

## URGENCY ITEMS - MINUTE OF DECISION

### Delegation arrangements for dealing with matters of urgency

Paragraph 7.2.1 of the Council's Constitution provides that Chief Officers may take urgent decisions if they are of the opinion that circumstances exist which make it necessary for action to be taken by the Council prior to the time when such action could be approved through normal Council Procedures. They shall, where practicable, first consult with the Leader and Chairman (or in their absence the Vice-Chairman) and the Opposition Spokesperson of the appropriate committee.

Given the current emergency in respect of the Covid 19 pandemic and the decision taken to suspend committee meetings while social distancing measures continue, the urgency decision provision under Paragraph 7.2.1 of the Council's Constitution has been widened to extend the consultation to include the Leaders of all the political groups on the Council.

### Subject:

## **HOMES ENGLAND COMPLIANCE AUDIT REPORT 2019/20 – HRA 5YR DEVELOPMENT PROGRAMME**

### Appropriate Committee:

Audit & Accounts Committee

#### **1.0 Details of Item** (including reason(s) for use of urgency procedure):

1.0 To inform the Committee the outcome of the Homes England Audit 2019/20 for the Council's 5 year Housing Revenue Account (HRA) Development Programme and actions taken and enable the Council to sign of the Audit on Homes England's Information Management System by the end of May 2020.

#### **2.0 Background Information**

2.1 In support of the Council's 5 years HRA Development Programme a grant of £4,307,635 (years 1 and 2) was provided to the Council through the Homes England affordable housing grants programme. As part of due diligence, Homes England have undertaken a routine audit of the delivery of the programme.

2.2 It is part of the grant conditions that the outcome of the audits are reported to the Council's senior management team and relevant Committee.

2.3 The Compliance Audit Programme provides assurance that organisations receiving grant have met with all Homes England's requirements and funding conditions and that providers have properly exercised their responsibilities as set out in the Capital Funding Guide, contract and any other supplementary compliance audit criteria.

2.4 The scope of the audit includes matters such as compliance with grant conditions, compliance in rent setting, contractor appointment and management and compliance in obtaining relevant planning and other approvals. Homes England use the audit findings to inform future investment decisions and to reassure them that public funds have been used properly.

### 3.0 Audit Findings

- 3.1 Standardised checks (off-site) were made by Council appointed Independent Auditors (Mazars) on two schemes in the district: Vicar's Court, Clipstone, and Rainworth Water Road, Rainworth. During the audit, the Independent Auditor checks the scheme for compliance using questions from Homes England's published checklists. The Independent Auditor reviews the information contained on file and reports any findings against Homes England's policy and procedures.
- 3.2 The Homes England Lead Auditor reviews the Independent Auditor findings and records any breaches. Breaches are used as the basis for awarding grades to the provider. The Compliance Audit Report awards Providers a red, amber or green grade based on the number and severity of breaches recorded.
- 3.3 Green Grade – the provider meets the requirements through identifying no high or medium breaches. Amber Grade – one or more high or medium breaches but not misapplied public money. Red Grade – one or more high level breaches and there has been a risk of misapplication of public funds.
- 3.4 Newark and Sherwood District Council's Compliance Audit has concluded that the Council has failed to meet requirements. This is due to seven breaches across the two schemes - three breaches of high severity (Breaches 4, 6 and 7) and four breaches of low severity (Breaches 1, 2, 3 and 5). The full Homes England Audit Findings are attached as Appendix A.
- 3.5 The Council has taken the necessary steps to ensure the high level breaches the Audit highlighted have been addressed and that processes are in place to reduce the risk of future audit failure as detailed below:-

Scheme	Breach Level	Breach Details	NSDC Procedure in place
Vicars Close, Clipstone	High	Building Regulations sign-off obtained 15 days after PC Grant Claim  (Delay due to Severn Trent drain connection on land not in the Council's ownership).	No IMS update will be carried out until all certification and contract documents have been checked and signed by the Project Manager. Certification and contract checklist has been formulated to ensure all relevant documents and dates are correct prior to IMS inputting.
Rainworth Water Road, Rainworth	High	Contract dated 6 days after claim for start on site.	No IMS update will be carried out until all certification and contract documents have been checked and signed by the Project Manager. Certification and contract checklist has been formulated to ensure all relevant documents and dates are correct prior to IMS inputting.

