

<b>Committee:</b>	Governance, Audit and Performance Committee	<b>Date:</b>	31 <sup>st</sup> August 2022
<b>Title:</b>	Update on management of council housing repairs and maintenance		
<b>Report Author:</b>	Peter Holt, Chief Executive pholt@uttlesford.gov.uk 01799 510400	<b>Item for decision:</b>	For discussion

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## Summary

1. This report updates Councillors on the situation regarding the repairs and maintenance of the authority's c2,800 council houses, particularly the performance against the six (soon to be seven) key health and safety indicators. It follows reports and updates on the same topic taken to the Committee in November 2021, and twice already in 2022, and updates the position thereon as previously reported to Councillors.
2. In pursuance of the operational delivery of Councillors' clearly expressed uppermost priority – that the Council as a landlord operates to the highest standards to ensure that Council tenants are properly safeguarded in line with both best practice and all relevant legal and statutory defined standards – this reports on urgent management action taken by Officers.
3. Councillors have been consistently clear that tenants' safety comes first, and that all other aspects of housing management (whilst still very important) are secondary to this overriding priority.
4. In particular, this report details the actions taken by the chief executive by letter dated 23<sup>rd</sup> August 2022 to self-refer Uttlesford District Council to the Regulator for Social Housing for a potential breach of the Home Standard in this regard.
5. These actions include the commissioning in June 2022 of a team of three independent external housing, contractual, financial and service delivery experts through the East of England Local Government Association [EELGA] to objectively critically assess Uttlesford District Council's arrangements for the provision of repairs, maintenance and improvement services for its council house tenants, as well as advising on both current and future financial, partnership and contractual arrangements and also on ongoing governance of this work.
6. On receiving interim feedback from these independent external experts commissioned, and to increase the amount of housing professional expertise in the authority to operationally manage this range of urgent challenges, the chief executive has urgently appointed an additional post of interim Director of Housing, to work above and alongside the Assistant Director of Housing, Health and Communities and her team. The interim Director of Housing will

join the Council close to full-time in October 2022. To provide resilience and begin implementing the recommended improvements immediately, a new part-time interim Deputy Director of Housing started work on 18<sup>th</sup> August 2022. The interim deputy director's tasks will be agreed and monitored between the Council and the EELGA housing specialist consultant team and the incoming interim Director. The Assistant Director post will remain unchanged, save for having a new line manager, this being the interim Deputy Director of Housing, until the interim Director of Housing joins the Council closer to full-time. (The Assistant Director has, until now, reported directly into the chief executive, who is not a housing professional, who was therefore able to offer general management support and challenge, but not direct and immediate qualified professional support in the particular subject matter).

7. The report goes on to provide details of the action plan already developed to address these concerns – the 'Path to Compliance Action Plan' – and submitted to the Regulator alongside the self-referral.
8. The letter of self-referral to the Regulator was submitted on the same day as this committee report was published. It is therefore likely that there will be further oral updates that can be provided to the Committee by the time of its meeting that necessarily post-date this report.
9. This report accompanies and is best read alongside another item on the Committee agenda: 'The Internal Audit Implementation Status - UDC Internal Governance Arrangements with UNSL' report.

## **Recommendations**

10. Members are invited to discuss the detail provided in this report, the associated internal audit report, and their various associated documents; to question both the Leader of the Council and council officers on their respective oversight and policy, and operational responsibilities, and to raise any further issues they determine appropriate for further consideration and potential action.
11. Beyond that, Members are invited to note this report and in particular the submission of the self-referral to the Regulator for Social Housing. Members are not being invited to determine themselves whether or not to self-refer to the Regulator for two reasons. Firstly, on the basis that a delay beyond the date at which the chief executive determined that a self-referral was appropriate, namely 23<sup>rd</sup> August 2022, awaiting any formal Member decision would have been detrimental to the interests and the safety of tenants. Secondly, such a decision to self-refer is essentially an operational one, which was taken in his own right by the chief executive, in consultation with other officers, independent external experts, and also with the Leader of the Council and the Cabinet Member for Housing, who have fully supported this move. Members are invited to note that should any council as a landlord ultimately in extreme circumstances face a criminal charge, that it is that council's chief executive who would expect to personally be in the dock of the Court charged themselves as an individual with the most serious criminal offences. As such, chief executive's understandably have not only a duty but a personal

discretion to take such steps as are reasonable to avoid any such significant event taking place that would trigger such criminal prosecutions. In these particular circumstances therefore it is Uttlesford District Council's chief executive's personal decision to self-refer, and not one being brought to Councillors for their decision.

