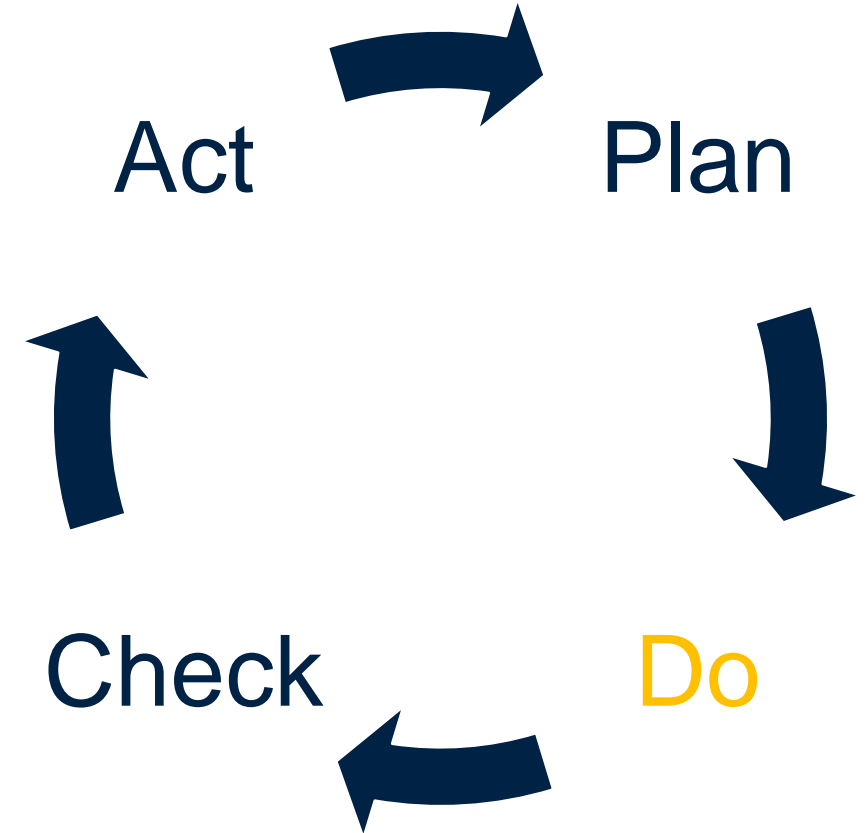
As already referenced, *existing requirements* of the Home Standard to be subject to new, pro-active approach to Consumer (Standards) Regulation by the RSH – with stronger enforcement powers – for both Housing Association and Local Authority Landlords.....however, White Paper also makes clear additional, **new Landlord Compliance Health and Safety requirements** to be introduced:

- requirement for all to have **an individual person responsible for compliance with statutory health and safety responsibilities**, to be “visible and accessible to tenants”, sufficiently senior to “drive a culture of health and safety” (Chapter 4, para 61)
- consultation (closed 11<sup>th</sup> January 2021) on **mandating Smoke and Carbon Monoxide Alarms across all social housing**, alignment with the private sector via amendment to 2015 Regulations and Part J Building Regulations (Chapter 1, para 13/14)....implementation from October 2022
- separate consultation to be undertaken re **more effectively protecting social housing tenants from poor electrical safety** (Chapter 1, para 14)....now live, closes 31<sup>st</sup> August 2022
- clearly expressed expectations for **enhanced, two way communication by Landlords with their tenants in respect to Landlord Health and Safety obligations and how these will be met** – and overseen by a Regulator formally linked in terms of its own duty for information sharing with the Health and Safety Executive’s new Building Safety Regulator (Chapter 4, para 62)

# Our View....An Effective Landlord Compliance System/Framework



# Our View....An Effective Landlord Compliance System/Framework



# Case Study – Gateshead Council 2019

- Regulatory Notice – Council had, via its ALMO ‘The Gateshead Housing Company’ (TGHC), “left thousands of tenants potentially exposed to an unknown risk of danger over a long period of time”
- Until mid-2018 no operating Programme of Fire Risk Assessments, even in High-Rise buildings
- Also no regime of communal area Asbestos Surveys
- Failed to carry out Electrical Safety Inspections “in several hundred properties”
- The Council....

“did not have an effective system in place to allow it, through TGHC, to meet its statutory health and safety responsibilities across a range of areas”.

# Case Study – South Kesteven District Council 2021

- Self-referred to the regulator – issues identified with its health and safety compliance obligations...failed to meet statutory health and safety requirements
- Over a thousand remedial actions identified in Fire Risk Assessments carried out in 2017 had not been completed
- Failed to ensure Solid Fuel Heating Appliances did not pose a risk to tenants
- For Electrical Safety, had not inspected any of its communal areas and just under half of individual properties had overdue inspections
- Asbestos Surveys for communal areas were also overdue

“We concluded that this was a breach of the Home Standard, and that there had been a risk of serious harm to tenants as a result. The Council accepted our findings. In response, the Council has strengthened its senior capacity, demonstrating appropriate leadership and ownership and has developed an action plan to address the underlying weaknesses in its **systems**”.



# Our Work with the Council to date....

Somerset Council

Monday 6<sup>th</sup> February 2023



# Our Work with the Council to date....

- Series of Workshops since October 2022....to develop the Framework/Outline for a **Building and Resident Health and Safety Strategy**
- This **Building and Resident Health and Safety Strategy** intended to position the new Council positively relative to the new Regulatory landscape and its requirements ranging from the new Customer Satisfaction Measures to the requirements for HRRBs under the Building Safety Act 2022 to how customer complaints and responded to relative to the requirements of the Independent Housing Ombudsman
- Inevitably – *and particularly with such a changed regulatory landscape which is still being shaped* – some areas will require further development and work to implement in practice post-April 2023....and these are captured within the Strategy’s associated **Action Plan**
- In addition, Savills are now undertaking a **desktop review of the respective Landlord Compliance/Resident Health and Safety Systems/Frameworks deployed by HiS and SW&T** in order to assess their current status relative to the prescribed threshold of ‘safe and legal’ and to identify any initial and priority areas for focussed improvement
- Such a pro-active, engaged approach is far from common, and all involved in seeking such assurance should be congratulated across all the involved organisations

*"It is a truly terrifying thought, but the GAG firmly believe that only a catastrophic event will expose the ineptitude and incompetence of our landlord the KCTMO"*

Grenfell Action Group (GAG), November 2016