Rainworth Water Road, Rainworth	High	Start on Site grant payment claimed in advance of need (contract dated 6 days after claim for start on site)	No IMS update will be carried out until all certification and contract documents have been checked and signed by the Project Manager. Certification and contract checklist has been formulated to ensure all relevant documents and dates are correct prior to IMS inputting.
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3.6 The four breaches of low severity related to the same two schemes. They were:

- Costs not updated on IMS in a timely manner
- Incorrect property details included in IMS
- IMS incorrectly updated
- IMS not updated with revised costs, but no additional grant required

Processes are also being reviewed to ensure non-recurrence of these breaches in the future.

3.7 The findings from Homes England Compliance Audit raised awareness of the identified breaches and the Council instigated a wider review of all sites. The review determined that there are other schemes where the grant payment was claimed in advance of need (the contract was dated after the claim for start on site). The affected sites are:-

Beech Avenue	Ollerton	6 days in advance
Central Avenue	Blidworth	6 days in advance
Thorpe Road/Parkes Close	Coddington	17 days in advance
Valley View	Coddington	7 days in advance
Westhorpe	Southwell	10 days in advance
Lindsey Avenue	Newark	62 days in advance
Meldrum Crescent	Newark	62 days in advance

3.8 We have written to Homes England that we accept the conclusions of the Audit that high level or medium breaches have been made. Whilst we are of the opinion that the breaches did not misapply public monies, however, given that additional sites over the 5 year HRA Programme have also been affected, the Council did not challenge the results. In doing so, we indicated the presence of other breaches whose origins were the same as the schemes audited.

3.9 Homes England has confirmed it is satisfied with our response and indicated it is pleased to see the actions we have already put in place to ensure the errors noted last year do not re-occur. Homes England has confirmed it will formally review our progress against the recommendations in the report through your Contract Review Meetings in the coming year.

3.10 This response from Homes England is important as it means that the Compliance Audit findings will not impact upon the Council's ability to access its funding. Clearly, any further breaches could damage its confidence in the Council as being a suitable recipient of public funds.

3.11 It is highly likely that as a result of the conclusions of the Audit, that Homes England will also require another compliance audit within the next 12-18 months. It is therefore been agreed that further internal audit activity takes place to ensure that improved controls are effective to minimise the risk of a further disappointing Compliance Audit outcome.

#### **4.0 Equalities Implications**

4.1 There are no equalities implications.

#### **5.0 Community Plan - alignment to objectives**

5.1 Failure to meet Homes England's requirements could adversely affect the Council's ability to access funding for new homes, thus impacting on the Community Plan objective to deliver new affordable homes.

#### **6.0 Financial Implications**

6.1 Failure to meet the requirements of the Capital Funding Guide could adversely affect the Council's ability to access funding for new homes from Homes England.

#### **7.0 Comments of Director(s)**

7.1 The conclusions of the Compliance Audit report have provided valuable feedback about the robustness of some of the controls that were in place in relation to the development of new build, affordable homes. The remedial action being taken, supported by internal audit activity, will ensure that the outcome of any further Compliance Audit is satisfactory. This is important as we seek to secure further grant funding from Homes England to support the Council's development ambitions.

### **DECISION**

The findings of the Compliance Audit have been accepted by the Council and Homes England has indicated it is satisfied with our response. The steps taken to address the breaches and ensure they do not reoccur should provide assurance to the Committee of the robustness of our response.

#### **Members Consulted**

##### Audit & Accounts Committee

Councillor Mrs Sylvia Michael (Chairman)  
Councillor Mrs Betty Brooks (Committee Member)  
Councillor Michael Brown (Committee Member)  
Councillor Rob Crowe (Committee Member)  
Councillor Donna Cumberlidge (Committee Member)  
Councillor Mrs Maureen Dobson (Committee Member)

Councillor David Lloyd – Leader of the Council  
Councillor Paul Peacock – Leader of the Labour Group  
Councillor Mrs Gill Dawn – Leader of the Independent Group  
Councillor Peter Harris – Leader of the Liberal Democrat Group

**Background Papers**

Homes England Compliance Audit Report 2019/20

A handwritten signature in black ink that reads "Suzanne Shead". The signature is written in a cursive style with a large initial 'S'.

Signed: \_\_\_\_\_

Suzanne Shead, Director - Housing, Health & Wellbeing

Date: 8 June 2020



## Compliance Audit Report – 2019/20

### 37UG – Newark and Sherwood District Council

<b>Provider Code</b>	37UG
<b>Provider Name</b>	Newark and Sherwood District Council
<b>Final Grade</b>	Red - Serious failure to meet requirements
<b>Independent Auditor</b>	Mazars
<b>Homes England Lead Auditor</b>	John Mather
<b>Homes England Head of Home Ownership and Supply</b>	Caroline Cormack

### **Report Objectives and Purpose**

Compliance Audits check Provider compliance with Homes England’s policies, procedures and funding conditions. Standardised checks are made by Independent Auditors on an agreed sample of Homes England schemes funded under affordable housing programmes. Any findings, which may be a result of checks not being applicable to the scheme or an indication of procedural deficiency, are reported by the Independent Auditor to both the Provider and Homes England concurrently. The Homes England Lead Auditor reviews the findings and records those determined to be ‘breaches’ in this report. Breaches are used as the basis for recommendations and final grades for Providers. Grades of green, amber or red are awarded; definitions are provided at the end of this document.