## **Financial Implications**

12. The Council spends approximately £8 million a year on repairs, maintenance and improvements to its council housing stock of nearly three thousand properties. This is alongside a further circa £400,000 spent on similar works through the same partnership – for example, legionella checks in council office buildings and depots. This £8 million comes from the Housing Revenue Account, with only the £400,000 from the Council's General Fund – it is essentially rent-payers' money, not council tax payers' money. This equates to over £2,500 for each council tenancy, or more than £50 per week every week for each and every rent payer. It is the single largest item of service expenditure in the Council. Although only a small proportion of that overall sum is spent on the six (soon to be seven) key health and safety elements for council houses, nonetheless the current situation raises two obvious financial questions: firstly, whether the expenditure level is sufficient to deliver the high standards demanded by Councillors, expected by the Regulator in the Home Standard, and required variously by law; and secondly, of the value for money from that expenditure if that budget is sufficient but merely not delivering the results reasonably expected of it.
13. Both of these questions will be further reviewed over coming months. Officers' initial advice is that there is no reason to believe whatsoever that the overall budgetary provision is inadequate to deliver the health and safety standards required. If spend on those elements were inadequate, it could relatively simply be diverted from other discretionary elements of the £8 million spend, such as doing fewer sets of replacement windows.
14. The value for money question, the broader operation of the current partnership delivery arrangement, and future potential alternative delivery models will be the subject of further work over coming months and subsequent reporting back to Councillors.
15. Turning to the financial implications of the current situation – the self-referral and its associated action plan. The cost of the small team of independent expert consultants brought in in June, and still working, is in the order of £100,000. The additional cost of the new interim director of housing (including the phased additional senior management support with an interim deputy director of housing) for six months is also a further approximate £100,000. Early financial provision to enable officers, including both new-and-existing senior management in housing, to bring in targeted extra resource either to definitively identify issues or else to urgently address specific issues identified is being made to the order of a further £100,000. This will (almost exclusively) be financial pressure on the Housing Revenue Account, and that will be assessed and implications reported to Cabinet over coming meetings. In

context, spending in the order of £300,000 on a one-off basis to ensure ongoing sustainability, delivery to the high standards set, and the value for money of an ongoing £8 million annual HRA expenditure is a proportion of approximately 3.75% overall if considered against the benefit realised in this financial year on its own, or around 0.75% if its benefits are enjoyed over the next five years against that cumulative spend.

## Background Papers

16. The following papers were referred to by the author in the preparation of this report and are available for inspection from the author of the report:
- Internal Audit report considered at Governance, Audit and Performance Committee in November 2021 – Appendix A1
  - Internal Audit follow-up report considered at this Governance, Audit and Performance Committee in August 2022 – elsewhere on the same agenda – Appendix A2
  - Internal Audit Implementation Status – UDC Internal Governance Arrangements with UNSL report to GAP 31 August 2022 – Appendix A3
  - Letter of self-referral to the Regulator of Social Housing dated August 23<sup>rd</sup> 2022 – Appendix B
  - Accompanying ‘path to compliance action plan’ also submitted to the Regulator of Social Housing – Appendix C
  - Update report on the six key health and safety elements presented to a reconvened meeting of the Uttlesford Norse Services Limited Board on Friday 19<sup>th</sup> August 2022 – Appendix D
  - The statement of expectations paper on management and reporting of these six key health and safety elements presented to the Uttlesford Norse Services Limited Board in November 2021 – Appendix E.
  - Copy of letter to tenants dated 23<sup>rd</sup> August 2022 – Appendix F.

## Impact

17.

Communication/Consultation	An extensive and coordinated programme of stakeholder communications is being delivered, to tenants and leaseholders, the general public, staff, councillors and others, commencing on submission of the letter of self-referral to the Regulator on 23 <sup>rd</sup> August 2022. This seeks to strike the appropriate balance between transparency and reassurance.
Community Safety	-
Equalities	Tenants and residents who have limited mobility in the event of a fire at their home, whether through age related frailty, illness,

	disability or pregnancy are potentially at the greatest risk, and so the management actions in this report are of disproportionate potential benefit to people with those characteristics.
Health and Safety	The health and safety of our tenants and leaseholders, their visitors, and also of staff is the central driving factor behind the urgent management action detailed in this report.
Human Rights/Legal Implications	Legal, statutory and contractual issues are again a set of driving factors addressed explicitly in this report.
Sustainability	-
Ward-specific impacts	All wards
Workforce/Workplace	This report specifically addresses not only those staff (not only housing, but others such as benefit advisors) whose work takes them into tenants' and leaseholders' homes in the course of their duties, but also a much wider group of staff, as this issues in this report include, for example, the fire and legionella checks of council buildings such as the London Road headquarters.

