

For General Release

REPORT TO:	CABINET 17 MAY 2021
SUBJECT:	Investigation into conditions at 1-87 Regina Road, South Norwood and the Housing Service Improvement Plan
LEAD OFFICER:	Katherine Kerswell, Interim Chief Executive Sarah Hayward, Interim Executive Director of Place
CABINET MEMBER:	Cllr Hamida Ali, Leader of the Council Councillor Patricia Hay-Justice, Cabinet Member for Homes
WARDS:	All
COUNCIL PRIORITIES 2020-2024 Implementation of the council's response to the independent investigation's recommendations is essential in order to ensure that the council provides the best quality core housing management service that it can afford and provides value for money for its tenants and leaseholders.	
FINANCIAL IMPACT This report notes the exercise of delegated authority to appoint an Interim Executive Director of Housing, for an initial six months at a total cost of £104,250, including relevant on-costs, to be funded by the Housing Revenue Account (HRA). Other necessary expenditure to drive improvement will be identified by the new interim executive director and reported/approved/in accordance with the Council's governance processes.	
FORWARD PLAN KEY DECISION REFERENCE NO: Not a key decision	

The Leader of the Council has delegated to the Cabinet the power to make the decisions set out in the recommendations below

1. RECOMMENDATIONS

The Cabinet is recommended to

- 1.1 Fully accept the findings of the report of the independent investigation into the housing conditions at 1-87 Regina Road, a council-owned property in South Norwood - the investigation report is attached at Appendix 1;
- 1.2 Recognise that the housing conditions in the affected flats at Regina Road are completely unacceptable and reiterate the Leader's full apology to the tenants concerned;
- 1.3 Note the Council's response to the conditions at Regina Road: rehousing the tenants affected and responding to other urgent issues identified in the report;

- 1.4 Note the Council's steps to identify whether there are any issues at other council-owned high-rise blocks of flats, and the steps to resolve any problems identified;
- 1.5 Adopt the Council's initial action plan for the housing service;
- 1.6 Note that a wider review of the Council's housing services, including delivery of the repairs service, will be conducted and will consider how the Council fully involves its tenants and leaseholders, both in terms of responding to issues raised and in the co-design and co-delivery of services;
- 1.7 Note the exercise of delegated authority by the Council's Chief Executive under Part 4J 3.3 paragraph 2 of the council's Constitution to appoint an Interim Executive Director of Housing for an initial period of six months to bring additional capacity to provide new leadership and direction for the housing service, conduct a review of the wider housing service, and lead the development and implementation of a longer-term Housing Improvement Plan for the service. This will be reviewed after six months by the Appointments Committee in accordance with the council's Constitution.
- 1.8 Agree to the establishment of an independently-chaired Housing Improvement Board, the membership of which will include council tenants and leaseholders, and independent housing experts, to oversee the development and implementation of the Housing Improvement Plan;
- 1.9 Subject to agreeing recommendation 1.8, delegate authority to the Interim Executive Director of Place in consultation with the Leader and Cabinet Member for Homes to agree the final membership and constitution of the Housing Improvement Board together with its Terms of Reference;
- 1.10 Note that, in accordance with their delegated authority, the Chief Executive will consider, in consultation with the Director of Human Resources, what, if any, investigation is required to be undertaken in accordance with its agreed staff policies and procedures;
- 1.11 Fully welcome the recommendations of the Social Housing White Paper 'The Charter for Social Housing Residents', in particular the focus on the importance of treating residents with respect and ensuring the voices of tenants and leaseholders are heard;
- 1.12 Note that the report of the investigation and the Council's initial action plan will be shared with the Tenants and Leaseholders Panel, Housing Scrutiny Panel, Scrutiny and Overview Committee, the Ministry of Housing, Communities and Local Government (MHCLG), Croydon's Improvement and Assurance Panel, the Regulator of Social Housing and the Local Government Association; and
- 1.13 Note that a report will be made to the Scrutiny and Overview Committee to engage its members on the initial action plan, progress in implementation and developing the Housing Improvement Plan.

2. EXECUTIVE SUMMARY

- 2.1 The council commissioned ARK Consultancy (ARK) to conduct an urgent independent investigation to understand the circumstances that led to residents of three Croydon Council-owned flats at 1-87 Regina Road, South Norwood living in the conditions as publicised in the national news report on 22 March 2021. The council also referred itself to the Regulator of Social Housing and the Health and Safety Executive (HSE).
- 2.2 The investigation identified no single reason as to why the situation at Regina Road occurred. In ARK's view these issues represent *'a failure to deliver even basic 'core' housing services effectively. They are potentially symptomatic of poor performance across the council's housing service and impact on its ability to drive for self-improvement'*. A wider review of the service is therefore recommended. At the time of writing the Regulator of Social Housing continues to review the case. Evidence provided by the council is under consideration. It is expected to take a few weeks before any decision is announced. The HSE have decided not to pursue any action against the council.
- 2.3 This report presents ARK's findings and recommendations. It updates Cabinet on progress to resolve the problems at Regina Road and assist the residents affected and to identify and resolve any problems at other housing blocks of similar age. Finally, the report asks Cabinet to adopt an initial action plan in response to the recommendations made by ARK and to approve the creation of the post of an Interim Executive Director of Housing and the setting up of a Housing Improvement Board.

