

Workshop 1e:

What is the impact for maintenance of the HCA regulatory framework?

Speaker: Baljit Basra, Anthony Collins Solicitors

Chaired by: Karen Cannon, WM Housing

Room: Harewood Room



National Housing Maintenance Forum

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Anthony Collins

solicitors

What is the Impact for Maintenance of HCA Regulatory Framework

NHMF
Baljit Basra, Partner
Baljit.basra@anthonycollins.com

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HCA Regulation – Consumer Standards

- **Tenancy involvement/empowerment** – complaints/involvement/equality and access
- **Tenancy** – allocations/mutual exchanges/tenure
- **Neighbourhood and community** – neighbourhood management/ASB/local area partnership workings
- **Home** – repairs

Consumer Standards- Home

- **Quality of accommodation**
 - compliance with Decent Homes Standard
- **Repairs and maintenance:**
 - Balanced approach to planned and responsive repairs (including work on empty properties and adaptations)
 - Get repairs and improvements right first time
 - Meet statutory requirements that provide health and safety to the occupants in their homes

Regulatory Non-Compliance – Serious Detriment Test

- No definition;- “risk of or actual, serious harm to tenants or potential tenants”.
- Service of Regulatory Notice
- – implications – RP/LA’s
- Enforcement powers – Section 198A Housing Act 2008

HCA Assessment

3 staged test

- Initial review – does the matter fall within HCA remit
- Is there a potential breach that could lead to serious harm
- Detailed investigation

Examples/Case Studies

3 Regulatory notices served

- All relating to breach of Home standard
- Specifically: “meet statutory requirements that provide health and safety to the occupants in their homes”

Case Study 1:

- Tenant claimed no gas safety inspections carried out in his property for 3 years.
- Evidence produced of robust procedures and satisfactory gas servicing record and repeated access attempts. Evidence that the gas boiler had not been serviced for 2 years.
- **Outcome:** Breach of home standard, evidence of access difficulties, but no legal resolution until 2 years after previous gas safety check was completed.
- Potential harm due to risk of carbon monoxide leading to serious detriment test met.

Case Study I cont'd

Action:

- Breach, but no actual harm
- Boiler serviced, overall compliance satisfactory
- No systematic failure that might affect other tenants
- Streamlined procedures – injunction sought
- No further action required
- Does raise governance issues re. board's oversight

Case Study 2

- Former employee alleged serious weaknesses in gas safety regime
- RP had already commissioned an internal audit where gas contractors property database and service records could not be reconciled with own records
- Investigation showed further shortcomings, RP were addressing

Case Study 2 cont'd

Findings:

- Breach of home standard and requirement re. statutory requirements
- Breach of Gas Safety Regs with inspections overdue in a number of cases

Outcome:

- Breach of home standard
- Working with RP whilst addressing issues
- Raises governance issues about board's insight

Case Study 3

- **Facts:** Provider contacted regulator to inform during a data reconciliation exercise a number of out of date Gas Certificates were identified.
- Provider commissioned independent review of gas processes
- Report prepared to show fully compliant and action to prevent re-occurrence

Case Study 3 cont'd

Finding:

- Potential breach of Home Standard
- Provider taking action, working with provider re. possible action

HCA Non-Compliance- potential areas?

“statutory requirements for health and safety of the occupants in their home”

- Health and Safety At Work Act 1974
- Electricity at Work Regs 1989
- Electricity Safety BS 7671:2008 17th Edition
- Control of Asbestos Regs 2012
- Water hygiene/legionella
- Fire safety

HCA Non-Compliance- potential areas?

Specifically in relation to Repairs and Maintenance

- Section 11 of Landlord and Tenant Act 1985
- Section 4 Defective Premises Act 1972

Both fall within health and safety and “**completing repairs and improvements right first time**”

Case Studies

Facts: Tenant alleged property had damp and mould problems which exasperated the child's asthma and partner's depression. Provider advised that there is no damp in the property it was condensation related and therefore not a breach of her Tenancy Agreement nor Section 11 of the Landlord and Tenant Act 1985 and therefore she would need to resolve herself.

Further complaints received from the tenant. Provider failed to investigate claiming that the issues as previously complained of were due to condensation and mould growth.

Findings:

Breach? Serious detriment?

Provider had previously attempted access on four occasions to ensure that they could install vents and an extractor fan. Tenant refused.

Tenant unable to afford to heat the property sufficiently.

Outcome:

Case Studies

Facts: Tenant alleged asbestos in the flat. Provider advised no danger to tenant. Tenant contacted Health and Safety Executive who asked the provider to remove the asbestos in a broken panel. This was completed with an asbestos survey. HSE confirmed no risk and in general good repair and undisturbed.

Landlord agreed that they would encapsulate the ceiling and the concrete floor that contained asbestos. No action taken due to non-access. Tenant contacted HSE again regarding a neighbour who was experiencing similar problems.

Findings; Potential breach? Serious detriment?

Outcome:

Case Studies

Facts: Tenant unable to report problems with communal lighting and a breakdown of the lift by email, website or phone. Logged a complaint and the repairs issues were resolved. Investigation highlighted the issues regarding accessibility to the providers repairs service. Following a change of maintenance service, there were initial problems with longer waiting times. There were telephony problems with calls being cut off at peak times. Telephony system was replaced and interim measures were put in place to resolve issues.

Findings:

Evidence of difficulties to access complaints service, accessibility to repairs service – serious detriment? Breach of the home standard?

Re. complaints – inaccessibility being dealt with promptly – evidence of a breach of standards?

Actual or potential serious harm?

Outcome:



Key Emerging Messages

- Lack of access – procedures, legal action, awareness re. records
- Responsibility of boards re. proper oversight.
- Communication to the regulator in a timely way.
- Monitor, scrutinise policies and procedures specifically in relation to complaints

Questions



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Anthony Collins
solicitors

Anthony Collins Solicitors LLP
134 Edmund Street
Birmingham B3 2ES
MDX 13055 Birmingham 1
Tel: 0121 200 3242
www.anthonycollins.com