## Situation

18. Uttlesford District Council provided both repairs and maintenance and scheduled improvement services (e.g. replacement windows) to its Council houses through an in-house workforce up until April 2020. This team also provided similar services to council office buildings and depots. Necessarily, and in common with virtually every other such in-house function in major landlords, this workforce was heavily supplemented by the use of specialist sub-contractors, whether to carry out routine by specialist safety checks or to carry out actual works.
19. Again in common with many landlords, pressure on recruitment and retention of specialist staff, availability of specialist sub-contractors, and the lack of economies of scale for an organisation with circa 2,800 council houses meant that the sustainability of this in-house arrangement was routinely and properly reviewed. This pressure looked potentially to become more acute because of Brexit-related anticipated skill shortages. In addition, many of these specialist skilled tradespeople (whether in-house or in sub-contractors) are the same pool of people called on by the building trade, so any anticipated uptick in

demand in the building trade can result in instant wage inflation in that sector with which local authorities cannot readily compete.

20. Following consideration of the options in the light of these pressures, and appropriate market testing, Uttlesford District Council resolved to, from April 2020 onwards, move to a ten year partnership agreement with one of the major providers in this sector, Norse. Norse is itself wholly-owned by Norfolk County Council, and has either contracts or partnership agreements with dozens of local authorities across the country for the provision of such services. It is the largest such provider in the market. The Council anticipated, following its market testing, that this ten year partnership would provide the best balance of quality, value for money, and economic efficiency in light of these market conditions.
21. This new arrangement included transferring existing in-house staff to a new joint venture company, Uttlesford Norse Services Limited [UNSL] owned jointly by Uttlesford District Council and Norse. Transfer of Undertakings (Protection of Employment) – TUPE – applied to these transferred staff, who remained based at the council-owned depot in Newport. In the two and a half years since that transfer, there has been a proportionate turn over of staff in UNSL as there has with any employer generally, albeit with many of the formerly council staff still remaining in the UNSL workforce, ensuring a good degree of continuity and with it organisational memory.
22. It is important to acknowledge that the April 2020 commencement of the new UNSL operation coincided almost entirely with the start of the Coronavirus pandemic. Up and down the country, council housing functions faced substantial new additional duties, such as implementing the Government's 'Everyone In' scheme, to get all rough sleepers off the streets. Similarly, housing repairs and maintenance crews will have faced additional difficulties in being able to go into tenants' homes to carry out either checks or substantive repair or improvement works. Keeping up with cyclical inspection regimes that required in-home in-person visits will have been incredibly challenging, including for UNSL. Both housing and UNSL staff were recognised as essential workers and they deserve the considerable thanks and recognition for having gone above and beyond during this lengthy period. Although prevailing national and international circumstances do not provide any exemption from a housing landlord meeting Home Standard or other legal requirements about health and safety checks, it does certainly provide an unarguable, at least partial, explanation for the difficulties in keeping up with cyclical inspections.
23. Prior to the transfer of works from the in-house council team to the UNSL set up, various computer workflow management and reporting management systems were used. One of the inevitable side effects of moving to a joint working arrangement with a much bigger and well-established service provider like Norse is that they tend at times to use different systems. Indeed, the access to sometimes better systems is one of the identified benefits of such partnerships. It would however be fair to say that the transfer of records, data and ways of working between systems since April 2020 has not always been smooth. At times the transfer has thrown up some issues with the old

systems, and at times challenges with the new systems, but mainly challenges in the switch over. Nearly two and a half years later, in August 2022, there are still several tens of thousands of old, pre-transfer asbestos records that were corrupted on the transfer between electronic systems, and which have not yet been fully resolved. A solution has been identified to fix this, and it is believed that none of the old data has been lost, but that fix has not yet been put fully in place, and is still a work in progress.