3. BACKGROUND

- 3.1 A water leak first reported in 2017 went undiagnosed and unrepaired in 1-87 Regina Road. This defect was allowed to grow into a major problem that presented a risk to health and safety and significantly impacted the quality of life of four households.
- 3.2 The water leaks into four flats were caused by a corroded copper rising water main in the floor slab between two flats (one above, the other below). Residents' concerns were left unresolved and opportunities to resolve the problem were missed from 2017 onwards. The block has been known to experience other water leaks caused by corrosion in the pipework, as well as a leaking roof.
- 3.3 On 19 March a media organisation informed the council of a report it was going to broadcast on 22 March on national news about the housing conditions at the council high-rise block at 1-87 Regina Road.
- The council's response***
- 3.4 Three households were moved from their flats in Regina Road into emergency accommodation, two of them on 19 March (the day the media organisation brought their report to the council's attention), and the third on 26 March. The fourth affected flat was empty. Two of the households have subsequently been rehoused in alternative council properties: one permanently; the other temporarily, in view of their stated wish to return to Regina Road. The third tenant has accepted an offer of alternative council accommodation, and

remains in emergency accommodation whilst the property is decorated. The council has also been replacing the tenants' damaged furniture and other household items.

- 3.5 The leak was repaired and the council's engineers confirmed that the building meets all building control requirements for structural safety. Steps are being taken to repair the damage to the affected flats, although the flats will take some weeks to dry out before repair work can start. The flats will be prepared for reletting as soon as is practicable.
- 3.6 The Leader of the Council and Cabinet Member for Homes both spoke to residents, including those who have been most affected, to offer apologies, answer questions and hear feedback. In addition, the Leader of the Council, Cabinet Member for Homes visited the block. At the request of residents a private meeting was held with the Leader, Cabinet Member, Ward Councillors and the Chief Executive and Interim Director of Place, to which residents of the three blocks at Regina Road were invited.
- 3.7 The Tenancy Team and Resident Involvement Team maintained a daily presence at 1-87 Regina Road and two other blocks from 23 March for two weeks. The main purpose was to try to reassure residents who had questions about the council's response that repairs were underway at the affected properties. It also gave residents living at the blocks an opportunity to raise any other issues requiring attention to officers onsite who referred them on to the appropriate teams at the end of each day in an effort to resolve issues as quickly as possible. A letter was delivered to all residents in the block with information on current actions and future plans, and details of how to contact the tenancy service.
- 3.8 Repairs staff inspected other flats in the building in order to identify any other repairs required. While the roof has had local repairs, there has been water damage to three upper floor flats, some of it severe, over a long period. One of the tenants has been placed in temporary accommodation, but has expressed the wish to return to Regina Road once this is possible. Another tenant has been identified for a move but declined an offer of emergency accommodation, preferring to remain in the flat while awaiting a permanent move because of her children's needs. The third and fourth tenants, are occupying upper floor flats that require minor works and are awaiting offers of sheltered flats. The council is maintaining close contact with tenants across Regina Road via local Ward Councillors and the Tenancy and Resident Involvement Teams to support tenants throughout this period.
- 3.9 Two other flats on lower floors have also suffered damage from leaks. One flat was affected by a leak for one year before it was resolved in December 2020. Work has been requested to make good the damage, now that this flat has dried out, and in the other flat to wash mould off the kitchen ceiling, redecorate the bathroom and refit the lighting fixture. In an unrelated issue, three flats suffered minor damage when a tenant left the taps on.
- 3.10 Contact has been made with all residents of the council's 15 other high-rise blocks of similar design. The letter drop to them resulted in 18 responses (as at

5 May), 15 of which reported leaks or damp. There were 48 additional repair issues raised in respect of other properties (as at 5 May).