Further information is available at: <https://www.gov.uk/guidance/compliance-audit>.

### Confidentiality

The information contained within this report has been compiled purely to assist Homes England in its statutory duty relating to the payment of grant to the Provider. Homes England accepts no liability for the accuracy or completeness of any information contained within this report. This report is confidential between Homes England and the Provider and no third party can place any reliance upon it.



### Compliance Audit Grade and Judgement

<b>Final Grade</b>	Red - Serious failure to meet requirements
<b>Judgement Summary</b>	<p>Overall it is found that Newark &amp; Sherwood District Council has failed to meet requirements. This is due to three High breaches – one at Vicars Close and two at Rainworth Water Road. In addition there were four Low Breaches across the two schemes.</p> <p>Vicars Close: At Practical Completion grant claim there was no evidence of Building Regulations approval. Practical Completion was achieved on 30th January 2019 and grant was claimed on the same day. Building Regulations approval was not achieved until 14th February 2019, after the final claim for grant; this is a High Breach.</p> <p>Rainworth Water Road: There were two separate High breaches relating to the signing and dating of the build contract. The grant claim for Start on Site was submitted on 21st March 2019; however the build contract is dated 27th March 2019. This is a failure to ensure:</p> <ol style="list-style-type: none"><li>1. All IMS scheme details submitted in accordance with published guidelines set out in the relevant contract and CFG, and;</li><li>2. The main building contract had been signed and dated and contractual possession had been passed to the contractor prior to the Start on Site grant claim.</li></ol>

### Audit Results

<b>Number of Schemes Audited</b>	2
<b>Number of Breaches Assigned</b>	7
<b>Number of High Severity Breaches</b>	3
<b>Number of Medium Severity Breaches</b>	0
<b>Number of Low Severity Breaches</b>	4

### Scheme details

<b>Scheme no</b>	<b>Address</b>	<b>Scheme type</b>
888359	ID96 Rainworth Water Road,NG21 0DU	Housing for Rent



820131	Vicars Close, N&SVicars Close,NG21 9AS	Housing for Rent
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### Details of Breaches by Scheme

Where there are breaches identified, remedial action must be taken in accordance with recommendations listed in the Compliance Audit Module to mitigate the potential for re-occurrence.

#### Breach 1

IMS Scheme ID	820131
Scheme Address	Vicars Close, N&S, Vicars Close, NG21 9AS
Breach Type	General
Breach Text	9. Incorrect IMS data has been entered but there are no value for money implications. Examples might include typographical errors, or a failure to update the system with revised information
Breach Comment	Costs not updated on IMS in a timely manner.



**Breach 2**

IMS Scheme ID	820131
Scheme Address	Vicars Close, N&S, Vicars Close, NG21 9AS
Breach Type	General
Breach Text	9. Incorrect IMS data has been entered but there are no value for money implications. Examples might include typographical errors, or a failure to update the system with revised information
Breach Comment	Incorrect property details included in IMS.



**Breach 3**

IMS Scheme ID	820131
Scheme Address	Vicars Close, N&S, Vicars Close, NG21 9AS
Breach Type	Pre-development
Breach Text	13. IMS has not been updated in line with contract requirements. These requirements vary according to the programme 1. Under the AHP 2011-15, scheme details must be submitted through IMS within ten business days after Start on Site 2. Under the AHP 2015-18 and SOAHP 2016-21, firm schemes must be submitted to IMS by five days before Start on Site
Breach Comment	IMS incorrectly updated. Substantive breaches noted elsewhere.