24. Issues with the provision of this repairs, maintenance and improvements function post-transfer were flagged up to Councillors, but only relatively informally. In due course, candidates for the vacant Council chief executive post were advised during the recruitment exercise in the spring of 2021 that the ultimately successful candidate would want to look at and resolve whatever the outstanding issues were in this area.
25. Colleagues in Housing deserve considerable credit in early/mid 2021 for raising a particular set of health and safety concerns with the Council's Internal Audit function. There was a legionella outbreak in 2021 at one of the Council's sheltered housing blocks, which happily led to no illnesses, and was acted on speedily, with important lessons and safeguards rolled out across all relevant Council sites, including all the other sheltered housing units, offices and other communal council buildings with the relevant type of shared water systems.
26. This in turn led to an Internal Audit review in 2021 that produced a report in the late summer/early autumn of 2021, in time for the newly-appointed Council chief executive to read on joining the Council on 1<sup>st</sup> October 2021. That Internal Audit review, reported to the November 2021 GAP Committee meeting provided a headline finding of 'no assurance' [ie the worst level] and in regard to the governance of health and safety issues generally, scored this as a critical/red finding [again, the worst level]. This report is reproduced as Appendix A.
27. On reading that report prior to it going to the GAP Committee the Council chief executive convened urgent officer meetings to get to grips with the issue. After several such meetings, a 'statement of expectations' was prepared and submitted to the UNSL Board meeting, also in November 2021. This 'statement of expectations' paper was presented to the GAP Committee in November 2021, and is attached afresh as Appendix E. This 'statement of expectations' paper clearly sets out against each of the six key health and safety elements – gas/heating, electrics, fire assessments, lifts, asbestos and Legionella – in considerable detail what inspections are required, in terms of industry/legal standards, required frequency (e.g. annual for gas checks, five yearly for electrical checks); what reporting requirements are expected; and what level of explanation is required for every single property which brings the overall reporting level below the expected 100%.
28. It is readily acknowledged that not every indicator will be at the 100% level at all times, for reasons such as lack of access granted by tenants. It is reported that gaining access to council houses with gas (ie about two-thirds of all council houses) for the annual gas check is easy, but that getting access to all council houses for the five yearly electrical checks is much harder, with a

failure rate of around 20%. The 'statement of expectations' document however made it clear that fuller reassurance is needed on all such exceptions, for whatever reasons, so that the Council as the landlord can be reassured that for every single shortfall towards the 100% needed, an appropriate course of action was in hand. Put another way, having some of these indicators fall occasionally below 100% may happen, it must never be allowed to become casually accepted as the norm rather than the evidenced legitimate exception.

29. This 'statement of expectations' document following the Internal Audit Report, both presented in November 2021 were supposed to be the turning of the corner in regard to the Council being able to take the firm and confident reassurance it needs as landlord to c2,8 00 council houses and their tenants.
30. The volume of work undertaken by both Council officers, and by colleagues in Norse and UNSL prompted by this pair of reports in November 2021 and over the following months was considerable, and it deserves to be acknowledged and recognised. Equally however, the proxy indicator of the success of all that hard work would have been a set of satisfactory reporting documents to the February 2022 UNSL Board meeting, and this was not achieved. Nor was there sufficient progress by the May 2022 UNSL Board meetings, despite increasingly stark warnings from the Council chief executive that urgent progress was required to avoid escalation.
31. Despite even more obvious work going on that looked promising, still no such reports were made available for the August 2022 UNSL round of Board meetings, so the Council chief executive, in concert with the Council's representatives on this joint venture company Boards, requested that a reconvened meeting was held on Friday 19<sup>th</sup> August, just a week after the last one, and that such a paper was produced in time for consideration at that.
32. Such a report has now been received, and this is hugely welcome – see Appendix D. This report responds generally pretty faithfully to the format and reporting against the elements set out in the November 2021 'statement of expectations' paper.
33. In four of the six key health and safety elements – gas/heating checks, Legionella, lift checks and fire risk assessments, standards are reported as either at, or close to, the required 100% levels. The report also some evidence of sufficient detail as to explain any shortfalls, including the action being taken to get to 100%. There will be the need over the coming period both to sharpen up the reporting of the exceptions, bringing it as requested all into one place, and there will also need to be improvements in data quality assurance.
34. Basically however against these four of the six key health and safety elements, the Council chief executive is for the first time in ten months prepared to formally advise Members that these areas are sufficiently in hand as to not provide any immediate cause for anything more than a low level of concern.