- 3.11 The council updated all 1,252 households in the council's high-rise blocks by letter about the actions it has been taking, and will begin undertaking similar precautionary checks in all 25 other council high-rise blocks in May. The council has agreed to undertake further detailed surveys at an initial five blocks including three in Regina Road, which will inform future investment priorities in those homes. Further follow-on inspections and surveys across the council's housing schemes will be planned in accordance with a proactive approach to future planned stock investment programmes. The timing and sequencing of surveys will be published in due course.
- 3.12 On 23 March, the council commissioned ARK to conduct a rapid independent investigation. The consultancy began its investigation on 24 March, interviewing council staff, councillors and tenants from 1-87 Regina Road. ARK delivered a first draft of their report on 9 April. The council asked the consultancy to conduct some further investigations in order to capture more evidence from residents, staff and contractors to fully complete the investigation. ARK delivered its final report and recommendations to the council on 26 April (detailed in Appendix 1).
- 3.13 In order to strengthen the repairs and asset management functions immediately, the Interim Executive Director of Place identified a number of staff vacancies and took swift action to fill them. The council is recruiting to the following nine vacant posts, plus one cover for long term sickness absence:
- Members & Residents Services Officer
 - Engagement and Digital Inclusion Officer
 - Senior Repairs Inspector
 - Repairs Inspector
 - Gas Servicing Officer (recruitment of agency cover for long term sickness)
 - Gas Engineer and Gas Contract Supervisor
 - Compliance Manager
 - Senior Fire Safety Compliance Surveyor
 - Two Principal Asset Management Analysts.

4. ARK'S INVESTIGATION AND SUMMARY OF FINDINGS

- 4.1 The council's terms of reference for the independent investigation (detailed at Appendix 2) required ARK to:
- Conduct an immediate investigation focussed on the four flats affected to establish a detailed timeline of events; the likely cause of the damp and mould; action or inaction taken by the council, its staff and its contractors in respect of repairs, assessing issues in the block, and supporting or rehousing residents affected; any issues in contacting the council by those tenants; and any evidence that discrimination, in particular on the grounds of race, played a part in the treatment of these tenants;

- Assess whether the council's processes for the reporting and rectification of repairs and relationship with tenancy management are fit for purpose, identifying where they fall short of both standard and best practice;
- Explore the role of staff and contractors that led to conditions in the flats deteriorating, and highlight likely failings and where possible make recommendations for the oversight of repairs work and related tenancy functions.

4.2 ARK's investigation was a rapid review, focussed on the disrepair in one block of flats. Gaps and inconsistencies remain, but it uncovered *'a range of underlying issues primarily across the council's operational teams (repairs, asset management and tenancy management) and to some extent with its contractor'*. In ARK's view these issues led to a failure to deliver *'even basic 'core' housing services effectively. They are potentially symptomatic of poor performance across the council's housing service and impact on its ability to drive self-improvement'*. The findings suggest the need for a wider review of the housing service.

4.3 The five key findings about the housing service are:

- a lack of capacity and competence;
- a poor operating culture with a lack of care and respect for tenants;
- systemic problems in how the council communicates and deals with tenants' concerns and complaints;
- weak performance management, meaning senior managers do not appear to know what is going on; and
- poor use of data and 'intelligence' by the council and its contractors.

4.4 In particular, the report made the following findings about the repairs, asset management and tenancy management functions:

- i. Basic 'core' housing management practices were not followed to resolve problems or to protect tenants from risk.
- ii. Staffing was significantly under-resourced and the service was reactive.
- iii. The fragmentation of housing roles across the council potentially makes it harder to address issues with performance, communication and working across teams.
- iv. Council and contractor staff do not always treat tenants with care and respect. ARK found no clear evidence of discrimination on race grounds, but there were wider issues with all tenants being seen as less worthy of respect.
- v. The council is not visible or seen as open and accessible to tenants. Tenants do not know where to go to raise issues.
- vi. There was extremely weak performance management. Any competent housing provider or contractor would have readily identified these problems.
- vii. There are blurred lines of responsibility and accountability between the council and its main repairs contractor.
- viii. The council is over-reliant on contractor data to monitor repairs performance.
- ix. The council's understanding of the condition of its housing stock and its ability to make sound investment decisions is poor.

- x. Positively, the council has successfully installed sprinklers in all but 12 of its 1,252 high-rise flats.

4.5 ARK identified the following issues as requiring an immediate response.

Actions being taken to address these issues are included in the action plan:

