



Regulatory Notice April 2019

Registered Provider

Gateshead Metropolitan Borough Council (Gateshead MBC) (00CH)

Regulatory Finding

The regulator has concluded that:

- a) Gateshead MBC has breached the Home standard; and
- b) As a consequence of this breach, there was the potential for serious detriment to Gateshead MBC's tenants.

The regulator will work with Gateshead MBC as it seeks to remedy this breach and will continue to consider what further action should be taken, including whether to exercise any of its powers.

The Case

As a local authority, Gateshead MBC is required to comply with the consumer standards. Gateshead MBC's landlord services, including repairs and maintenance and statutory compliance are provided by its arms-length management organisation, The Gateshead Housing Company (THGC). The regulator has received information which demonstrates that Gateshead MBC, through THGC, has failed to meet statutory health and safety requirements across a range of areas including fire safety, asbestos and electrical safety.

In respect of fire safety, Gateshead MBC has a statutory duty under the Regulatory Reform (Fire Safety) Order 2005, to regularly assess the risk of fire in properties where it has responsibility for maintenance. Having identified the hazards and people at risk, it is also required to take precautions to prevent the risk of fire. The regulator has learned that up until mid-2018, Gateshead MBC did not have a programme in place to carry out risk assessments across its stock. Although fire risk assessments were carried out on Gateshead MBC's high rise properties, they were not carried out in other stock until very recently.

Alongside specific statutory duties in relation to asbestos and electrical safety, Gateshead MBC also has a duty under the Health and Safety at Work Act 1974 to conduct its undertakings in such a way that third parties (including tenants) are not exposed to risks to their health and safety. Through our engagement with Gateshead MBC the regulator has learned that there have been failings across these areas of health and safety compliance. This included several hundreds of properties where asbestos surveys of communal areas had not been carried out, and electrical safety certification not in place for several hundreds of its properties.

Since identifying these issues, Gateshead MBC through TGHC has been carrying out a programme of fire risk assessments and has also developed a programme to undertake the works arising from those assessments prioritised according to risk. Mitigating actions have also been put in place while the programme is being delivered. Gateshead MBC has also been carrying out asbestos surveys and electrical safety checks.

The Regulator's Findings

The regulator considered the case as a potential breach of part 1.2 of the Home standard which requires registered providers to have a cost-effective repairs and maintenance service in place, and to meet all applicable statutory requirements that provide for the health and safety of occupants in their homes. The regulator has concluded that Gateshead MBC 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.

The regulator noted that TGHC had commissioned the review in mid-2018 which identified these issues and that Gateshead MBC has since been working to ensure the required statutory checks, and relevant safety actions, are completed. However, taking into account the breadth and scale of this failure, and the potentially longstanding nature of the issues, the regulator has determined that it is proportionate to find a breach of the Home standard in this case.

Complying with statutory health and safety requirements is a fundamental responsibility of all registered providers because of the potential for serious harm to tenants. In this case the regulator has concluded that the risk of serious harm is demonstrated because thousands of Gateshead MBC tenants have been potentially exposed to an unknown risk of danger over a long period of time. Therefore the risk of serious detriment has existed.

Section 198A of the Housing and Regeneration Act 2008 (as amended) states that the regulator's regulatory and enforcement powers may be used if a registered provider has failed to meet a consumer standard. In order to use regulatory or enforcement powers, as well as the failure to meet the standard, there should also be reasonable grounds to suspect that the failure has resulted in a serious detriment to the provider's tenants (or potential tenants) or that there is a significant risk that, if no action is taken by the regulator, the failure will result in a serious detriment to the provider's tenants (or potential tenants).

Gateshead MBC has put in place a programme to rectify these failures. The regulator will work with Gateshead MBC as it seeks to address the issues which have led to this situation, and will consider what, if any, further action to take in relation to the breach of the Home standard.