35. On the other two of the six key health and safety elements however – electrical testing and asbestos – the reporting levels do give cause for concern.
36. On asbestos, work is still ongoing in relation to creating performance dashboard for asbestos risk assessments, although manual data has been provided as extracted from a spreadsheet for this compliance area. As there is therefore in the meantime simply no quantitative reporting in this area, then the only conclusion that can be reached is that there is no grounds for confidence that the Home Standard is being met at this time – and that this therefore represents an immediate and material breach worthy of self-referral to the Regulator.
37. On electrical checks, compliance against the 5 year inspection regime standard is shown as at 75%, and 99% against the 10 year inspection timing. The Council requires (and tenants pay for in their rent contributions to this specification) checks inside every 5 years, meaning that some 680 properties are beyond their due date for a check. UNSL advises that work orders have been issued for all such 680 properties (as well as the much smaller number of other properties which are coming up to their 5 year mark) and this is hugely welcome. Details are being sought on how quickly the four specialist sub-contracting companies issued these work orders anticipate being able to complete that catch up work, and will be reported on – with the Council indicating that this needs to be as soon as possible, and certainly no later than 3 months.
38. Notwithstanding the considerable progress now being made on electrical checking, this substantial shortfall in numbers which should have had their wiring checked in the last five years but have not again represents in and of itself sufficient reason to trigger a self-referral to the Regulator of Social Housing.
39. As well as these six key health and safety elements, a seventh is about to become a new legal requirement, around Carbon Monoxide monitoring. Where many landlords are perhaps not yet fully geared up for this, and Uttlesford is amongst that number, the impetus behind this broader situation actually provides a genuine and positive opportunity for Uttlesford's Council houses to be amongst the leading landlords for compliance in this area, with the hard work put in over coming months.
40. As such, the Council chief executive has, by letter dated 23<sup>rd</sup> August, written a formal letter of self-referral to the Regulator of Social Housing, and this is attached as Appendix B. Also attached, as Appendix C, is the accompanying 'path to compliance action plan' which is required by the Regulator on self-referral, and is therefore being volunteered up front.
41. A thorough package of stakeholder communication has been developed to coincide with the letter of self-referral, including letters delivered to every tenant (as well as the relatively small number of council block leaseholders). A copy of that letter is attached a Appendix F. This seeks to balance transparency with reassurance.

42. Staff meetings have been held with both housing and UNSL staff, again to balance transparency with reassurance. Morale is clearly a potential risk, and confidence is being drawn from the resilience, dedication and passion shown by the same staff during the pandemic that this latest challenge is absolutely within our range to overcome.
43. Turning to 'what next', any response from the Regulator by the time of the Committee will be reported to it. The Regulator may choose to put the Council into special measures by way of issuing a formal Notice. Either way, the Regulator will oversee and check up on the Council's improvements against the required 'path to compliance action plan'.
44. Regular reporting on progress against the 'path to compliance action plan' will also of course be formally reported upwards to Members, and ongoing stakeholder communications will continue, especially to council tenants (and leaseholders).
45. The Council chief executive has formally written to senior management in Norse and in UNSL advising them of the situation, and committing to instituting a new period of more positive relations, focused on delivering first and foremost for our tenants. This more positive new chapter and new attitude will start, for example, with an early joint workshop exploring ways that the 20% access failure rate for electricity checks can be brought down, including learning from best practice elsewhere.
46. Broader explorations of joint working with UNSL and Norse through this initiative, including longer-term succession arrangements and alternatives, and shorter-term financial and value for money considerations will also continue over coming months. This will be reported up to Members in due course.
47. Once there is greater confidence on the six (soon to be seven) health and safety elements, focus will be turned to reviewing and quality assuring performance on more routine repairs and maintenance, and on capital improvement works. This too will be reported up to Members in due course.
48. Through the issues identified and highlighted in this report, we recognise that our Council, along with many others, have been 'left behind' after housing associations became more proactively regulated following the demise of the Audit Commission in 2012. This is evidenced through the many regulatory self-referrals which have been submitted by local authorities in the last year or two. The Social Housing Regulation Bill, which went through parliament in March 2022, will bring a much tighter and proactive regulatory framework across local authority, as well as housing association providers of social housing in the future. Uttlesford through this recent work and by the hard work already undertaken and still to come post self-referral, has a genuine opportunity to become an exemplar of best performance, and this reflects the clear Councillor priority to do the best job possible for our tenants.

## **Risk Analysis**

- 49.

Risk	Likelihood	Impact	Mitigating actions
<p>The risks associated with the various six (soon to be seven) key health and safety elements are each obvious, whether fire, explosion, electrocution, poisoning, physical injury etc. This inspection and repair and maintenance regime is precisely there to manage, mitigate and minimise such risks. Successful completion of this work will reduce the likelihood down from 3 – significant, to 1 – low.</p>	<p>Significant - 3</p>	<p>High - 4</p>	<p>As detailed throughout this report</p>

1 = Little or no risk or impact

2 = Some risk or impact – action may be necessary.

3 = Significant risk or impact – action required

4 = Near certainty of risk occurring, catastrophic effect or failure of project.