- i. Two unfilled posts in the Compliance function which oversees delivery of health and safety activities in the housing service.
- ii. Problems at Regina Road such as a leaking roof are still treated as 'one-off' repairs, yet disrepair claims against the council are increasing.
- iii. Tenants were often seen as demanding, difficult to deal with and less worthy of respect. Some council staff lack empathy with tenants. These attitudes appear to be going unchallenged.
- iv. Disruptive work may have compromised fire safety measures – the door to one flat does not meet the required safety standard. ARK has asked for confirmation that works identified in a Fire Risk Assessment undertaken in October 2020 have been completed in line with recommended timescales.
- v. ARK has some concerns about allocations, tenants' understanding of their tenancy status and overcrowding in the block that should be explored further.
- vi. The council lacks a simple, effective, clear and accessible route to get tenants' concerns and complaints resolved.
- vii. Tenants do not know to whom they should report failures in the day-to-day repairs service or non-repair issues and often do not know their tenancy officer.
- viii. Relations between the council and its main contractor appear to focus on monitoring performance rather than actively managing it.
- ix. Intelligence and data exist in 'silos' and do not appear to be drawn together to give a holistic view of asset performance or inform strategic decision making or budget setting.
- x. Surveys of half the flats at 1-87 Regina Road identified damp, mould and condensation. The council planned to investigate the installation of a mechanical ventilation system before Covid struck, but the roof was considered 'fit for purpose'. However, leaks into the top floor flats are now common, with patch repairs having limited effect.
- xi. The high level of responsive repairs demanded suggests the need to proactively invest in homes. The council should assure themselves that key data on stock condition and health and safety responsibilities is accurate.
- xii. The council should proactively survey other blocks of similar age to Regina Road and develop clear plans for their future.

5. SUMMARY OF ARK'S RECOMMENDATIONS

Immediate actions

5.1 ARK has identified a number of key issues (listed at 4.5 above) that require immediate action and the council is producing its own recommendations in response to these. To address them and provide building blocks for further service improvement, they recommend a realignment of resources to establish:

- a team focussed on policy and performance and control of service delivery.

- a team focussed on improving investment planning to ensure homes are sustainable over the longer-term.
- a strategic group with the power to oversee the development and implementation of a recovery plan and to direct the initial work of the investment planning and control teams. It should involve tenants in the development of plans and scrutiny of outcomes.

Recommendations for improvement

5.2 ARK have made recommendations for improvement in seven areas, on governance and strategic leadership of the housing service; workforce planning and skills development; cultural and behavioural change both of council staff and contractor operatives; tenant involvement; business intelligence; performance management; and complaints handling. These are detailed in the investigation report at Appendix 1.

6. CROYDON'S INITIAL ACTION PLAN AND PLAN FOR IMPROVEMENT

Issues requiring an immediate response

6.1 The council's actions to date are detailed in section 3. The independent investigation identified 12 issues, listed at 4.5 above, that required an immediate response. The council has already taken the following action to begin to respond to some of the issues. Further actions to address these issues are included in the initial action plan:

- ***Resourcing of compliance function:***
 - The council is recruiting a Compliance Manager (interviews due on 17 May) and a Senior Fire Safety Surveyor (closing date for applications 19 May), in order to resource the compliance function fully.
 - As at 4 May 2021, 98.68% of all council social housing homes had a valid gas safety certificate. The council is taking intervention and enforcement actions to ensure all homes have a valid safety certificate. At 4 May, 39 homes were subject to enforcement action to ensure gas appliances are serviced. The level of non-compliance has fallen from 276 homes on 9 April to 172 homes (1.32%) without a valid certificate on 4 May. The council is also introducing longer term improvement measures to achieve 100% compliance on all gas safety matters; these are detailed in the action plan.
 - The council has instructed a specialist housing and repairs consultancy to undertake from 10 May 2021 a random dip test of homes that were subject to a high priority repair item to provide assurance, or to inform the need for further compliance audits in the months ahead. These tests will also cover gas compliance.
- ***Other problems causing damp and mould treated as 'one-off' repairs:*** Repairs staff have contacted all other tenants in the block, visiting the flats to identify any other disrepair in the building and schedule appropriate action. Further action is set out in the initial action plan.
- ***Outmoded culture and attitude among a number of staff towards tenants:*** Directors, heads of service and managers have been specifically

directed to challenge all instances of outmoded attitudes, disrespect and lack of empathy for tenants. Further action is set out in the initial action plan and this will be a key component of the Interim Executive Director of Housing's work.

- ***Disruptive work may have compromised fire safety measures:***
 - The door to a flat that is vacant, pending the repair of damage caused by the leak, will be replaced as specified by the fire risk assessment, as part of those repairs.
 - The other recommendations in the fire risk assessment related to residents' items in communal areas. Most of the items to the rear of the block have been removed as well as some residents' items in communal areas. Arrangements have been made to remove two remaining items to the rear of the block and action continues for the removal of residents' items that remain in communal areas.
 - Recommendations in fire risk assessment reports are made into works orders for immediate attention in the small number of cases that are rated as high priority; otherwise they fed into the planned maintenance programme. The council has sought independent assurance by instructing a specialist housing and repairs consultancy to undertake from 10 May 2021 a random dip test of homes that were subject to a high priority repair item to provide assurance, or to inform the need for further compliance audits in the months ahead.