#### Breach 4

IMS Scheme ID	820131
Scheme Address	Vicars Close, N&S, Vicars Close, NG21 9AS
Breach Type	Post-development
Breach Text	20. At Practical Completion grant claim: 1 There was no evidence of building regulations approval.2 There was no evidence of building regulations sign-off completion certificate.3 Secure legal interest had not been obtained (e.g. no proof of ownership/lease/building under licence).4 House builder warranty (National House Building Council or equivalent) final certificate not granted
Breach Comment	Building Regulations sign-off obtained after PC grant claim.
Recommendation	Newark & Sherwood District Council have received three high breaches for claiming grant ahead of achieving the requirements for the milestone. They should immediately review their current and recent programme to ensure those errors have not been, and are not, repeated and confirm this review has been completed satisfactorily to the Contract Manager. They should also undertake a thorough review of their practice and procedures in administering their development programme to ensure that all relevant consents and certificates are in place prior to claiming grant and to ensure that they maintain accurate information on IMS. The provider must present evidence to the Contract Manager that these reviews have been completed and the new procedures are in place by the Recommendation Deadline Date specified.
Recommendation Deadline	31/10/2020



**Breach 5**

IMS Scheme ID	888359
Scheme Address	ID96 Rainworth Water Road, , NG21 0DU
Breach Type	General
Breach Text	9. Incorrect IMS data has been entered but there are no value for money implications. Examples might include typographical errors, or a failure to update the system with revised information
Breach Comment	IMS not updated with revised costs, but no additional grant required.



## Breach 6

IMS Scheme ID	888359
Scheme Address	ID96 Rainworth Water Road, , NG21 0DU
Breach Type	Development
Breach Text	16. Start on Site grant payment claimed in advance of need. This applies where, at date of Start on Site claim: 1. The works contract was not signed and/or dated by all parties.2 Contractual possession was not passed to contractor. 3 Secure legal interest had not been obtained (e.g. no proof of ownership/lease/building under licence).4 Start on Site works were not commenced according to CFG definition
Breach Comment	Contract dated after start on site claim date.
Recommendation	Newark & Sherwood District Council have received three high breaches for claiming grant ahead of achieving the requirements for the milestone. They should immediately review their current and recent programme to ensure those errors have not been, and are not, repeated and confirm this review has been completed satisfactorily to the Contract Manager. They should also undertake a thorough review of their practice and procedures in administering their development programme to ensure that all relevant consents and certificates are in place prior to claiming grant and to ensure that they maintain accurate information on IMS. The provider must present evidence to the Contract Manager that these reviews have been completed and the new procedures are in place by the Recommendation Deadline Date specified.
Recommendation Deadline	31/10/2020



## Breach 7

IMS Scheme ID	888359
Scheme Address	ID96 Rainworth Water Road, , NG21 0DU
Breach Type	Development
Breach Text	16. Start on Site grant payment claimed in advance of need. This applies where, at date of Start on Site claim: 1. The works contract was not signed and/or dated by all parties.2 Contractual possession was not passed to contractor. 3 Secure legal interest had not been obtained (e.g. no proof of ownership/lease/building under licence).4 Start on Site works were not commenced according to CFG definition
Breach Comment	Contract dated after claim for start on site
Recommendation	Newark & Sherwood District Council have received three high breaches for claiming grant ahead of achieving the requirements for the milestone. They should immediately review their current and recent programme to ensure those errors have not been, and are not, repeated and confirm this review has been completed satisfactorily to the Contract Manager. They should also undertake a thorough review of their practice and procedures in administering their development programme to ensure that all relevant consents and certificates are in place prior to claiming grant and to ensure that they maintain accurate information on IMS. The provider must present evidence to the Contract Manager that these reviews have been completed and the new procedures are in place by the Recommendation Deadline Date specified.
Recommendation Deadline	31/10/2020



## Breach 7

### Provider's Acknowledgement of Report

The contents of this report should be acknowledged by your Board's Chair or equivalent. Confirmation of this acknowledgement should be recorded in the IMS Compliance Audit Module by your CA Provider Lead on behalf of your Board's Chair. Online acknowledgement should be completed within one calendar month of the report email notification being sent.

Report acknowledged by:

Date:

### Compliance Grade Definitions

<b>Green Grade</b>	The Provider meets requirements: Through identifying no high or medium breaches, the Compliance Audit Report will show that the Provider has a satisfactory overall performance, but may identify areas where minor improvements are required.
<b>Grade Amber</b>	There is some failure of the Provider to meet requirements: Through identifying one or more high or medium breaches, the Compliance Audit Report will show that the Provider fails to meet some requirements, but has not misapplied public money. The Provider will be expected to correct identified problem(s) in future schemes and current developments.
<b>Grade Red</b>	There is serious failure of the Provider to meet requirements: Through identifying one or more high level breaches, the Compliance Audit Report will show that the Provider fails to meet some requirements and there is a risk of misuse of public funds. The Provider will be expected to correct identified problem(s) in future schemes and current developments.





**Breach 7**

**Compliance Audit Report – 2019/20**

37UG – Newark and Sherwood District Council

<b>Provider Code</b>	37UG
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