- ***Route for resolving concerns and complaints and Tenant lack of awareness of how to report issues:***
 - Council staff were present at Regina Road for two weeks to give residents an opportunity to identify any other issues that needed addressing.
 - A letter to all residents in the block on 29 March gave details of how to contact their tenancy officer. In addition, the council wrote to the residents of all 16 council-owned blocks of flats of similar design with details of how to contact the tenancy service.
 - The council is in the process of helping Regina Road residents to set up a residents group.
 - Further action is set out in the initial action plan.

- ***Management of contractor contract:*** Action is set out in the initial action plan.

- ***Use of data and intelligence and Accuracy of data on stock condition and health and safety:*** The council has authorised recruitment of two principal asset management analysts. Further action is set out in the initial action plan.

- ***Proactive survey of all tower blocks:*** Precautionary checks will be conducted at all 26 council-owned high-rise blocks, starting in May 2021. Further action is set out in the initial action plan.

Initial action plan

6.2 The independent investigation report and the initial action plan (detailed at Appendix 3) are the start of a much longer-term and wider-reaching review and

improvement programme for the council's housing services. Residents will be informed and involved in the process. The review will consider how the council fully involves its tenants and leaseholders, both in terms of responding to issues raised and in the co-design and co-delivery of services. The review will also consider delivery of the repairs service, in order to identify the most cost effective means of providing the service that also meets the standards expected by tenants and leaseholders.

- 6.3 The initial action plan details the council's steps to provide the building blocks for further improvement of the housing service, responding to the 'immediate actions' recommended by the independent investigation and detailed at 4.5 above. This will be achieved mainly through the realignment of existing resources.
- 6.4 The Chief Executive under delegated powers is proposing to recruit for a period of up to six months an Interim Executive Director of Housing, who will bring together the council's housing functions and improvement work into one place.
- 6.5 A new strategic body, the independently chaired Housing Improvement Board, will oversee the development and implementation of a Housing Improvement Plan and direct the initial work of the investment planning and control teams. The council will seek the advice of housing professionals and engage with its tenants and leaseholders to test its approach in establishing the board and deciding on its membership. The Board will involve tenants and leaseholders in the development of plans and scrutiny of outcomes.

Housing Improvement Plan

- 6.6 Elements of the council-wide three year Croydon Renewal Plan adopted by Cabinet in December 2020 address issues raised in the investigation and support implementation of its recommendations:
- Stronger governance, management practice and the management of demand and cost
 - A new system of internal control for finance, performance and risk
 - A programme to change culture and behaviours so that all staff live by the council's values and have the core skills and capabilities to do their jobs effectively. It also aims to strengthen management capability, improve performance management and strengthen accountability.
- 6.7 The council will develop the longer-term Housing Improvement Plan to address the seven recommendations for improvement, summarised at 5.2 above. This process will be led by the Interim Executive Director of Housing and overseen by the Housing Improvement Board. This Plan will include further work to strengthen governance and leadership; workforce planning and the skills development; cultural and behaviour change both of council staff and contractor operatives; strengthened resident involvement; the better use of accurate and up to date business intelligence; stronger performance management; and improved complaints handling.

- 6.8 The council recognises that the issues identified by ARK are potentially symptomatic of poor performance across the housing service and longer term systemic failures that have built up over a long time. The holistic plan will address other issues in the housing service not considered by the investigation, including the quality and cost of emergency and temporary accommodation the council secures for homeless households, which is the subject of an ongoing review by the council in preparation for the development of a strategy for emergency and temporary accommodation. The review will also consider the impact of living in emergency and temporary accommodation on families with children and on the number of children who come to be looked after by the council. A housing strategy is also under development to set the approach to housing for the borough.
- 6.9 The council notes ARK's view that the housing service is inward-looking and failing to keep up-to-date with good practice. In developing its Housing Improvement Plan, the council will learn from benchmarking and from other social landlords as well as housing experts across the sector.
- 6.10 The findings and recommendations of the ARK investigation contain allegations that systemic management and operational failings have contributed to the inadequate conditions at Regina Road specifically; but also more generally in relation to housing management. The council will need to properly consider, in line with its staff policies and procedures, what, if any, investigation is required to be taken.

7 EARNING TENANTS' CONFIDENCE

- 7.1 Two key findings of the independent investigation were a poor operating culture with a lack of care and respect for tenants, the lack of visibility of the council to its tenants and systemic problems in how the council communicates and deals with tenants' concerns and complaints. This has built up over a considerable period of time. ARK's report has recommendations for improving the council's handling of complaints and for strengthening its capacity, competence and commitment to resident involvement, through training and developing staff and reviewing existing participation structures to ensure tenants' and leaseholders' voices are heard.
- 7.2 The council is committed to regaining tenants' confidence and improving its service for them. A wider review of the housing service will consider in particular how the council fully involves its tenants and leaseholders, both in terms of responding to issues raised and in the co-design and co-delivery of services. Tenants and leaseholders will be included in the membership of the Housing Improvement Board that will oversee the review as well as the development and implementation of the more detailed Housing Improvement Plan. Tenants directly affected by the Regina Road situation have been invited to take part.
- 7.3 The existing structures for resident participation and scrutiny, the Tenants and Leaseholders Panel, the Housing Scrutiny Panel, housing services inspectors and mystery shoppers, all have a role for testing and holding the housing service to account. There is currently no tenants or residents association that

covers Regina Road. The council is seeking to work with Regina Road residents to set up a residents group. The council will seek the views of council tenants and leaseholders in Croydon as well as of other experts in the borough and beyond, on how the participation of tenants and leaseholders can be widened as well as deepened.

8. CONSULTATION

- 8.1 As part of its independent investigation, ARK interviewed council staff, councillors and stakeholders as well as tenants from 1-87 Regina Road.
- 8.2 As part of the membership of the Housing Improvement Board, tenants and leaseholders will be involved in overseeing the development and implementation of the Housing Improvement Plan. The council will engage with members of the Tenants and Leaseholders Panel as well as tenants and leaseholders more widely to inform the setting up of the Board. Tenants directly affected by the leaks and those living in the blocks at Regina Road will be asked if they wish to be part of this work.
- 8.3 The council will also test its approach through engaging with housing professionals in the borough and in other local authorities and across the housing sector.

9 PRE-DECISION SCRUTINY

- 9.1 An update of the council's initial response to the housing conditions at Regina Road and the terms of reference for the subsequent investigation was provided to the Scrutiny & Overview Committee on 30 March 2021.
- 9.2 The Committee broadly accepted the terms of reference for the independent investigation. It welcomed confirmation that a review of housing services had been brought forward in light of the issues experienced by tenants at Regina Road. It recommended that:
 - Prior to starting the review, the council's long term vision for its housing services needed to be defined and then used as a basis for the review.
 - The review also needed to consider how the council listens to the voice of its tenants both in terms of responding to issues raised and in designing services.
 - The process for tenants reporting issues and how they are subsequently dealt with needs to be comprehensively overhauled to ensure the needs of tenants are prioritised in any future delivery model.
 - Delivery of the repairs service should be reviewed, when possible to do so under the terms of the current contract, to establish the most cost effective means of providing the service that also met the standards expected by tenants.

- 9.3 The report of the independent investigation and the council's initial action plan will be shared with the Tenants and Leaseholder Panel and the Housing Scrutiny Panel, the Scrutiny and Overview Committee, the Ministry of Housing, Communities and Local Government (MHCLG), Croydon's Improvement and Assurance Panel, the Regulator of Social Housing and the Local Government Association.
- 9.4 A report will be made to the Scrutiny and Overview Committee to engage its members on the initial action plan, progress in implementation and developing the Housing Improvement Plan.

10 FINANCIAL AND RISK ASSESSMENT CONSIDERATIONS

- 10.1 The immediate financial impact of implementing the recommendations included within this report is the cost of an unbudgeted executive director for 6 months at an estimated cost of £104,250. This cost will be met from HRA general reserves which, as a provisional outturn figure, will stand at £27m at 31 March 2021. This is an increase of around £12m from 1 April 2020 due to Covid related delays in Planned Maintenance work across 2020/21. There will be a need to catch up on this delayed work as well as prepare for increased stock investment and fire safety improvements in the medium to long term which will need to be found from reserves or from ongoing savings measures within HRA revenue spend.
- 10.2 The financial impact of implementing the Initial Action and Improvement plan will include an unquantified increase in responsive repairs costs; additional staffing costs to create the Policy and Performance and Investment Planning teams; an increase in training and development and other HR support costs and the cost of investment in digital systems and reporting tools (Business Intelligence). Detail of the plans for this increased spend will need to be approved via appropriate governance mechanisms.
- 10.3 The Responsive Repairs budget is £14.18m for 2021-22 and the base budget for Planned Maintenance work is £26.771m. Both of these budgets will need to be reviewed for 2021-22 and future years to ensure that assets are appropriately maintained, tenants are provided with services that are fit for purpose and that the long term financial stability of the Housing Revenue Account is secured.

The effect of the decision

- 10.4 The short-term appointment of an unbudgeted Executive Director will by itself have minimal impact on the overall financial position of the HRA; the challenge will be to ensure that robust controls and monitoring measures are in place around the implementation of improvement plans that must be set out in more detail at a later date.

Risks

- 10.5 In developing its action plan the council recognises the importance of listening to its tenants and leaseholders in identifying and reducing risk to them and for the council. There is a long term financial risk in insufficiently investing in HRA

assets that must be considered in reviewing and setting the budget.

Options

- 10.6 The options to best meet the needs of council tenants and to manage and maintain the HRA stock should be considered as plans are developed.

Future savings/efficiencies

- 10.7 No opportunities for savings or efficiencies are presented at this stage of the review process.

Approved by: Chris Buss – Interim Director of Finance , Investment and Risk

11. LEGAL CONSIDERATIONS

- 11.1 The Head of Litigation and Corporate Law comments on behalf of the interim Director of Law and Governance that the Council is generally responsible for making sure the structure of rented property is kept in good condition (which includes the walls, ceiling, roof and windows); gas and electricity appliances work safely; and shared parts of a building or housing estate are kept in good condition.
- 11.2 The Council's Tenancy or Lease Agreements set out express terms in relation to both the rights and obligations of the Landlord and the Tenant regarding repair and maintenance responsibilities.
- 11.3 Whether a housing disrepair claim can be made against the Council, principally arises out of contract and statute law.
- 11.4 The basis of a claim can arise under s.11 of the Landlord and Tenant Act 1985 (LTA 1985). In addition, repairing obligations are implied in certain circumstances pursuant to a range of other legislation such as the Defective Premises Act 1972. There are also some standard implied terms developed by the Courts that:
- 1) if a landlord carries out repairs, they must be done with reasonable skill and care using proper materials; and
 - 2) a landlord must not derogate from its grant. This means where a landlord has taken steps, or granted rights to another party, which render the premises unfit or unsuitable for the purpose for which they were let.
- 11.5 Failure to comply with these implied terms can result in a civil claim for damages and specific performance. A claim for compensation can also be made under the Housing Act 1985. Claims in common law nuisance or negligence can similarly arise. Allegations of statutory nuisance can also be pleaded in the Magistrates' Court under the Environmental Protection Act 1990 where this is evidence to support such a claim. A housing conditions claim may include a personal injury element.
- 11.6 Separately the Homes (Fit for Human Habitation) Act 2018 contains implied covenants that residential rented accommodation is provided and maintained in a state of fitness for human habitation.

- 11.7 The Housing Ombudsman (THO) established under the Housing Act 1996 (as amended by the Localism Act 2011) is responsible for investigating complaints about member landlords in accordance with a scheme approved by the Secretary of State. The role of THO is to seek to resolve disputes involving members of the Scheme, including making awards of compensation or other remedies when appropriate, and to support effective landlord-resident dispute resolution by others.
- 11.8 In addition, the Housing and Regeneration Act 2008 established the Regulator of Social Housing (RSH) an executive non-departmental public body of the MHCLG. The RSH sets regulatory standards, codes of practice and guidance for registered providers of social housing. The regulator will consider complaints and referrals to determine whether there is evidence of a breach of its regulatory standards. The Council has self-referred itself to the regulator.
- 11.9 The *Charter for Social Housing Residents – the Social Housing White Paper* published in November 2020 sets out actions the government propose to take to include a Charter for Social Housing Residents, plans for new regulation, a strengthened Housing Ombudsman to speed up complaints, and a set of tenant satisfaction measures that social landlords will have to report against.
- 11.10 The power to appoint staff under the Local Government Act 1972 section 112 is specifically designated as a non-executive function under the Local Authorities (Functions and Responsibilities) (England) Regulations 2000 and sits with the Council's Head of Paid Service and its Appointments Committee.
- 11.11 The Local Government Act 1999 imposes a requirement on all local authorities to deliver 'best value' which requires the Council to demonstrate that it is making arrangements that are economic, efficient and effective and the Council has had regard to the need to secure continuous improvement in how it carries out its work. The investigation and the proposed review of the Council's housing function will be a significant contributor to meeting the Council's legal duty of 'best value' and therefore this report complies with that legal duty.

Approved by: Sandra Herbert, Head of Litigation and Corporate Law for and on behalf of the interim Director of Law and Governance.

12. HUMAN RESOURCES IMPACT

- 12.1 The interim appointment of the Executive Director of Housing was conducted in accordance with the council's requirements for its recruitment practice. A request was made across procure frameworks for temporary staff and a diverse and politically proportionate member panel interviewed with advice from Human Resources and the interim Chief Executive. After six months any further extension to the role will be a matter reserved for an Appointments Committee.
- 12.2 This role will provide additional capacity and focussed leadership for the staff teams and drive the improvement plan actions to develop and implement the required workforce improvements.

- 12.3 The findings and recommendations of the ARK investigation contain allegations that systemic management and operational failings have contributed to the inadequate conditions at Regina Road specifically; but also more generally in relation to housing management. The council will need to properly consider, in line with its staff policies and procedures, what, if any, investigation is required to be taken.

Approved by: Sue Moorman, Director of Human Resources

13. EQUALITIES IMPACT

- 13.1 The proposed recruitment of an Interim Executive Director of Housing and the interim action plan proposed, will achieve an improvement in the quality, visibility, accessibility and responsiveness of the housing service to the needs of all tenants and leaseholders and improve housing conditions in council homes for all tenants. There are no negative impacts for people with protected characteristics.
- 13.2 The ARK report found no clear evidence of racial discrimination, but did find that there were wider issues, with all tenants being seen as less worthy of respect. The proposed action plan includes immediate measures to improve the operating culture and attitude of staff toward tenants as well as a longer term cultural transformation programme to ensure council staff and contractor operatives consistently deliver a tenant-focussed service and have a culture of 'safety first', respect and empathy for tenants. The Council will ensure staff are aware of its Code of Conduct, Commitment to Equality and Equality in Employment Policy, and complete Equality and Diversity ELearning.
- 13.3 Given the high percentage of households from black and ethnic minority backgrounds in the Regina Road flats in particular, among homeless households and council homes generally, compared with the borough as a whole, the work to improve council homes will have a positive impact. This is also true of the planned wider ranging review of the housing service – including the quality and cost of temporary accommodation and the review of historic housing allocations (as the percentage of tenants of flats in Regina Road who are from BAME communities is disproportionately high, compared to the percentage of Croydon Council tenants generally and the population in the borough) and assessment of the housing need of those who need to move to larger accommodation, which will lay the basis for a longer term plan for further improvements to the housing service.
- 13.4 As part of its investigation, ARK interviewed council staff, councillors and tenants from 1-87 Regina Road. Residents of the three blocks at Regina Road have also met with the Leader, Cabinet Member and Ward Councillors. The wider review of the housing service will consider in particular how the council fully involves all its tenants and leaseholders, both in terms of responding to issues raised and in the co-design and co-delivery of services. Tenants and leaseholders will be included in the membership of the Housing Improvement Board that will oversee the review as well as the development and implementation of the more detailed Housing Improvement Plan. Tenants directly affected by the Regina Road situation have been invited to take part.

The council will ensure that the resident participation is representative of the council tenants and leaseholders generally and the tenants who occupy the Regina Road flats in particular.

Approved by: Yvonne Okiyo, Equalities Manager

14. ENVIRONMENTAL IMPACT

14.1 There is no environmental impact arising from this report.

15. CRIME AND DISORDER REDUCTION IMPACT

15.1 There is no crime and disorder impact arising from this report.

16. REASONS FOR RECOMMENDATIONS/PROPOSED DECISION

16.1 Acceptance and implementation of the recommendations of the independent investigation into housing conditions in the council flats at Regina Road are the essential first steps to improve the council's housing services and ensure that the council delivers the best quality core service that it can afford and provides value for money for council tenants and leaseholders.

17. OPTIONS CONSIDERED AND REJECTED

17.1 The seriousness of the report's findings leave the council with little option other than a full scale review of the housing service; and the investment of appropriate resources to drive the improvement that tenants and leaseholders should expect and deserve. The recommendations of ARK's investigation report are clear, and require action in response.

17.2 While doing nothing is not an option, in deciding the scope of the action to be taken, the council has to consider that this is restricted by its financial situation (including that of the Housing Revenue Account). Bringing the housing services together could be delayed, but this would impede the ability of the new Interim Executive Director to improve them and could impact staff morale in the interim. Whilst committing to recruit is a cost to the council, this should result in improved services and reduced overall risk.

17.3 There is the option of not recruiting the new Interim Executive Director post, but no current Executive Director has the necessary housing experience or capacity to lead the level of strategic, operational and cultural change needed to drive improvement on the scale required by the findings of the ARK investigation.

18. DATA PROTECTION IMPLICATIONS

18.1 WILL THE SUBJECT OF THE REPORT INVOLVE THE PROCESSING OF 'PERSONAL DATA'?

YES

18.2 HAS A DATA PROTECTION IMPACT ASSESSMENT (DPIA) BEEN COMPLETED?

NO

The Interim Executive Director of Place comments that the housing conditions experienced by tenants of 1-87 Regina Road have been noted in order to arrange repair, and their housing needs have been recorded in order to arrange emergency accommodation and permanent rehousing where this is appropriate. Personal data held as part of housing IT systems within the council is managed carefully and shared with contractors and partners only as appropriate, in line with GDP regulations.

The management and use of personal data to inform the investigation, this report and the subsequent action plan will not vary from established systems and data management that are deemed compliant with GDP regulations.

Approved by: Sarah Hayward, Interim Executive Director of Place

CONTACT OFFICER:

Sarah Hayward, Interim Executive Director of Place, 020 8407 1325

APPENDICES TO THIS REPORT

Appendix 1A	Report of Independent Investigation by ARK Consultancy
Appendix 1B	LB Croydon timeline
Appendix 2	Regina Road Terms of Reference
Appendix 3	Council's Initial Action Plan

BACKGROUND PAPERS:

None